

HOUSE BILL No. 5761

April 14, 1992, Introduced by Reps. Bandstra, Gubow, Yokich, Perry Bullard, Wallace, Nye, DeMars, Dalman and Randall and referred to the Committee on Judiciary.

A bill to amend sections 22 and 24a of chapter X of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

section 22 as amended by Act No. 175 of the Public Acts of 1990 and section 24a as added by Act No. 72 of the Public Acts of

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 22 and 24a of chapter X of Act No. 288
2 of the Public Acts of 1939, section 22 as amended by Act No. 175
3 of the Public Acts of 1990 and section 24a as added by Act No. 72
4 of the Public Acts of 1982, being sections 710.22 and 710.24a of
5 the Michigan Compiled Laws, are amended and section 66 is added
6 to chapter X to read as follows:

7 CHAPTER X

8 Sec. 22. As used in this chapter:

9 (a) "Adoptee" means the person who is to be adopted, regard-
10 less of whether the person is a child or an adult.

(b) "Best interests of the adoptee" or "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court to be applied to give the adoptee permanence at the earliest possible date:

15 (i) The love, affection, and other emotional ties existing
16 between the adopting person or persons or the putative father,
17 and the adoptee.

(ii) The capacity and disposition of the adopting person or persons or the putative father to give the adoptee love, affection, and guidance, and to educate and create a milieu that fosters the religion, racial identity, and culture of the adoptee.

22 (iii) The capacity and disposition of the adopting person or
23 persons or the putative father to provide the adoptee with food,
24 clothing, education, permanence, medical care or other remedial

1 care recognized and permitted under the laws of this state in
2 place of medical care, and other material needs.

3 (iv) The length of time the adoptee has lived in a stable,
4 satisfactory environment, and the desirability of maintaining
5 continuity.

6 (v) The permanence as a family unit of the proposed adoptive
7 home, or the home of the putative father.

8 (vi) The moral fitness of the adopting person or persons or
9 of the putative father.

10 (vii) The mental and physical health of the adopting person
11 or persons or of the putative father, and of the adoptee.

12 (viii) The home, school, and community record of the
13 adoptee.

14 (ix) The reasonable preference of the adoptee, if the
15 adoptee is 14 years of age or less and if the court deems the
16 adoptee to be of sufficient age to express a preference.

17 (x) The ability and willingness of the adopting person or
18 persons to adopt the adoptee's siblings.

19 (xi) Any other factor considered by the court to be relevant
20 to a particular adoption proceeding, or to a putative father's
21 request for child custody.

22 (c) "Biological parent" means a person whose rights were
23 terminated pursuant to this chapter or chapter XIIA.

24 (d) "Born out of wedlock" means a child ~~begotten~~ CONCEIVED
25 and born to a woman who was not married from the conception to
26 the date of birth of the child, or a child which the court has

1 determined to be a child born during a marriage but not the issue
2 of that marriage.

3 (e) "Child" means a person less than 18 years of age.

4 (f) "Child placing agency" means a private organization
5 licensed to place children for adoption.

6 (g) "Consent" means a duly executed document in which all
7 parental rights over a specific child are voluntarily relin-
8 quished to the court for adoptive placement with the petitioner.

9 (h) "Court" means the probate court of this state, and when
10 the context requires, the court having jurisdiction over adoption
11 in another state or country.

12 (i) "Department" means the state department of social
13 services.

14 (j) "Petitioner" means the person or persons who file an
15 adoption petition with the court.

16 (k) "Release" means a duly executed document in which all
17 parental rights over a specific child are voluntarily relin-
18 quished to the department or to a child placing agency.

19 (L) "RESCISSION PETITION" MEANS A PETITION FILED BY AN ADULT
20 ADOPTEE AND HIS OR HER PARENT WHOSE RIGHTS HAVE BEEN TERMINATED
21 TO RESCIND THE ADOPTION IN WHICH A STEPPARENT ACQUIRED PARENTAL
22 RIGHTS AND TO RESTORE PARENTAL RIGHTS OF THAT PARENT PURSUANT TO
23 SECTION 66.

24 (M) ~~(L)~~ "Stepparent" means a person who adopts a child
25 of whose parents is the adopting person's spouse.

26 (N) ~~(M)~~ "Within the fifth degree by marriage, blood, or
27 adoption" means any of the following relationships: parent,

1 step-parent, grandparent, step-grandparent, brother,
 2 step-brother, sister, step-sister, uncle, step-uncle, aunt,
 3 step-aunt, first cousin, step-first cousin, great aunt,
 4 step-great aunt, great uncle, step-great uncle, great grandpar-
 5 ent, step-great grandparent, first cousin once removed,
 6 step-first cousin once removed, great great grandparent,
 7 step-great great grandparent, great great uncle, step-great great
 8 uncle, great great aunt, step-great great aunt, great great great
 9 grandparent, or step-great great great grandparent.

10 Sec. 24a. (1) Interested parties in a petition for adop-
 11 tion ~~include, but shall not be limited to~~ ARE ALL OF THE
 12 FOLLOWING:

13 (a) The petitioner.

14 (b) The adoptee, if over 14 years of age.

15 (c) A minor parent, adult parent, or surviving parent of a
 16 minor adoptee, unless 1 OR MORE OF THE FOLLOWING APPLY:

17 (i) The rights of the parent have been terminated by a court
 18 of competent jurisdiction.

19 (ii) A guardian of the adoptee, with specific authority to
 20 consent to adoption, has been appointed.

21 (iii) A guardian of the parent, with specific authority to
 22 consent to adoption, has been appointed.

23 (iv) The rights of the parent have been released.

24 (v) The parent has consented to the granting of the
 25 petition.

26 (d) The department or a child placing agency to which the
 27 adoptee has been, or for purposes of subsection ~~(2)~~ (3) is

1 proposed to be, released or committed by an order of the juvenile
2 division of the probate court.

3 (e) A parent, guardian, or guardian ad litem of an unemanci-
4 pated minor parent of the adoptee.

5 (f) The juvenile division of the probate court with per-
6 manent custody of the adoptee.

7 (g) A court with continuing jurisdiction over the adoptee.

8 (h) A child placing agency of another state or country which
9 has authority to consent to adoption.

10 (i) The guardian or guardian ad litem of an interested
11 party.

12 (2) Interested parties in a petition for a hearing to iden-
13 tify the father of a child and to determine or terminate his
14 rights ~~include, but shall not be limited to~~ ARE ALL OF THE
15 FOLLOWING:

16 (a) The persons set forth in subsection (1).

17 (b) A putative father of the child.

18 (3) Interested parties in a proceeding relating to the exe-
19 cution of a voluntary release ~~include, but shall not be limited~~
20 ~~to~~ ARE ALL OF THE FOLLOWING:

21 (a) The adoptee, if over 5 years of age.

22 (b) The department or a child placing agency to which the
23 adoptee is proposed to be released.

24 (c) The person executing the release of parental rights.

25 (4) INTERESTED PARTIES IN A RESCISSION PETITION ARE ALL OF
26 THE FOLLOWING:

1 (A) THE PETITIONERS.

2 (B) THE SPOUSE OF THE PARENT WHOSE RIGHTS WERE TERMINATED.

3 (5) ~~(4)~~ The court shall not appoint a guardian of the
4 adoptee or of a parent solely for the purpose of defeating that
5 parent's status as an interested party under this section.

6 SEC. 66. (1) IF AN ADULT ADOPTEE WHO WAS ADOPTED BY A STEP-
7 PARENT AND THE ADULT ADOPTEE'S PARENT WHOSE RIGHTS HAVE BEEN TER-
8 MINATED DESIRE TO RESCIND THE ADOPTION BY THE STEPPARENT AND
9 RESTORE THE PARENTAL RIGHTS OF THAT PARENT, THEY SHALL FILE A
10 RESCISSION PETITION WITH THE PROBATE COURT OF THE COUNTY IN WHICH
11 THE ADOPTION BY THE STEPPARENT WAS CONFIRMED. THIS SECTION
12 APPLIES TO AN ADULT ADOPTEE WHO WAS ADOPTED BY A STEPPARENT
13 REGARDLESS OF WHETHER THE ADOPTEE WAS A MINOR AT THE TIME OF
14 ADOPTION.

15 (2) THE RESCISSION PETITION SHALL BE VERIFIED BY BOTH THE
16 ADULT ADOPTEE AND THE PARENT WHOSE RIGHTS WERE TERMINATED, AND
17 SHALL CONTAIN THE FOLLOWING INFORMATION:

18 (A) THE PRESENT NAME OF EACH PETITIONER, THE NAME OF THE
19 ADOPTEE AT THE TIME OF BIRTH AND IMMEDIATELY AFTER AN ADOPTION IF
20 DIFFERENT FROM THE ADOPTEE'S PRESENT NAME, THE NAME OF THE PARENT
21 AT THE TIME OF TERMINATION OF PARENTAL RIGHTS, THE DATE AND PLACE
22 OF THE ADOPTEE'S BIRTH, AND THE PRESENT PLACE OF RESIDENCE OF
23 EACH PETITIONER.

24 (B) THE NAME, DATE AND PLACE OF BIRTH, AND ADDRESS OF THE
25 PARENT WHOSE RIGHTS WERE NOT TERMINATED AND WHOSE SPOUSE ADOPTED
26 THE ADOPTEE, IF KNOWN TO EITHER OF THE PETITIONERS.

1 (C) THE NAME OF THE STEPPARENT AT THE TIME OF THE ORDER OF
2 ADOPTION, INCLUDING THE MAIDEN NAME OF THE STEPPARENT IF
3 APPLICABLE AND IF KNOWN, AND THE STEPPARENT'S DATE AND PLACE OF
4 BIRTH.

5 (3) SUBSEQUENT TO OR CONCURRENT WITH THE FILING OF THE
6 RESCISSION PETITION BUT BEFORE THE HEARING ON THE RESCISSION
7 PETITION BY THE COURT, THE PETITIONERS SHALL FILE WITH THE COURT
8 A COPY OF THE ADOPTEE'S NEW CERTIFICATE OF LIVE BIRTH IF A NEW
9 CERTIFICATE WAS ESTABLISHED BY THE DEPARTMENT OF PUBLIC HEALTH.

10 (4) UPON RECEIPT OF A RESCISSION PETITION, THE COURT SHALL
11 CONDUCT A HEARING AFTER NOTICE IS SERVED BY PETITIONERS ON THE
12 INTERESTED PARTIES. THE COURT MAY ORDER AN INVESTIGATION BY AN
13 EMPLOYEE OR AGENT OF THE COURT AND MAY ENTER AN ORDER OF RESCIS-
14 SION OF THE ADOPTION THAT RESTORES THE PARENTAL RIGHTS OF THE
15 PARENT WHO FILED THE PETITION. THE RESCISSION OF THE ADOPTION
16 SHALL BE EFFECTIVE FROM THE DATE OF THE ORDER OF RESCISSION.

17 (5) CERTIFIED COPIES OF THE ORDER OF RESCISSION SHALL BE
18 GIVEN TO EACH PETITIONER, AND A COPY SHALL BE SENT TO THE DEPART-
19 MENT OF PUBLIC HEALTH TOGETHER WITH ANY OTHER INFORMATION
20 REQUIRED BY SECTION 2829 OF THE PUBLIC HEALTH CODE, ACT NO. 368
21 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.2829 OF THE
22 MICHIGAN COMPILED LAWS.

23 (6) AFTER ENTRY OF AN ORDER OF RESCISSION, THE ADULT ADOPTEE
24 BECOMES AN HEIR AT LAW OF THE PARENT WHOSE PARENTAL RIGHTS HAVE
25 BEEN RESTORED AND OF THE LINEAL AND COLLATERAL KINDRED OF THAT
26 PARENT. AFTER ENTRY OF THE ORDER OF RESCISSION, THE ADULT
27 ADOPTEE IS NO LONGER AN HEIR AT LAW OF A PERSON WHO WAS HIS OR

1 HER STEPPARENT AT THE TIME OF THE ORDER OF RESCISSION OR AN HEIR
2 AT LAW OF THE LINEAL OR COLLATERAL KINDRED OF THAT PERSON, EXCEPT
3 THAT A RIGHT, TITLE, OR INTEREST VESTING BEFORE ENTRY OF THE
4 ORDER OF RESCISSION SHALL NOT BE DIVESTED BY THAT ORDER.