SENATE BILL No. 250

April 10, 1991, Introduced by Senators EMMONS and WELBORN and referred to the Committee on Family Law, Criminal Law, and Corrections.

A bill to amend section 13a of chapter XIIA 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."

as added by Act No. 224 of the Public Acts of 1988, being section 712A.13a of the Michigan Compiled Laws.

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THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Section 1. Section 13a of chapter XIIA of Act No. 288 of
- 2 the Public Acts of 1939, as added by Act No. 224 of the Public
- 3 Acts of 1988, being section 712A.13a of the Michigan Compiled
- 4 Laws, is amended to read as follows:
- 5 CHAPTER XIIA
- 6 Sec. 13a. (1) As used in this section and sections 18f, 19,
- 7 19a, 19b, and 19c of this chapter:
- 8 (a) "Agency" means a public or private organization, insti-
- 9 tution, or facility responsible pursuant to court order or con-
- 10 tractual arrangement for the care and supervision of a child.
- 11 (b) "Foster care" means care provided to a child in a foster
- 12 family home, foster family group home, or child caring institu-
- 13 tion licensed or approved under Act No. 116 of the Public Acts of
- 14 1973, being sections 722.111 to 722.128 of the Michigan Compiled
- 15 Laws, or care provided to a child in a relative's home pursuant
- 16 to an order by the juvenile division of the probate court.
- 17 (2) If a child is alleged to come within the provisions of
- 18 section $\frac{2(b)}{2(B)}$ 2(B) of this chapter, the court may authorize a
- 19 petition to be filed at the conclusion of the preliminary hearing
- 20 or inquiry. The petition may be authorized upon a showing of
- 21 probable cause that 1 or more of the allegations in the petition
- 22 are true and fall within the provisions of section -2(b) 2(B) of
- 23 this chapter.
- 24 (3) If a petition under subsection (2) is authorized, the
- 25 court may release the child in the custody of either of the
- 26 child's parents, guardian, or custodian under such reasonable

- 1 terms and conditions as are necessary for either the physical
- 2 health or mental well-being of the child.
- 3 (4) IF A PETITION UNDER SUBSECTION (2) IS AUTHORIZED, AND
- 4 THE COURT AFTER HEARING FINDS PROBABLE CAUSE TO BELIEVE THAT A
- 5 PARENT, GUARDIAN, OR CUSTODIAN COMMITTED THE ABUSE, THE COURT MAY
- 6 ORDER THAT PARENT, GUARDIAN, OR CUSTODIAN TO LEAVE THE HOME AND
- 7 RELEASE THE CHILD TO THE OTHER PARENT, GUARDIAN, OR CUSTODIAN IF
- 8 THE COURT DETERMINES THAT BOTH OF THE FOLLOWING CONDITIONS
- 9 EXIST:
- 10 (A) THE PRESENCE IN THE HOME OF THE PERSON WHO IS ALLEGED TO
- 11 HAVE COMMITTED THE ABUSE PRESENTS A SUBSTANTIAL RISK OF HARM TO
- 12 THE CHILD'S LIFE, PHYSICAL HEALTH, OR MENTAL WELL-BEING AND NO
- 13 PROVISION OF SERVICES OR OTHER ARRANGEMENT EXCEPT REMOVAL OF THE
- 14 ALLEGED PERPETRATOR CAN ADEQUATELY SAFEGUARD THE CHILD FROM THE
- 15 RISK.
- 16 (B) THE CONDITIONS OF CUSTODY WITH THE REMAINING PARENT,
- 17 GUARDIAN, OR CUSTODIAN ARE ADEQUATE TO SAFEGUARD THE CHILD FROM
- 18 THE RISK AND IT IS IN THE BEST INTEREST OF THE CHILD FOR THE
- 19 CHILD TO REMAIN IN THE HOME.
- 20 (5) -(4)— If a petition under subsection (2) is authorized,
- 21 the court may order placement of the child with someone other
- 22 than a parent if the court after hearing determines that both of
- 23 the following conditions exist:
- (a) Custody of the child with a parent, guardian, or custo-
- 25 dian presents a substantial risk of harm to the child's life,
- 26 physical health, or mental well-being and no provision of service
- 27 or other arrangement except removal of the child is reasonably

- 1 available to adequately safeguard the child from -such THE 2 risk.
- 3 (b) Conditions of custody of the child away from a parent,
- 4 guardian, or custodian are adequate to safeguard the child's
- 5 health and welfare.
- 6 (6) -(5) If the court orders placement of the child outside
- 7 the child's home, the court shall inform the parties of the
- 8 following:
- 9 (a) That the agency has the responsibility to prepare an
- 10 initial services plan within 30 days of the child's placement.
- 11 (b) The general elements of an initial services plan as
- 12 required by the rules promulgated pursuant to Act No. 116 of the
- 13 Public Acts of 1973.
- 14 (c) That without a court order participation in an initial
- 15 services plan is voluntary.
- 16 (7) -(6)— In determining placement of a child pending trial,
- 17 the court shall order the child placed in the most family-like
- 18 setting available consistent with the needs of the child.
- 19 (8) -(7) Unless visitation, even if supervised, would be
- 20 harmful to the child, the child's parent shall be permitted to
- 21 visit frequently with the child.
- 22 (9) -(8) Upon the motion of any party, the court shall
- 23 review custody and placement orders and initial services plans
- 24 pending trial and may modify those orders and plans as the court
- 25 considers pursuant to this section are in the best interests of
- 26 the child.