

Act No. 202
Public Acts of 1994
Approved by the Governor
June 20, 1994
Filed with the Secretary of State
June 21, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senator Bouchard

ENROLLED SENATE BILL No. 299

AN ACT to amend sections 39 and 68 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 39 as amended by Act No 72 of the Public Acts of 1982 and section 68 as amended by Act No 175 of the Public Acts of 1990 being sections 710 39 and 710 68 of the Michigan Compiled Laws and to add section 68b

The People of the State of Michigan enact

Section 1 Sections 39 and 68 of chapter X of Act No 288 of the Public Acts of 1939 section 39 as amended by Act No 72 of the Public Acts of 1982 and section 68 as amended by Act No 175 of the Public Acts of 1990 being sections 710 39 and 710 68 of the Michigan Compiled Laws are amended and section 68b is added to read as follows

CHAPTER X

Sec 39 (1) If the putative father does not come within the provisions of subsection (2) or subsection (4) and if the putative father appears at the hearing and requests custody of the child the court shall inquire into his fitness and his ability to properly care for the child and shall determine whether the best interests of the child will be served by granting custody to him If the court finds that it would not be in the best interests of the child to grant custody to the putative father the court shall terminate his rights to the child

(2) If the putative father has established a custodial relationship with the child or has provided support or care for the mother during pregnancy or for either mother or child after the child's birth during the 90 days before notice of the hearing was served upon him the rights of the putative father shall not be terminated except by proceedings in accordance with section 51(6) of this chapter or section 2 of chapter XIIA

(3) If the parental rights of the mother are terminated pursuant to this chapter or other law and if the court awards custody of a child born out of wedlock to the putative father the court shall enter an order granting custody to the putative father and legitimating the child for all purposes. The judge of probate shall duly record the legitimation in accordance with section 111 of the revised probate code Act No. 642 of the Public Acts of 1978 as amended being section 700.111 of the Michigan Compiled Laws.

Sec. 68 (1) Within 63 days after a request for nonidentifying information is received, a child placing agency, a court, or the department shall provide in writing to the adoptive parent, adult adoptee, former parent, or adult former sibling requesting the information all of the nonidentifying information described in section 27(1) and (2) of this chapter.

(2) Within 63 days after a request for identifying information about an adult adoptee is received, a child placing agency, a court, or the department shall provide in writing to the former parent or adult former sibling requesting the information the adult adoptee's most recent name and address if the adult adoptee has given written consent to release of the information pursuant to this chapter. If the adult adoptee has not given written consent to the release of information, the child placing agency, the court, or the department shall, upon presentation of a certified copy of the order of appointment, give the adult adoptee's name and address to a confidential intermediary appointed pursuant to section 68b of this chapter, together with any other information in its possession that would help the confidential intermediary locate the adult adoptee. At the option of the agency or the department, the information may be released to the court for release to the confidential intermediary.

(3) If the department or a child placing agency receives a request for adoption record information in its possession from an adult adoptee, former parent, or adult former sibling, the department or child placing agency shall provide the individual requesting the information with the identity of the court that confirmed the adoption within 28 days after receipt of the request. If a court receives such a request, the court shall provide the individual requesting the information with the identity of the child placing agency that handled the adoption.

(4) If the court that terminated parental rights from the former parents or adult former siblings of the adult adoptee receives a request for the identity of the agency, court, or department to which the child was committed, the court shall provide in writing the name of that agency, court, or department, if known, within 28 days after receipt of the request.

(5) Upon receipt of a written request for identifying information from an adult adoptee, a child placing agency, a court, or the department, if it maintains the adoption file for that adoptee, shall submit a clearance request form to the central adoption registry. Within 28 days after receipt of a clearance reply form from the central adoption registry, the child placing agency, court, or department shall notify the adoptee in writing of the identifying information to which the adoptee is entitled pursuant to subsection (6) or (7), or, if the identifying information cannot be released pursuant to those subsections, the reason why the information cannot be released. The child placing agency, court, or department shall retain a copy of the notice sent to the adult adoptee.

(6) For adoptions in which the former parents' rights were terminated on or after May 28, 1945 and before September 12, 1980, a child placing agency, a court, or the department shall release to an adult adoptee or to a confidential intermediary appointed pursuant to section 68b of this chapter the identifying information described in section 27(3) of this chapter and other identifying information on file with the central adoption registry as specified in section 27b of this chapter in the following manner:

(a) All of the identifying information described in section 27(3) of this chapter shall be released to the adult adoptee if both former parents have on file with the central adoption registry a statement consenting to release of the identifying information.

(b) The identifying information described in section 27(3)(b) and (c) of this chapter about 1 of the former parents and the identifying information described in section 27(3)(a) and (d) of this chapter shall be released to the adult adoptee if that former parent has on file with the central adoption registry a statement consenting to release of identifying information.

(c) The identifying information described in section 27(3)(b) and (c) of this chapter about 1 of the former parents and the identifying information described in section 27(3)(a) and (d) of this chapter shall be released to the adult adoptee if that parent is deceased.

(d) All of the identifying information described in section 27(3) of this chapter on both former parents shall be released to the adult adoptee if both former parents are deceased.

(e) Upon presentation of a certified copy of the order of appointment, all of the identifying information described in section 27(3) of this chapter shall be released to a confidential intermediary appointed pursuant to section 68b of this chapter, together with additional information to assist the confidential intermediary to locate former family members. At the option of the agency or the department, the information may be released to the court for release to the confidential intermediary.

(7) For all adoptions in which the former parents' rights were terminated before May 28, 1945 or on or after September 12, 1980, a child placing agency, a court, or the department shall release to an adult adoptee the identifying information described in section 27(3) of this chapter and any additional information on file with the central adoption

registry as specified in section 27b of this chapter except that if a former parent has filed a statement currently in effect with the central adoption registry denying consent to have identifying information released the identifying information specified in section 27(3)(b) and (c) of this chapter shall not be released about that parent For purposes of this subsection a denial of consent is not effective after the death of the former parent

(8) Upon receipt of a written request from an adult adoptee for the name and address of an adult former sibling a child placing agency a court or the department if it maintains the adoption file for that adoptee shall submit a clearance request form to the central adoption registry Within 28 days after receipt of a clearance reply form from the central adoption registry the child placing agency court or department shall notify the adoptee in writing of the name and address of an adult former sibling whose statement was forwarded by the central adoption registry

(9) If a child placing agency or court or the department requests information from the central adoption registry and if the clearance reply form from the central adoption registry indicates that neither of the former parents has on file with the central adoption registry a statement currently in effect denying consent to have identifying information released the child placing agency court or department shall deliver to the adult adoptee a copy of the clearance reply form it received from the central adoption registry The clearance reply form may be used by the adult adoptee to obtain a copy of his or her original certificate of live birth pursuant to section 2882 of the public health code Act No 368 of the Public Acts of 1978 being section 333 2882 of the Michigan Compiled Laws This subsection applies to all adoptions in which the parents rights were terminated before May 28 1945 or on or after September 12 1980

(10) If a child placing agency a court or the department receives written information concerning a physician verified medical or genetic condition of an individual biologically related to an adoptee and a request that the information be transmitted to the adoptee because of the serious threat it poses to the adoptee s life the child placing agency court or department shall send a written copy of the information by first class mail within 7 days after the request is received to the adoptee at his or her last known address If the adoptee is less than 18 years of age the information shall be sent by first class mail within 7 days after the request is received to the adoptive parents at their last known address

(11) If the information described in subsection (10) is returned undelivered the agency court or department shall make a reasonable effort to find the most recent address of the adoptee or minor adoptee s parents and shall again send the information by first class mail within 21 days after receiving the returned letter

(12) If a child placing agency a court or the department receives written information concerning a physician verified medical or genetic condition of a person biologically related to an adoptee and the condition is not life threatening to the adoptee the child placing agency court or department shall place the information in its adoption files If the child placing agency court or department receives a written request for the information from the adult adoptee or minor adoptee s adoptive parents it shall release a written copy of the information to the adult adoptee or to the minor adoptee s adoptive parents within 63 days after the request for the information was made

(13) If a child placing agency a court or the department receives written information concerning a physician verified medical or genetic condition that threatens the life of an adoptee and for which a biologically related person could give life saving aid and receives a request from or on behalf of the adoptee that the information be transmitted the child placing agency court or department shall send a written copy of the information by first class mail within 7 days after the request is received to the biological parents or adult biological siblings of the adoptee at their last known address

(14) If the information described in subsection (13) is returned undelivered the agency court or department shall make a reasonable effort to find the most recent address of the biological parents or adult biological siblings and shall again send the information by first class mail within 21 days after receiving the returned letter

(15) If a child placing agency a court or the department provides an adoptee with the name of 1 of the adoptee s former parents that child placing agency court or department shall notify the department of public health of that fact Upon receipt of notification by the child placing agency court or department the department of public health shall insure that the original birth certificate on file for the adoptee has been sealed and that a new birth certificate has been prepared in conformance with section 67 of this chapter

(16) An employee or agent of a child placing agency a court or the department who intentionally releases identifying information in violation of this section is guilty of a misdemeanor

(17) This section also applies to a stepparent adoption and to the adoption of a child related to the petitioner within the fifth degree by marriage blood or adoption

(18) As used in this section adult adoptee means an individual who was adopted as a child who is now 18 years of age or older or an individual who was 18 years of age or older at the time of adoption

(19) A child placing agency a court and the department may require a fee for supplying information under this section The fee shall be \$60 00 or the actual cost of supplying the information whichever is less The child placing agency court or department may waive a part or all of the fee in case of indigency or hardship

(20) A direct descendant of a deceased adult adoptee may request information pursuant to this section. All information to which an adult adoptee is entitled pursuant to this section shall be released to the adult adoptee's direct descendants if the adult adoptee is deceased.

Sec 68b (1) As used in this section

(a) Former family member means a parent, grandparent, or adult sibling related to the adult adoptee through birth or adoption by at least 1 common parent, regardless of whether the adult adoptee ever lived in the same household as the former family member.

(b) Petitioner means an individual on whose behalf a confidential intermediary is appointed pursuant to subsection (2).

(2) An adult adoptee, an adoptive parent of a minor adoptee, or an adult child of a deceased adoptee may petition the court in which the final order of adoption was entered to appoint a confidential intermediary to search for and contact a former family member. A former family member may petition the court in which the final order of adoption was entered to appoint a confidential intermediary to search for and contact an adult adoptee or an adult child of a deceased adoptee. Upon receipt of a petition under this section, the court shall contact the central adoption registry to determine whether there is currently on file a statement from the individual being sought that denies consent to the release of identifying information. If no denial of consent is currently on file for that individual, the court shall by written order appoint as confidential intermediary an individual who meets the requirements of subsection (3). The court shall provide the confidential intermediary with a certified copy of the order of appointment. The court may dismiss an intermediary if the intermediary engages in conduct that violates professional or ethical standards.

(3) An individual may serve as a confidential intermediary if he or she is approved by the court after completing training and files an oath of confidentiality with the court. The oath of confidentiality shall be substantially as follows:

I, _____, signing under penalty of perjury, affirm all of the following:

(a) I will not disclose to a petitioner, directly or indirectly, any identifying information in sealed records without written consent of the individual to whom the information pertains.

(b) I will conduct a reasonable search for an individual being sought. I will make a discreet and confidential inquiry as to whether the individual consents to the release of information to the petitioner, or to meeting or communicating with the petitioner, and I will report to the petitioner and the court the results of my search and inquiry.

(c) If the petitioner and the individual being sought consent in writing to meet or communicate with each other, I will act in accordance with the instructions of those persons and, if applicable, the instructions of the court to facilitate any meeting or communication between them.

(d) I will not charge or accept any fee for my services except for reimbursement from the petitioner for actual expenses incurred in performing my services, or as authorized by the court.

(e) I recognize that I may be subject to contempt of court sanctions and dismissal by the court if I permit the release of confidential information without authorization.

(4) A confidential intermediary shall make a reasonable search for an individual whose identity is sought by a petitioner under this section. The confidential intermediary shall first search the court records. If it is necessary to obtain information from an agency or the department, the confidential intermediary shall provide a certified copy of the order of appointment to the agency or the department before requesting the records. If the confidential intermediary locates the individual being sought, the intermediary shall discreetly and confidentially contact the individual to ascertain whether the individual is willing to release information to the petitioner, or to meet or communicate with the petitioner. If the individual consents in writing to the release of information, the intermediary shall release the information to the petitioner. Upon the mutual written consent of the petitioner and the individual, the intermediary may facilitate a meeting or other communication between the petitioner and the individual. If the individual refuses to authorize the release of information sought by the petitioner, the intermediary shall report the refusal to the petitioner and the court. If an individual sought under this section is deceased, the intermediary shall report that fact to the petitioner and the court.

(5) Except for a reasonable fee approved by the court and reimbursement for actual expenses incurred in performing services, a confidential intermediary shall not request or accept any money or other thing of value for serving as a confidential intermediary.

(6) If a confidential intermediary appointed under this section has failed to contact a former family member within 6 months after his or her appointment, the adult adoptee may petition the court for release of information described in section 27(2) and (3) and any additional information obtained by the confidential intermediary. Before a hearing on the petition, the confidential intermediary shall submit a written report to the court describing all efforts made to locate the former family member and all information obtained. After the hearing, the court shall do 1 of the following:

(a) Order the confidential intermediary to search for another 6-month period.

(b) Appoint a new confidential intermediary to search for a 6-month period.

(c) Release to the adult adoptee the identifying information described in section 27(2) and (3) and any other information that the court considers appropriate if the court finds that a diligent search has been made and that there is good cause to release the information The court's finding shall be made on the record

Section 2 This amendatory act shall take effect January 1 1995

Section 3 This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law

- (a) Senate Bill No 721
- (b) Senate Bill No 722
- (c) Senate Bill No 723
- (d) Senate Bill No 724
- (e) Senate Bill No 725
- (f) House Bill No 4201
- (g) House Bill No 4428
- (h) House Bill No 4614
- (i) House Bill No 4638

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor