

Act No. 264
Public Acts of 1994
Approved by the Governor
July 4, 1994
Filed with the Secretary of State
July 5, 1994

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

**Introduced by Senators Welborn Dingell Geake Cisky Dillingham Gougeon McManus Wartner,
DeGrow, Pridma Gast Hoffman, Arthurhultz and Hart**

ENROLLED SENATE BILL No. 725

AN ACT to amend sections 17c 18 18f 19 19a and 19b 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 section 17c as added by Act No 92 of the Public Acts of 1988 section 18 as amended by Act No 344 of the Public Acts of 1993 section 18f as added and sections 19 and 19a as amended by Act No 224 of the Public Acts of 1988 and section 19b as amended by Act No 314 of the Public Acts of 1990 being sections 712A 17c 712A 18 712A 18f 712A 19 712A 19a and 712A 19b of the Michigan Compiled Laws

The People of the State of Michigan enact

Section 1 Sections 17c 18 18f 19 19a and 19b of chapter XIIA of Act No 288 of the Public Acts of 1939 section 17c as added by Act No 92 of the Public Acts of 1988 section 18 as amended by Act No 344 of the Public Acts of 1993 section 18f as added and sections 19 and 19a as amended by Act No 224 of the Public Acts of 1988 and section 19b as amended by Act No 314 of the Public Acts of 1990 being sections 712A 17c 712A 18 712A 18f 712A 19 712A 19a and 712A 19b of the Michigan Compiled Laws are amended to read as follows

CHAPTER XIIA

Sec 17c (1) In a proceeding under section 2(a) or (d) of this chapter the court shall advise the child that the child has a right to an attorney at each stage of the proceeding

(2) In a proceeding under section 2(a) or (d) of this chapter the court shall appoint an attorney to represent the child if 1 or more of the following apply

(a) The child's parent refuses or fails to appear and participate in the proceedings

(b) The child's parent is the complainant or victim

(c) The child and those responsible for his or her support are financially unable to employ an attorney and the child does not waive his or her right to an attorney

(d) Those responsible for the child's support refuse or neglect to employ an attorney for the child and the child does not waive his or her right to an attorney

(e) The court determines that the best interests of the child or the public require appointment

(3) Except as otherwise provided in this subsection in a proceeding under section 2(a) or (d) of this chapter the child may waive his or her right to an attorney. The waiver by a child shall be made in open court on the record and shall not be made unless the court finds on the record that the waiver was voluntarily and understandingly made. The child may not waive his or her right to an attorney if the child's parent or guardian ad litem objects or if the appointment is made pursuant to subsection (2)(e)

(4) In a proceeding under section 2(b) or (c) of this chapter the court shall advise the respondent at the respondent's first court appearance of all of the following

(a) The right to an attorney at each stage of the proceeding

(b) The right to a court appointed attorney if the respondent is financially unable to employ an attorney

(c) If the respondent is not represented by an attorney the right to request and receive a court appointed attorney at a later proceeding

(5) If it appears to the court in a proceeding under section 2(b) or (c) of this chapter that the respondent wants an attorney and is financially unable to retain an attorney the court shall appoint an attorney to represent the respondent

(6) Except as otherwise provided in this subsection in a proceeding under section 2(b) or (c) of this chapter the respondent may waive his or her right to an attorney. A respondent who is a minor may not waive his or her right to an attorney if the respondent's parent or guardian ad litem objects

(7) In a proceeding under section 2(b) or (c) of this chapter the court shall appoint an attorney to represent the child. The child shall not waive the assistance of an attorney. The appointed attorney shall observe and dependent upon the child's age and capability interview the child. If the child is placed in foster care the attorney shall before representing the child in each subsequent proceeding or hearing review the agency case file and consult with the foster parents and the caseworker

(8) If an attorney is appointed for a party under this section the court may enter an order assessing attorney costs against the party or the person responsible for the support of that party. An order assessing attorney costs may be enforced through contempt proceedings

(9) An attorney appointed by the court under this section shall serve until discharged by the court

Sec 18 (1) If the court finds that a child concerning whom a petition is filed is not within this chapter the court shall enter an order dismissing the petition. Except as otherwise provided in subsection (10) if the court finds that a child is within this chapter the court may enter any of the following orders of disposition that are appropriate for the welfare of the child and society in view of the facts proven and ascertained

(a) Warn the child or the child's parents guardian or custodian and except as provided in subsection (7) dismiss the petition

(b) Place the child on probation or under supervision in the child's own home or in the home of an adult who is related to the child. As used in this subdivision related means being a parent grandparent brother sister stepparent stepsister stepbrother uncle or aunt by marriage blood or adoption. The court shall order the terms and conditions of probation or supervision including reasonable rules for the conduct of the parents guardian or custodian if any as the court determines necessary for the physical mental or moral well being and behavior of the child

(c) If a child is within the court's jurisdiction under section 2(a) of this chapter place the child in a suitable foster care home subject to the court's supervision. If a child is within the court's jurisdiction under section 2(b) of this chapter the court shall not place a child in a foster care home subject to the court's supervision

(d) Place the child in or commit the child to a private institution or agency approved or licensed by the state department of social services for the care of children of similar age sex and characteristics

(e) Commit the child to a public institution county facility institution operated as an agency of the court or county or agency authorized by law to receive children of similar age sex and characteristics. In a placement under subdivision (d) or a commitment under this subdivision except to a state institution the religious affiliation of the child shall be protected by placement or commitment to a private child placing or child caring agency or institution if available. In every order of commitment under this subdivision to a state institution or agency described in the youth rehabilitation services act Act No 150 of the Public Acts of 1974 as amended being sections 803 301 to 803 309 of the Michigan Compiled Laws or in Act No 220 of the Public Acts of 1935 as amended being sections 400 201 to 400 214 of the Michigan Compiled Laws the court shall name the superintendent of the institution to which the child is committed as a special guardian to receive benefits due the child from the government of the United States and the benefits shall be used to the extent necessary to pay for the portions of the cost of care in the institution that the parent or parents are found unable to pay

(f) Provide the child with medical dental surgical or other health care in a local hospital if available or elsewhere maintaining as much as possible a local physician patient relationship and with clothing and other incidental items as the court considers necessary

(g) Order the parents guardian custodian or any other person to refrain from continuing conduct that the court determines has caused or tended to cause the child to come within or to remain under this chapter or that obstructs placement or commitment of the child pursuant to an order under this section

(h) Appoint a guardian under section 424 of the revised probate code Act No 642 of the Public Acts of 1978 being section 700 424 of the Michigan Compiled Laws pursuant to a petition filed with the court by a person interested in the welfare of the child If the court appoints a guardian pursuant to this subdivision it may enter an order dismissing the petition under this chapter

(i) Order the child to engage in community service

(j) If the court finds that a child has violated a municipal ordinance or a state or federal law order the child to pay a civil fine in the amount of the civil or penal fine provided by the ordinance or law Money collected from fines levied under this subsection shall be distributed as provided in section 29 of this chapter

(k) Order the child to pay court costs Money collected from costs ordered under this subsection shall be distributed as provided in section 29 of this chapter

(2) An order of disposition placing a child in or committing a child to care outside of the child's own home and under state or court supervision shall contain a provision for reimbursement by the child parent guardian or custodian to the court for the cost of care or service The order shall be reasonable taking into account both the income and resources of the child parent guardian or custodian The amount may be based upon the guidelines and model schedule created under subsection (6) If the child is receiving an adoption support subsidy pursuant to section 115j(4) of the social welfare act Act No 280 of the Public Acts of 1939 being section 400 115j of the Michigan Compiled Laws the amount shall not exceed the amount of the support subsidy The reimbursement provision applies during the entire period the child remains in care outside of the child's own home and under state or court supervision unless the child is in the permanent custody of the court The court shall provide for the collection of all amounts ordered to be reimbursed and the money collected shall be accounted for and reported to the county board of commissioners Collections to cover delinquent accounts or to pay the balance due on reimbursement orders may be made after a child is released or discharged from care outside the child's own home and under state or court supervision Twenty five percent of all amounts collected pursuant to an order entered under this subsection shall be credited to the appropriate fund of the county to offset the administrative cost of collections The balance of all amounts collected pursuant to an order entered under this subsection shall be divided in the same ratio in which the county state and federal government participate in the cost of care outside the child's own home and under state or court supervision The court may also collect benefits paid for the cost of care of a court ward from the government of the United States Money collected for children placed with or committed to the state department of social services shall be accounted for and reported on an individual child basis In cases of delinquent accounts the court may also enter an order to intercept state or federal tax refunds of a child parent guardian or custodian and initiate the necessary offset proceedings in order to recover the cost of care or service The court shall send to the person who is the subject of the intercept order advance written notice of the proposed offset The notice shall include notice of the opportunity to contest the offset on the grounds that the intercept is not proper because of a mistake of fact concerning the amount of the delinquency or the identity of the person subject to the order The court shall provide for the prompt reimbursement of an amount withheld in error or an amount found to exceed the delinquent amount

(3) An order of disposition placing a child in the child's own home under subsection (1)(b) may contain a provision for reimbursement by the child parent guardian or custodian to the court for the cost of service If an order is entered under this subsection an amount due shall be determined and treated in the same manner provided for an order entered under subsection (2)

(4) An order directed to a parent or a person other than the child is not effective and binding on the parent or other person unless opportunity for hearing is given pursuant to issuance of summons or notice as provided in sections 12 and 13 of this chapter and until a copy of the order bearing the seal of the court is served on the parent or other person as provided in section 13 of this chapter

(5) If the court appoints an attorney to represent a child parent guardian or custodian the court may require in an order entered under this section that the child parent guardian or custodian reimburse the court for attorney fees

(6) The office of the state court administrator under the supervision and direction of the supreme court and in consultation with the state department of social services and the Michigan probate judges association shall create guidelines and a model schedule that may be used by the court in determining the ability of the child parent guardian or custodian to pay for care and any costs of service ordered under subsection (2) or (3) The guidelines and model schedule shall take into account both the income and resources of the child parent guardian or custodian

(7) If the court finds that a child comes under section 30 of this chapter the court shall order the child or the child's parent to pay restitution as provided in sections 30 and 31 of this chapter and in sections 44 and 45 of the crime victim's rights act Act No 87 of the Public Acts of 1985 being sections 780 794 and 780 795 of the Michigan Compiled Laws

(8) If the court imposes restitution as a condition of probation the court shall require the child to do either of the following as an additional condition of probation

(a) Engage in community service or with the victim's consent perform services for the victim

(b) Seek and maintain paid employment and pay restitution to the victim from the earnings of that employment

(9) If the court finds that the child is in intentional default of the payment of restitution a court may as provided in section 31 of this chapter revoke or alter the terms and conditions of probation for nonpayment of restitution. If a child who is ordered to engage in community service intentionally refuses to perform the required community service the court may revoke or alter the terms and conditions of probation

(10) For the purposes of this subsection and subsection (11) juvenile offense means that term as defined in section 1a of Act No. 289 of the Public Acts of 1925 being section 28.241a of the Michigan Compiled Laws. The court shall not enter an order of disposition for a juvenile offense until the court has examined the court file and has determined that the child's fingerprints have been taken as required by section 3 of Act No. 289 of the Public Acts of 1925 being section 28.243 of the Michigan Compiled Laws. If a child has not had his or her fingerprints taken the court shall do either of the following

(a) Order the child to submit himself or herself to the police agency that arrested or obtained the warrant for the arrest of the child so the child's fingerprints can be taken

(b) Order the child committed to the custody of the sheriff for the taking of the child's fingerprints

(11) Upon disposition or dismissal of a juvenile offense the clerk of the court entering the disposition or dismissal shall immediately advise the department of state police of the disposition or dismissal on forms approved by the state court administrator. The report to the department of state police shall include information as to the finding of the judge or jury and a summary of the disposition imposed

(12) If the court enters an order of disposition based on an act that is a juvenile offense as defined in section 1 of Act No. 196 of the Public Acts of 1989 being section 780.901 of the Michigan Compiled Laws the court shall order the child to pay the assessment provided in that act

Sec. 18f. (1) If in a proceeding under section 2(b) of this chapter an agency advises the court against placing a child in the custody of the child's parent, guardian, or custodian the agency shall report in writing to the court what efforts were made to prevent the child's removal from his or her home or the efforts made to rectify the conditions that caused the child's removal from his or her home. The report shall include all of the following

(a) If services were provided to the child and his or her parent, guardian, or custodian the services including in-home services that were provided

(b) If services were not provided to the child and his or her parent, guardian, or custodian the reasons why services were not provided

(c) Likely harm to the child if the child were to be separated from his or her parent, guardian, or custodian

(d) Likely harm to the child if the child were to be returned to his or her parent, guardian, or custodian

(2) Before the court enters an order of disposition in a proceeding under section 2(b) of this chapter the agency shall prepare a case service plan that shall be available to the court and all the parties to the proceeding

(3) The case service plan shall provide for placing the child in the most family like setting available and in as close proximity to the child's parents' home as is consistent with the best interests and special needs of the child. The case service plan shall include but not be limited to the following

(a) The type of home or institution in which the child is to be placed and the reasons for the selected placement

(b) Efforts to be made by the child's parent to enable the child to return to his or her home

(c) Efforts to be made by the agency to return the child to his or her home

(d) Schedule of services to be provided to the parent, child, and if the child is to be placed in foster care the foster parent to facilitate the child's return to his or her home or to facilitate the permanent placement of the child

(e) Unless visitation even if supervised would be harmful to the child a schedule for regular and frequent visitation between the child and his or her parent which shall not be less than once every 7 days

(4) The court shall consider the case service plan, any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, or relative with whom the child is placed, and any other evidence offered bearing on disposition before the court enters an order of disposition. The order of disposition shall state whether reasonable efforts have been made to prevent the child's removal from his or her home or to rectify the conditions that caused the child's removal from his or her home. The court may order compliance with all or any part of the case service plan as the court considers necessary

(5) If a child continues in placement outside of the child's home the case service plan shall be updated and revised at 90 day intervals as required by the rules promulgated pursuant to Act No. 116 of the Public Acts of 1973 being sections 722.111 to 722.128 of the Michigan Compiled Laws. The agency shall consult with the foster parents when it updates and revises the case service plan and shall attach a statement summarizing the information received from the

foster parents to the updated and revised case service plan. Updated and revised case service plans shall be available to the court and all the parties to the proceeding. Written reports, other than those portions made confidential by law, case service plans, and court orders, including all updates and revisions, shall be available to the foster parent, child, caring institution, or relative with whom the child is placed.

Sec 19 (1) Subject to section 20 of this chapter, if a child remains under the jurisdiction of the court, a cause may be terminated or an order may be amended or supplemented within the authority granted to the court in section 18 of this chapter at any time as the court considers necessary and proper. An amended or supplemented order shall be referred to as a supplemental order of disposition.

(2) Except as otherwise provided in subsections (3), (5), (6), (8), (9), and (10), if a child is placed in foster care, the cause shall be reheard not more than 182 days after entry of the order of disposition. The showing shall be recorded stenographically at a hearing held by the judge or referee. If the child remains in foster care in the temporary custody of the court following the hearing, the cause shall be further reheard not more than 182 days after the hearing. In conducting the review hearing, the court shall review the performance of the child, the child's parent, guardian, or custodian, the juvenile worker, and other persons providing assistance to the child and his or her family.

(3) If in a proceeding under section 2(b) of this chapter a child is placed and remains in foster care, a review hearing shall be held not more than 91 days after entry of the order of disposition and every 91 days thereafter for the first year following the entry of the order of disposition. After the first year following the entry of the order of disposition, a review hearing shall be held not more than 182 days after a permanency planning hearing held pursuant to section 19a of this chapter. Upon motion by any party or in the court's discretion, a review hearing may be accelerated to review any element of the case service plan prepared pursuant to section 18f of this chapter.

(4) Written notice of a review hearing under subsection (2) or (3) shall be served upon all of the following:

- (a) The agency. The agency shall advise the child of the hearing if the child is 11 years of age or older.
- (b) The foster parent or custodian of the child.
- (c) If the parental rights to the child have not been terminated, the child's parents.
- (d) If the child has a guardian, the guardian for the child.
- (e) If the child has a guardian ad litem, the guardian ad litem for the child.
- (f) If tribal affiliation has been determined, the elected leader of the Indian tribe.
- (g) The attorney for the child, the attorneys for each party, and the prosecuting attorney if the prosecuting attorney has appeared in the case.
- (h) If the child is 11 years of age or older, the child.
- (i) Other persons as the court may direct.

(5) At a review hearing under subsection (3), the court shall review on the record all of the following:

(a) Compliance with the case service plan with respect to services provided or offered to the child and his or her parent, guardian, or custodian and whether the parent, guardian, or custodian has complied with and benefited from those services.

(b) Compliance with the case service plan with respect to visitation with the child. If visitation did not occur or was infrequent, the court shall determine why visitation did not occur or was infrequent.

(c) The extent to which the parent complied with each provision of the case service plan, prior court orders, and any agreement between the parent and the agency.

(d) Likely harm to the child if the child continues to be separated from his or her parent, guardian, or custodian.

(e) Likely harm to the child if the child is returned to his or her parent, guardian, or custodian.

(6) After review of the case service plan, the court shall determine the extent of progress made toward alleviating or mitigating the conditions that caused the child to be placed in foster care or that caused the child to remain in foster care. The court may modify any part of the case service plan, including, but not limited to, the following:

(a) Prescribing additional services that are necessary to rectify the conditions that caused the child to be placed in foster care or to remain in foster care.

(b) Prescribing additional actions to be taken by the parent, guardian, or custodian to rectify the conditions that caused the child to be placed in foster care or to remain in foster care.

(7) At a review hearing under subsection (2) or (3), the court shall determine the continuing necessity and appropriateness of the child's placement and shall order the return of the child to the custody of the parent, continue the dispositional order, modify the dispositional order, or enter a new dispositional order.

(8) If in a proceeding under section 2(b) of this chapter a child is placed in foster care, the court shall determine at the dispositional hearing and each review hearing whether the cause should be reviewed before the next review hearing required by subsection (3). In making this determination, the court shall consider, but not be limited to, all of the following:

- (a) The parent's ability and motivation to make necessary changes to provide a suitable environment for the child
- (b) Whether there is a reasonable likelihood that the child may be returned to his or her home prior to the next review hearing required by subsection (3)
- (9) Unless waived if not less than 7 days' notice is given to all parties prior to the return of a child to his or her home and no party requests a hearing within the 7 days, the court may issue an order without a hearing permitting the agency to return the child to his or her home
- (10) An agency report filed with the court shall be accessible to all parties to the action and shall be offered into evidence. The court shall consider any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, or relative with whom a child is placed, in addition to any other evidence offered at the hearing.

Sec 19a (1) If a child remains in foster care and parental rights to the child have not been terminated, the court shall conduct a permanency planning hearing not more than 364 days after entry of the order of disposition and every 364 days thereafter during the continuation of the child's placement in foster care. A permanency planning hearing may be combined with a review hearing held under section 19(3) of this chapter.

(2) A permanency planning hearing shall be conducted to review the status of the child and the progress being made toward the child's return home or to show why the child should not be placed in the permanent custody of the court.

(3) Not less than 14 days before a permanency planning hearing, written notice of the hearing and a statement of the purposes of the hearing, including a notice that the hearing may result in further proceedings to terminate parental rights, shall be served upon all of the following:

- (a) The agency. The agency shall advise the child of the hearing if the child is 11 years of age or older.
- (b) The foster parent or custodian of the child.
- (c) If the parental rights to the child have not been terminated, the child's parents.
- (d) If the child has a guardian, the guardian for the child.
- (e) If the child has a guardian ad litem, the guardian ad litem for the child.
- (f) If tribal affiliation has been determined, the elected leader of the Indian tribe.
- (g) The attorney for the child, the attorneys for each party, and the prosecuting attorney if the prosecuting attorney has appeared in the case.
- (h) If the child is 11 years of age or older, the child.
- (i) Other persons as the court may direct.

(4) If parental rights to the child have not been terminated and the court determines at a permanency planning hearing that the return of the child to his or her parent would not cause a substantial risk of harm to the child's life, physical health, or mental well-being, the court shall order the child returned to his or her parent. In determining whether the return of the child would cause a substantial risk of harm to the child, the court shall view the failure of the parent to substantially comply with the terms and conditions of the case service plan prepared under section 18f of this chapter as evidence that return of the child to his or her parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being. In addition to considering conduct of the parent as evidence of substantial risk of harm, the court shall consider any condition or circumstance of the child that may be evidence that a return to the parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being.

(5) If the court determines at a permanency planning hearing that the child should not be returned to his or her parent, the court shall order the agency to initiate proceedings to terminate parental rights to the child not later than 42 days after the permanency planning hearing, unless the agency demonstrates to the court that initiating the termination of parental rights to the child is clearly not in the child's best interests.

(6) If the agency demonstrates under subsection (5) that initiating the termination of parental rights to the child is clearly not in the child's best interests, then the court shall order either of the following alternative placement plans:

- (a) If the court determines that other permanent placement is not possible, the child's placement in foster care shall continue for a limited period to be stated by the court.
- (b) If the court determines that it is in the child's best interests, the child's placement in foster care shall continue on a long-term basis.

(7) In making the determinations under this section, the court shall consider any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, or relative with whom the child is placed, in addition to any other evidence offered at the hearing.

Sec 19b (1) Except as provided in subsection (4), if a child remains in foster care in the temporary custody of the court following a review hearing under section 19(3) of this chapter or a permanency planning hearing under section 19a of this chapter or if a child remains in the custody of a guardian or limited guardian upon petition of the prosecuting attorney, whether or not the prosecuting attorney is representing or acting as legal consultant to the agency or any

other party or of the child guardian custodian concerned person as defined in subsection (6) agency or the children's ombudsman pursuant to section 7 of the children's ombudsman act the court shall hold a hearing to determine if the parental rights to a child should be terminated and if all parental rights to the child are terminated the child placed in permanent custody of the court. The court shall state on the record or in writing its findings of fact and conclusions of law with respect to whether or not parental rights should be terminated.

(2) Not less than 14 days before a hearing to determine if the parental rights to a child should be terminated written notice of the hearing shall be served upon all of the following:

- (a) The agency. The agency shall advise the child of the hearing if the child is 11 years of age or older.
- (b) The foster parent or custodian of the child.
- (c) The child's parents.
- (d) If the child has a guardian, the guardian for the child.
- (e) If the child has a guardian ad litem, the guardian ad litem for the child.
- (f) If tribal affiliation has been determined, the elected leader of the Indian tribe.
- (g) The attorney for the child and the attorneys for all parties.
- (h) If the child is 11 years of age or older, the child.
- (i) The prosecutor.

(3) The court may terminate the parental rights of a parent to a child if the court finds by clear and convincing evidence 1 or more of the following:

- (a) The child has been deserted under either of the following circumstances:

- (i) If the parent of a child is unidentifiable and has deserted the child for 28 or more days and has not sought custody of the child during that period. For the purposes of this section, a parent is unidentifiable if the parent's identity cannot be ascertained after reasonable efforts have been made to locate and identify the parent.

- (ii) The parent of a child has deserted the child for 91 or more days and has not sought custody of the child during that period.

- (b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under either of the following circumstances:

- (i) A parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home.

- (ii) A parent who had the opportunity to prevent the physical injury or physical or sexual abuse failed to do so and the court finds that there is a reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if placed in the parent's home.

- (c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court by clear and convincing evidence finds either of the following:

- (i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the age of the child.

- (ii) Other conditions exist that cause the child to come within the jurisdiction of the court, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice, a hearing, and been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the age of the child.

- (d) The parent of a child has placed the child in a limited guardianship under section 424a of the revised probate code, Act No. 642 of the Public Acts of 1978, being section 700 424a of the Michigan Compiled Laws, and has substantially failed, without good cause, to comply with a limited guardianship placement plan described in section 424a of Act No. 642 of the Public Acts of 1978 regarding the child to the extent that such noncompliance has resulted in a disruption of the parent-child relationship.

- (e) The parent of a child who has a guardian under the revised probate code, Act No. 642 of the Public Acts of 1978, being sections 700 1 to 700 993 of the Michigan Compiled Laws, has substantially failed, without good cause, to comply with a court-structured plan described in section 424b or 424c of Act No. 642 of the Public Acts of 1978, being sections 700 424b and 700 424c of the Michigan Compiled Laws, regarding the child to the extent that such noncompliance has resulted in a disruption of the parent-child relationship.

- (f) The child has a guardian under the revised probate code, Act No. 642 of the Public Acts of 1978, and both of the following have occurred:

- (i) The parent, having the ability to support or assist in supporting the minor, has failed or neglected, without good cause, to provide regular and substantial support for the minor for a period of 2 years or more before the filing of the petition, or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the petition.

(u) The parent having the ability to visit contact or communicate with the minor has regularly and substantially failed or neglected without good cause to do so for a period of 2 years or more before the filing of the petition

(g) The parent without regard to intent fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the age of the child

(h) The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years and the parent has not provided for the child's proper care and custody and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the age of the child

(i) Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse and prior attempts to rehabilitate the parents have been unsuccessful

(j) There is a reasonable likelihood based on the conduct or capacity of the child's parent that the child will be harmed if he or she is returned to the home of the parent

(4) If a petition to terminate the parental rights to a child is filed the court may enter an order terminating parental rights under subsection (3) at the initial dispositional hearing

(5) If the court finds that there are grounds for termination of parental rights the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent shall not be made unless the court finds that termination of parental rights to the child is clearly not in the child's best interests

(6) As used in this section concerned person means a foster parent with whom the child is living or has lived who has specific knowledge of behavior by the parent constituting grounds for termination under subsection (3)(b) or (g) and who has contacted the department of social services the prosecuting attorney the child's attorney and the child's guardian ad litem if any and is satisfied that none of these persons intend to file a petition under this section

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 299

(b) Senate Bill No 721

(c) Senate Bill No 722

(d) Senate Bill No 723

(e) Senate Bill No 724

(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