

Act No. 16  
Public Acts of 1996  
Approved by the Governor  
February 8, 1996  
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February 8, 1996

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1996**

**Introduced by Senators Hart, Geake, Dingell, Hoffman, Gougeon, Shugars, Stille, McManus, Byrum and Emmons**

# **ENROLLED SENATE BILL No. 620**

AN ACT to amend section 60 of chapter X and sections 13a, 18f, and 19 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 60 of chapter X as amended by Act No. 341 of the Public Acts of 1982, section 13a of chapter XIIA as amended by Act No. 114 of the Public Acts of 1993, and sections 18f and 19 of chapter XIIA as amended by Act No. 264 of the Public Acts of 1994, being sections 710.60, 712A.13a, 712A.18f, and 712A.19 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Section 60 of chapter X and sections 13a, 18f, and 19 of chapter XIIA of Act No. 288 of the Public Acts of 1939, section 60 of chapter X as amended by Act No. 341 of the Public Acts of 1982, section 13a of chapter XIIA as amended by Act No. 114 of the Public Acts of 1993, and sections 18f and 19 of chapter XIIA as amended by Act No. 264 of the Public Acts of 1994, being sections 710.60, 712A.13a, 712A.18f, and 712A.19 of the Michigan Compiled Laws, are amended to read as follows:

## **CHAPTER X**

Sec. 60. (1) After the entry of the order of adoption, the adoptee shall, in case of a change of name, be known and called by the new name. The person or persons adopting the adoptee then stand in the place of a parent or parents to the adoptee in law in all respects as though the adopted person had been born to the adopting parents and are liable for all the duties and entitled to all the rights of parents.

(2) After entry of the order of adoption, there is no distinction between the rights and duties of natural progeny and adopted persons, and the adopted person becomes an heir at law of the adopting parent or parents, and an heir at law of the lineal and collateral kindred of the adopting parent or parents. After entry of the order of adoption, an adopted child is no longer an heir at law of a parent whose rights have been terminated under this chapter or chapter XIIA or the lineal or collateral kindred of that parent, nor is an adopted adult an heir at law of a person who was his or her

parent at the time the order of adoption was entered or the lineal or collateral kindred of that person, except that a right, title, or interest vesting before entry of the final order of adoption is not divested by that order.

(3) This section does not prohibit the entry of an order for grandparenting time under section 7b of the child custody act of 1970, Act No. 91 of the Public Acts of 1970, being section 722.27b of the Michigan Compiled Laws. During the pendency of a stepparent adoption proceeding, a parent of a natural parent may seek an order for grandparenting time of the adoptee in the same manner as set forth in section 7b of Act No. 91 of the Public Acts of 1970, and the judge of probate shall proceed in the same manner as is provided for the circuit court judge in section 7b of Act No. 91 of the Public Acts of 1970.

## CHAPTER XIIA

Sec. 13a. (1) As used in this section and sections 18f, 19, 19a, 19b, and 19c of this chapter:

(a) "Agency" means a public or private organization, institution, or facility responsible pursuant to court order or contractual arrangement for the care and supervision of a child.

(b) "Foster care" means care provided to a child in a foster family home, foster family group home, or child caring institution licensed or approved under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws, or care provided to a child in a relative's home pursuant to an order by the juvenile division of the probate court.

(2) If a child is alleged to come within the provisions of section 2(b) of this chapter, the court may authorize a petition to be filed at the conclusion of the preliminary hearing or inquiry. The petition may be authorized upon a showing of probable cause that 1 or more of the allegations in the petition are true and fall within the provisions of section 2(b) of this chapter.

(3) If a petition under subsection (2) is authorized, the court may release the child in the custody of either of the child's parents, guardian, or custodian under such reasonable terms and conditions as are necessary for either the physical health or mental well-being of the child.

(4) If a petition alleging abuse by a parent, guardian, custodian, or other person residing in the child's home is authorized under subsection (2) and the court after a hearing finds probable cause to believe the parent, guardian, custodian, or other person committed the abuse, the court may order that parent, guardian, custodian, or other person to leave the home and not subsequently return to it, except as the court orders, and may release the child to the other parent or to another guardian or custodian. The court shall not enter an order under this subsection unless the court determines all of the following:

(a) The presence in the home of the person who is alleged to have committed the abuse presents a substantial risk of harm to the child's life, physical health, or mental well-being.

(b) Removing the person who is alleged to have committed the abuse is necessary to adequately safeguard the child from the risk of harm to the child's life, physical health, or mental well-being.

(c) The conditions of custody with the other parent or another guardian or custodian are adequate to safeguard the child from the risk of harm to the child's life, physical health, or mental well-being.

(d) It is in the best interests of the child for the child to remain in the home.

(5) In determining whether to enter an order under subsection (4), the court may consider whether the parent who is to remain in the child's home is married to the person to be removed or has a legal right to retain possession of the home.

(6) An order entered under subsection (4) may also contain 1 or more of the following terms or conditions:

(a) The court may require the alleged abusive parent to pay appropriate support to maintain a suitable home environment for the child during the duration of the order.

(b) The court may order the alleged abusive person, according to terms the court may set, to surrender to a local law enforcement agency any firearms or other potentially dangerous weapons the alleged abusive person owns, possesses or uses.

(c) The court may include any reasonable term or condition necessary for the child's physical or mental well-being or necessary to protect the child.

(7) If a petition under subsection (2) is authorized, the court may order placement of the child with someone other than a parent if the court after hearing determines that both of the following conditions exist:

(a) Custody of the child with a parent, guardian, or custodian presents a substantial risk of harm to the child's life, physical health, or mental well-being and no provision of service or other arrangement except removal of the child is reasonably available to adequately safeguard the child from such risk.

(b) Conditions of custody of the child away from a parent, guardian, or custodian are adequate to safeguard the child's health and welfare.

(8) If the court orders placement of the child outside the child's home, the court shall inform the parties of the following:

(a) The agency has the responsibility to prepare an initial services plan within 30 days of the child's placement.

(b) The general elements of an initial services plan as required by the rules promulgated pursuant to Act No. 116 of the Public Acts of 1973.

(c) Without a court order participation in an initial services plan is voluntary.

(9) In determining placement of a child pending trial, the court shall order the child placed in the most family-like setting available consistent with the needs of the child.

(10) Unless parenting time, even if supervised, would be harmful to the child, the child's parent shall be permitted to have parenting time frequently with the child.

(11) Upon the motion of any party, the court shall review custody and placement orders and initial services plans pending trial and may modify those orders and plans as the court considers under this section are in the best interests of the child.

(12) As used in subsection (4), "abuse" means 1 or more of the following:

(a) Harm or threatened harm by a person to a child's health or welfare that occurs through nonaccidental physical or mental injury.

(b) Engaging in sexual contact or sexual penetration with a child as defined in section 520a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.520a of the Michigan Compiled Laws.

(c) Sexual exploitation of a child, which includes, but is not limited to, allowing, permitting, or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the photographing, filming, or depicting of a child engaged in a listed sexual act as defined in section 145c of Act No. 328 of the Public Acts of 1931, being section 750.145c of the Michigan Compiled Laws.

(d) Maltreatment of a child.

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 parenting time, even if supervised, would be harmful to the child, a schedule for regular and frequent parenting time 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 the child’s 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 parenting time with the child. If parenting time did not occur or was infrequent, the court shall determine why parenting time 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 an agreement between the parent and the agency.

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

(e) Likely harm to the child if the child is returned to the child’s 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 the child's 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 the child's 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.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 624 of the 88th Legislature is enacted into law.

Section 3. This amendatory act shall take effect June 1, 1996.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved -----

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Governor.