

Act No. 409
Public Acts of 1996
Approved by the Governor
October 30, 1996
Filed with the Secretary of State
October 31, 1996

STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996

Introduced by Senator Schuette

ENROLLED SENATE BILL No. 1037

AN ACT to amend sections 22, 23d, 24, 24a, 26, 28, 29, 34, 36, 39, 43, 44, 45, 51, 58a, 60, 64, and 66 of chapter X, sections 1 and 2 of chapter XI, and sections 1, 2, 2a, 2b, 2c, 3, 4, 5, 6, 8, 11, 13a, 16, 17, and 28 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," sections 22, 23d, 24, 24a, 29, 39, 44, and 58a of chapter X as amended by Act No. 373 of the Public Acts of 1994, sections 26 and 45 of chapter X as amended by Act No. 239 of the Public Acts of 1994, sections 28, 43, and 51 of chapter X as amended by Act No. 222 of the Public Acts of 1994, section 36 of chapter X as amended by Act No. 72 of the Public Acts of 1982, section 60 of chapter X as amended by Act No. 16 of the Public Acts of 1996, section 64 of chapter X as amended by Act No. 244 of the Public Acts of 1994, section 66 of chapter X as added by Act No. 247 of the Public Acts of 1992, section 1 of chapter XI as amended by Act No. 106 of the Public Acts of 1996, sections 1, 2, and 2a of chapter XIIA as amended by Act No. 250 of the Public Acts of 1996, section 2b of chapter XIIA as amended by Act No. 124 of the Public Acts of 1988, section 4 of chapter XIIA as amended by Act No. 262 of the Public Acts of 1996, section 11 of chapter XIIA as amended by Act No. 92 of the Public Acts of 1988, section 13a of chapter XIIA as amended by Act No. 16 of the Public Acts of 1996, section 16 of chapter XIIA as amended by Act No. 224 of the Public Acts of 1988, section 17 of chapter XIIA as amended by Act No. 258 of the Public Acts of 1996, and section 28 of chapter XIIA as amended by Act No. 73 of the Public Acts of 1989, being sections 710.22, 710.23d, 710.24, 710.24a, 710.26, 710.28, 710.29, 710.34, 710.36, 710.39, 710.43, 710.44, 710.45, 710.51, 710.58a, 710.60, 710.64, 710.66, 711.1, 711.2, 712A.1, 712A.2, 712A.2a, 712A.2b, 712A.2c, 712A.3, 712A.4, 712A.5, 712A.6, 712A.8, 712A.11, 712A.13a, 712A.16, 712A.17, and 712A.28 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 22, 23d, 24, 24a, 26, 28, 29, 34, 36, 39, 43, 44, 45, 51, 58a, 60, 64, and 66 of chapter X, sections 1 and 2 of chapter XI, and sections 1, 2, 2a, 2b, 2c, 3, 4, 5, 6, 8, 11, 13a, 16, 17, and 28 of chapter XIIA of Act No. 288 of the Public Acts of 1939, sections 22, 23d, 24, 24a, 29, 39, 44, and 58a of chapter X as amended by Act No. 373 of the Public Acts of 1994, sections 26 and 45 of chapter X as amended by Act No. 239 of the Public Acts of 1994, sections 28, 43, and 51 of chapter X as amended by Act No. 222 of the Public Acts of 1994, section 36 of chapter X as amended by Act No. 72 of the Public Acts of 1982, section 60 of chapter X as amended by Act No. 16 of the Public Acts of 1996, section 64 of chapter X as amended by Act No. 244 of the Public Acts of 1994, section 66 of chapter X as added by Act No. 247 of the Public Acts of 1992, section 1 of chapter XI as amended by Act No. 106 of the Public Acts of 1996, sections 1, 2, and 2a of chapter XIIA as amended by Act No. 250 of the Public Acts of 1996, section 2b of chapter XIIA as amended

by Act No. 124 of the Public Acts of 1988, section 4 of chapter XIIA as amended by Act No. 262 of the Public Acts of 1996, section 11 of chapter XIIA as amended by Act No. 92 of the Public Acts of 1988, section 13a of chapter XIIA as amended by Act No. 16 of the Public Acts of 1996, section 16 of chapter XIIA as amended by Act No. 224 of the Public Acts of 1988, section 17 of chapter XIIA as amended by Act No. 258 of the Public Acts of 1996, and section 28 of chapter XIIA as amended by Act No. 73 of the Public Acts of 1989, being sections 710.22, 710.23d, 710.24, 710.24a, 710.26, 710.28, 710.29, 710.34, 710.36, 710.39, 710.43, 710.44, 710.45, 710.51, 710.58a, 710.60, 710.64, 710.66, 711.1, 711.2, 712A.1, 712A.2, 712A.2a, 712A.2b, 712A.2c, 712A.3, 712A.4, 712A.5, 712A.6, 712A.8, 712A.11, 712A.13a, 712A.16, 712A.17, and 712A.28 of the Michigan Compiled Laws, are amended to read as follows:

CHAPTER X

Sec. 22. As used in this chapter:

- (a) "Adoptee" means the individual who is to be adopted, regardless of whether the individual is a child or an adult.
- (b) "Adoption attorney" means an attorney acting as counsel in a direct placement adoption who meets all of the following requirements:
 - (i) Has completed at least 12 hours of continuing education in this state during the past 5 years in courses integrating the legal and social aspects of adoption.
 - (ii) Maintains an up-to-date file of individuals licensed or registered under either the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws, or the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.101 to 339.2721 of the Michigan Compiled Laws, and agencies to whom referrals may be made for counseling services needed by an adoption client.
 - (iii) Has registered as an adoption attorney with the children's ombudsman as provided in section 5 of the foster care and adoption services act, Act No. 203 of the Public Acts of 1994, being sections 722.951 to 722.960 of the Michigan Compiled Laws.
- (c) "Adult former sibling" means an individual who is 18 years of age or older and is related to an adult adoptee either biologically or through adoption by at least 1 common parent, regardless of whether the adult former sibling ever lived in the same household as the adult adoptee.
- (d) "Agency placement" means a placement in which a child placing agency, the department, or a court selects the adoptive parent for the child and transfers physical custody of the child to the prospective adoptive parent.
- (e) "Attending practitioner" means a licensed physician or a registered professional nurse certified as a nurse midwife by the Michigan board of nursing.
- (f) "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:
 - (i) The love, affection, and other emotional ties existing between the adopting individual or individuals and the adoptee or, in the case of a hearing under section 39 of this chapter, the putative father and the adoptee.
 - (ii) The capacity and disposition of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, 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.
 - (iii) The capacity and disposition of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, the putative father, to provide the adoptee with food, clothing, education, permanence, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.
 - (iv) The length of time the adoptee has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.
 - (v) The permanence as a family unit of the proposed adoptive home, or, in the case of a hearing under section 39 of this chapter, the home of the putative father.
 - (vi) The moral fitness of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, of the putative father.
 - (vii) The mental and physical health of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, of the putative father, and of the adoptee.
 - (viii) The home, school, and community record of the adoptee.
 - (ix) The reasonable preference of the adoptee, if the adoptee is 14 years of age or less and if the court considers the adoptee to be of sufficient age to express a preference.
 - (x) The ability and willingness of the adopting individual or individuals to adopt the adoptee's siblings.

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

(g) "Born out of wedlock" means a child conceived and born to a woman who was not married from the conception to the date of birth of the child, or a child whom the court has determined to be a child born during a marriage but not the issue of that marriage.

(h) "Central adoption registry" means the registry established by the department pursuant to section 27b of this chapter to control the release of identifying adoption information.

(i) "Child" means an individual less than 18 years of age.

(j) "Child placing agency" means a private organization licensed under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws, to place children for adoption.

(k) "Consent" means a document in which all parental rights over a specific child are voluntarily relinquished to the court for placement with a specific adoptive parent.

(l) "Court" means the family division of circuit court of this state, or when the context requires, the court having jurisdiction over adoption in another state or country.

(m) "Department" means the family independence agency.

(n) "Direct placement" means a placement in which a parent or guardian selects an adoptive parent for a child, other than a stepparent or an individual related to the child within the fifth degree by marriage, blood, or adoption, and transfers physical custody of the child to the prospective adoptive parent.

(o) "Formal placement" means a placement that is approved by the court under section 51 of this chapter.

(p) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(q) "Petitioner", except as used in section 68b of this chapter, means the individual or individuals who file an adoption petition with the court.

(r) "Placement" or "to place" means selection of an adoptive parent for a child and transfer of physical custody of the child to a prospective adoptive parent pursuant to this chapter.

(s) "Release" means a document in which all parental rights over a specific child are voluntarily relinquished to the department or to a child placing agency.

(t) "Rescission petition" means a petition filed by an adult adoptee and his or her parent whose rights have been terminated to rescind the adoption in which a stepparent acquired parental rights and to restore parental rights of that parent pursuant to section 66 of this chapter.

(u) "Suitable to be a parent of an adoptee" means a conclusion that there is no specific concern with respect to an individual that would suggest that placement of any child, or a particular child, in the home of the individual would pose a risk of harm to the physical or psychological well-being of the child.

(v) "Temporary placement" means a placement that occurs before court approval under section 51 of this chapter and that meets the requirements of section 23d of this chapter.

(w) "Within the fifth degree by marriage, blood, or adoption" means any of the following relationships: parent, step-parent, grandparent, step-grandparent, brother, step-brother, sister, step-sister, uncle, step-uncle, aunt, step-aunt, first cousin, step-first cousin, great aunt, step-great aunt, great uncle, step-great uncle, great grandparent, step-great grandparent, first cousin once removed, step-first cousin once removed, great great grandparent, step-great great grandparent, great great uncle, step-great great uncle, great great aunt, step-great great aunt, great great great grandparent, or step-great great great grandparent.

Sec. 23d. (1) In a direct placement, a parent or guardian with legal and physical custody of a child may make a temporary placement of the child as prescribed by this section. In an agency placement, a child placing agency with written authorization from the parent or guardian pursuant to section 23b of this chapter may make a temporary placement of the child as prescribed by this section. A temporary placement shall meet all of the following requirements:

(a) The prospective adoptive parent with whom a child is temporarily placed is a Michigan resident.

(b) In a direct placement, the parent or guardian is assisted by an adoption attorney or a child placing agency.

(c) In the presence of a witness who also signs the document, the parent, guardian, or representative of the child placing agency signs a statement evidencing the transfer of physical custody of the child. If the parent making the temporary placement is an unemancipated minor, the statement is not valid unless it is also signed in the presence of the witness by a parent or guardian of that minor parent. The statement shall contain all of the following:

(i) The date of the transfer of physical custody.

(ii) Language providing that the transfer is for the purpose of adoption by the prospective adoptive parent who is a Michigan resident.

(iii) Language indicating that unless the parent or guardian and the prospective adoptive parent agree otherwise, the prospective adoptive parent has the authority to consent to all medical, surgical, psychological, educational, and related services for the child and language indicating that the parent or guardian otherwise retains full parental rights to the child being temporarily placed and that the temporary placement may be revoked by the filing of a petition under subsection (5).

(iv) Language providing that the person making the transfer has read a preplacement assessment of the prospective adoptive parent completed or updated within 1 year before the date of the transfer with a finding that the prospective adoptive parent is suitable to be a parent of an adoptee. If a child placing agency makes the transfer of physical custody, the statement shall include a verification that the child placing agency has given the parent or guardian who authorized the temporary placement an opportunity to review the preplacement assessment.

(v) Even if only 1 parent is making the temporary placement, the name and address of both parents of the child, including in the case of a child born out of wedlock, the name and the address of each putative father of the child, if known.

(d) In the presence of a witness who also signs the document, the prospective adoptive parent signs a statement setting forth the date of the transfer of physical custody and the name and address of the prospective adoptive parent and attesting to both of the following:

(i) That the prospective adoptive parent understands that the temporary placement will not become a formal placement until the parents consent or release their parental rights and the court orders the termination of parental rights and approves the placement and that the prospective adoptive parent must relinquish custody of the child within 24 hours after being served with an order pursuant to section 23e(2) of this chapter.

(ii) That the prospective adoptive parent agrees to reside with the child in Michigan until a change of residence is approved by the court after formal placement occurs.

(2) Not later than 2 days, excluding weekends and holidays, after a transfer of physical custody of a child pursuant to subsection (1), the adoption attorney or child placing agency who assists with the temporary placement or the child placing agency that makes the temporary placement shall submit to the court in the county in which the prospective adoptive parent resides a report that contains all of the following:

(a) The date of the transfer of physical custody.

(b) The name and address of the parent or guardian or the child placing agency who made the temporary placement.

(c) The name and address of the prospective adoptive parent with whom the temporary placement was made.

(d) Even if only 1 parent is making the temporary placement, the name and address of both parents of the child, including, in the case of a child born out of wedlock, the name of each putative father, if known.

(e) The documents required under subsection (1)(c) and (d) and, if applicable, the authorization required under section 23b of this chapter.

(3) Not later than 30 days after the transfer of physical custody of a child under this section, the adoption attorney or child placing agency who assists with the temporary placement or the child placing agency that makes the temporary placement shall submit to the court that received the report described in subsection (2) a report indicating whether or not 1 of the following dispositions has occurred:

(a) A petition for adoption of the child has been filed.

(b) The child has been returned to the agency or to a parent or other person having legal custody.

(4) If the court has not received the report required under subsection (3) within 45 days after the transfer of physical custody of a child, the court shall immediately investigate and determine whether an adoption petition has been filed or the child has been returned to a parent or other person having legal custody. If the report required under subsection (3) or the court's investigation reveals that neither disposition has occurred, the court shall immediately report to the prosecutor, who shall immediately file a petition in the court that received the report described in subsection (2) for disposition of the child pursuant to section 23e of this chapter. If a petition has been filed under subsection (5), (6), or (7), the prosecutor is not required to file a petition.

(5) A parent or guardian who wishes to regain custody of a child who has been placed temporarily shall file a petition in the court that received the report described in subsection (2) requesting that the temporary placement be revoked and that the child be returned to the parent or guardian. Upon request of the parent or guardian, the adoption attorney or child placing agency who assisted in making the temporary placement shall assist the parent or guardian in filing the petition to revoke the temporary placement. If the temporary placement was made by a child placing agency pursuant to section 23b(3) of this chapter, the child placing agency shall file the petition on behalf of a parent or guardian who wishes to regain custody of the child.

(6) If a prospective adoptive parent with whom a child has been temporarily placed is either unwilling or unable to proceed with the adoption, the prospective adoptive parent may file a petition in the court that received the report described in subsection (2) for disposition of the child pursuant to section 23e of this chapter.

(7) If a child placing agency that temporarily placed a child is unable to proceed with an adoption because of the unavailability of a parent or guardian to execute a release, or if a child placing agency with legal custody of a child decides not to proceed with the adoption by a prospective adoptive parent with whom the child has been temporarily placed and the prospective adoptive parent refuses upon the agency's request to return the child to the agency, the child placing agency shall file a petition in the court that received the report described in subsection (2) for disposition of the child pursuant to section 23e of this chapter.

(8) Except as otherwise agreed to by the parties, the prospective adoptive parent with whom a child is temporarily placed under this section may consent to all medical, surgical, psychological, educational, and related services for the child.

(9) A hospital or attending practitioner shall not release a child to an individual or agency not otherwise legally entitled to the physical custody of the child unless all of the requirements of subsection (1) are met.

Sec. 24. (1) If a person desires to adopt a child or an adult and to bestow upon the adoptee his or her family name, or to adopt a child or an adult without a change of name, with the intent to make the adoptee his or her heir, that person, together with his wife or her husband, if married, shall file a petition with the court of the county in which the petitioner resides or where the adoptee is found. If there has been a temporary placement of the child, the petition for adoption shall be filed with the court that received the report described in section 23d(2) of this chapter.

(2) The petition for adoption shall be verified by each petitioner and shall contain the following information:

(a) The name, date and place of birth, and place of residence of each petitioner, including the maiden name of the adopting mother.

(b) Except as otherwise provided in subsection (5), the name, date and place of birth, and place of residence if known of the adoptee.

(c) The relationship, if any, of the adoptee to the petitioner.

(d) The full name by which the adoptee shall be known after adoption.

(e) The full description of the property, if any, of the adoptee.

(f) Unless the rights of the parents have been terminated by a court of competent jurisdiction or except as otherwise provided in subsection (5), the names of the parents of the adoptee and the place of residence of each living parent if known.

(g) Except as otherwise provided in subsection (5), the name and place of residence of the guardian of the person or estate of the adoptee, if any has been appointed.

(3) In a direct placement, the petitioner shall attach to the petition a verified statement certifying that the petitioner has been informed of the availability of counseling services and whether the petitioner has received counseling.

(4) Except as otherwise provided in this subsection, in a direct placement, the petitioner shall attach a copy of a preplacement assessment of the petitioner completed or updated within 1 year before the petition is filed with a finding that the petitioner is suitable to be a parent of an adoptee, copies of all other preplacement assessments of the petitioner, if any others have been completed, and a verified statement stating that no preplacement assessments of the petitioner have been completed other than those attached to the petition and explaining any preplacement assessments of the petitioner that have been initiated but not completed. If the petitioner is seeking review of a preplacement assessment under section 23f(8) of this chapter, the petitioner may comply with this subsection by attaching a copy of that preplacement assessment and a copy of the application for review, together with copies of all other preplacement assessments and the verified statement required by this section.

(5) In a direct placement in which the parties have elected not to exchange identifying information, the information required by subsection (2)(f) and (g) and the surname and place of residence of the adoptee required under subsection (2)(b) may be omitted. The attorney or child placing agency assisting in the adoption shall file a verified statement containing the omitted information.

Sec. 24a. (1) Interested parties in a petition for adoption are all of the following:

(a) The petitioner.

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

(c) A minor parent, adult parent, or surviving parent of an adoptee, unless 1 or more of the following apply:

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

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

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

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

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

(d) The department or a child placing agency to which the adoptee has been, or for purposes of subsection (3) is proposed to be, released or committed by an order of the court.

(e) A parent, guardian, or guardian ad litem of an unemancipated minor parent of the adoptee.

(f) The court with permanent custody of the adoptee.

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

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

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

(2) Interested parties in a petition for a hearing to identify the father of an adoptee and to determine or terminate his rights are all of the following:

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

(b) A putative father of the adoptee.

(3) Interested parties in a proceeding relating to the execution of a voluntary release are all of the following:

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

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

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

(4) Interested parties in a rescission petition are all of the following:

(a) The petitioners.

(b) The stepparent who adopted the adult adoptee.

(c) The spouse of the parent whose rights were terminated.

(5) Interested parties in a hearing related to temporary placement are all of the following:

(a) The parent or guardian who made or authorized the temporary placement.

(b) The parent or guardian of an unemancipated minor parent of the adoptee.

(c) A child placing agency that was authorized under section 23b of this chapter to make the temporary placement.

(d) If only 1 parent made or authorized the temporary placement, the other parent and each putative father of the adoptee.

(e) The prospective adoptive parent with whom temporary placement was made.

(f) The prosecutor who filed a petition under section 23d of this chapter.

(g) The guardian ad litem, if a guardian ad litem has been appointed.

(6) In the interest of justice, the court may require additional parties to be served.

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

Sec. 26. (1) Subsequent to or concurrent with the filing of the adoption petition but before the hearing on the petition by the court, the petitioner, the department, an employee or agent of the court, or a child placing agency, as appropriate, shall file all of the following documentation:

(a) Except in instances of parental consent to adoption, a copy of each release or order terminating parental rights over the child having a bearing upon the authority of a person to execute the consent to adoption.

(b) A copy of the order of commitment, if a commitment was made to a child placing agency or to the department.

(c) Proof of a guardian's appointment and authorization to execute the release or consent to the child's adoption.

(d) A copy of the consent to adoption as required in this chapter. If the consent is required pursuant to section 43(1)(b), (c), or (d) of this chapter, the consent shall be filed concurrently with the filing of the adoption petition unless a motion is filed pursuant to section 45 of this chapter.

(e) A copy of the adoptee's birth certificate, verification of birth, hospital birth registration, or other satisfactory proof of date and place of birth, if obtainable, unless this filing is waived by written order of the judge.

(f) The report of the investigation prepared pursuant to section 46 of this chapter.

(g) If the petition alleges nonsupport and noncommunication by a parent, as described in section 51(6), an affidavit verifying that fact.

(h) Any additional facts considered necessary by the court.

(2) Before or at the time of the hearing on the adoption petition, the court shall inform the adoptee, if he or she is 14 years old or older, and the adoptive parents of the provisions described in sections 27a, 27b, 68, 68a, and 68b. This subsection also applies to a stepparent adoption and the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

(3) Before or at the time of the hearing on the adoption petition, the court shall provide the adoptee, if he or she is 14 years old or older, and the adoptive parents with a list of adoption support groups. This subsection 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.

Sec. 28. (1) Subject to this section and section 29 of this chapter, a release shall be executed:

(a) By each parent of a child to be adopted or the surviving parent, except under the following circumstances:

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

(ii) A guardian of the child has been appointed.

(iii) A guardian of a parent has been appointed.

(b) By the authorized representative of a child placing agency to whom the child has been committed by an order of the court.

(c) By the authorized representative of the child placing agency to whom the child has been released.

(d) By the guardian of the child, subject to subsection (3), if a guardian has been appointed.

(e) By the guardian of a parent, subject to subsection (4), if a guardian has been appointed.

(2) If the parent of the child to be adopted is an unemancipated minor, that parent's release is not valid unless a parent, guardian, or guardian ad litem of that minor parent has also executed the release.

(3) The guardian of the child to be adopted may not execute a release of the child pursuant to subsection (1) unless the guardian has first obtained authority to execute the release from the court that appointed the guardian.

(4) The guardian of a parent may not execute a release of the parent's child pursuant to subsection (1) unless the guardian has first obtained authority to execute the release from the court that appointed the guardian. Such a release shall have the same effect as if the release were executed by the parent.

(5) A release shall be given only to a child placing agency or to the department.

(6) Before the department arranges a release from a parent or guardian, a representative of the department shall advise the parent or guardian about child placing agencies serving the county and, upon the parent's or guardian's request, shall refer the parent or guardian to a child placing agency. After the release of a child by a parent or guardian to the department, the department shall advise the child placing agencies serving the county that the child is available for adoption.

(7) If a child was released for adoption or committed to a child placing agency, that agency may release that child to the department and the department shall accept the release.

(8) Upon release of a child to the department pursuant to this section, the child becomes a state ward.

(9) Where applicable under this section, proof of the termination of parental rights, release of parental rights, appointment, authorization, or commitment shall accompany the release.

Sec. 29. (1) Except as otherwise provided in this section, a release shall be by a separate instrument executed before a judge of the court or a juvenile court referee. If a parent's or guardian's release is executed before a judge or referee as provided in this subsection, a verbatim record of testimony related to execution of the release shall be made.

(2) If the person from whom a release is required is in the armed services or is in prison, the release may be executed and acknowledged before an individual authorized by law to administer oaths.

(3) If the release is to be given by an authorized representative of a child placing agency that has jurisdiction of the child to be adopted, the release may be executed and acknowledged before an individual authorized by law to administer oaths.

(4) If the release is executed in another state or country, the court having jurisdiction over the adoption proceeding in this state shall determine whether the release was executed in accordance with the laws of that state or country or the laws of this state and shall not proceed unless it finds that the release was so executed.

(5) A release by a parent or guardian shall be accompanied by a verified statement signed by the parent or guardian that contains all of the following:

(a) That the parent or guardian has received a list of support groups and, if the release is to a child placing agency, a copy of the written document described in section 6(1)(c) of the foster care and adoption services act, Act No. 203 of the Public Acts of 1994, being section 722.956 of the Michigan Compiled Laws.

(b) That the parent or guardian has received counseling related to the adoption of his or her child or waives the counseling with the signing of the verified statement.

(c) That the parent or guardian has not received or been promised any money or anything of value for the release of the child, except for lawful payments that are itemized on a schedule filed with the release.

(d) That the validity and finality of the release is not affected by any collateral or separate agreement between the parent or guardian and the agency, or the parent or guardian and the prospective adoptive parent.

(e) That the parent or guardian understands that it serves the welfare of the child for the parent to keep the child placing agency or department informed of any health problems that the parent develops that could affect the child.

(f) That the parent or guardian understands that it serves the welfare of the child for the parent or guardian to keep his or her address current with the child placing agency or department in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years of age or older.

(6) A release by a parent or a guardian of the child shall not be executed until after the investigation the court considers proper and until after the judge, referee, or other individual authorized in subsection (2) has fully explained to the parent or guardian the legal rights of the parent or guardian and the fact that the parent or guardian by virtue of the release voluntarily relinquishes permanently his or her rights to the child; and, if the child is over 5 years of age, the court has determined that the child is best served by the release.

(7) Upon the release of a child by a parent or guardian, the court immediately shall issue an order terminating the rights of that parent or guardian to that child. If the rights of both parents, the surviving parent, or the guardian have been terminated, the court shall issue an order committing the child to the child placing agency or department to which the release was given.

(8) The court shall authorize foster care funding pending expiration of the period of appeal or rehearing as provided in sections 64 and 65 of this chapter, and pending disposition of any appeal or rehearing, for all persons committed to a child placing agency. Foster care funding authorized under this subsection shall exclude the administrative costs of the child placing agency. The costs of foster care shall be paid through the use of the child care fund as provided by section 117c of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.117c of the Michigan Compiled Laws, or by any successor statute. When foster care funding is authorized pursuant to this subsection, the court shall send a copy of the order to the department. Upon receiving a copy of this order, the department shall reimburse the court child care fund of the county where the court order for foster care funding was made in the total amount of the court ordered payment. The reimbursement shall be made monthly.

(9) Entry of an order terminating the rights of both parents under subsection (7) terminates the jurisdiction of the circuit court over the child in any divorce or separate maintenance action.

(10) Upon petition of the same person or persons who executed the release and of the department or child placing agency to which the child was released, the court with which the release was filed may grant a hearing to consider whether the release should be revoked. A release may not be revoked if the child has been placed for adoption unless the child is placed as provided in section 41(2) of this chapter and a petition for rehearing or claim of appeal is filed within the time required. A verbatim record of testimony related to a petition to revoke a release shall be made.

Sec. 34. (1) In order to provide due notice at the earliest possible time to a putative father who may have an interest in the custody of an expected child or in the mother's intended release of an expected child for adoption or consent to adoption of the expected child, and in order to facilitate early placement of a child for adoption, a woman pregnant out of wedlock may file with the court an ex parte petition which evidences her intent to release her expected child for adoption or to consent to the child's adoption, which indicates the approximate date and location of conception and the expected date of her confinement, which alleges that a particular person is the putative father of her expected child, and which requests the court to notify the putative father about his rights to file a notice of intent to claim paternity pursuant to section 33. The petition may allege more than 1 putative father where circumstances warrant. The petition shall be verified. Upon the filing of the petition, the court shall issue a notice of intent to release or consent, which notice shall be served upon the putative father by any officer or person authorized to serve process of the court. Proof of service shall be filed with the court.

(2) A notice of intent to release or consent shall:

(a) Indicate the approximate date and location of conception of the child and the expected date of confinement of the mother.

(b) Inform the putative father of his right under section 33(1) to file a notice of intent to claim paternity before the birth of the child.

(c) Inform the putative father of the rights to which his filing of a notice of intent to claim paternity will entitle him under section 33(3).

(d) Inform the putative father that his failure to file a notice of intent to claim paternity before the expected date of confinement or before the birth of the child, whichever is later, shall constitute a waiver of his right to receive the notice to which he would otherwise be entitled under section 33(3) and shall constitute a denial of his interest in custody of the child, which denial shall result in the court's termination of his rights to the child.

(3) The form of the notice of intent to release or consent shall be approved by the supreme court administrator and shall be consistent with this section.

Sec. 36. (1) If a child is claimed to be born out of wedlock and the mother executes or proposes to execute a release or consent relinquishing her rights to the child or joins in a petition for adoption filed by her husband, and the release or consent of the natural father cannot be obtained, the judge shall hold a hearing as soon as practical to determine whether the child was born out of wedlock, to determine the identity of the father, and to determine or terminate the rights of the father as provided in this section and sections 37 and 39 of this chapter.

(2) Proof of service of a notice of intent to release or consent or the putative father's verified acknowledgment of notice of intent to release or consent shall be filed with the court, if the notice was given to the putative father. The court shall request the vital records division of the department of public health to send to the court a copy of any notice of intent to claim paternity of the particular child which the division has received.

(3) Notice of the hearing shall be served upon the following:

(a) A putative father who has timely filed a notice of intent to claim paternity as provided in section 33 or 34 of this chapter.

(b) A putative father who was not served a notice of intent to release or consent at least 30 days before the expected date of confinement specified in the notice of intent to release or consent.

(c) Any other male who was not served pursuant to section 34(1) of this chapter with a notice of intent to release or consent and who the court has reason to believe may be the father of the child.

(4) The notice of hearing shall inform the putative father that his failure to appear at the hearing shall constitute a denial of his interest in custody of the child, which denial shall result in the court's termination of his rights to the child.

(5) Proof of service of the notice of hearing required by subsection (3) shall be filed with the court. A verified acknowledgment of service by the party to be served is proof of personal service. Notice of the hearing shall not be required if the putative father is present at the hearing. A waiver of notice of hearing by a person entitled to receive it is sufficient.

(6) The court shall receive evidence as to the identity of the father of the child. Based upon the evidence received, the court shall enter a finding identifying the father or declaring that the identity of the father cannot be determined.

(7) If the court finds that the father of the child is a person who did not receive either a timely notice of intent to release or consent pursuant to section 34(1) of this chapter or a notice required pursuant to subsection (3), and who has neither waived his right to notice of hearing nor is present at the hearing, the court shall adjourn further proceedings until that person is served with a notice of hearing.

Sec. 39. (1) If the putative father does not come within the provisions of subsection (2), 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 shall duly record the legitimation in accordance with section 111 of the revised probate code, Act No. 642 of the Public Acts of 1978, being section 700.111 of the Michigan Compiled Laws.

Sec. 43. (1) Subject to this section and sections 44 and 51 of this chapter, consent to adoption of a child shall be executed:

(a) By each parent of a child to be adopted or the surviving parent, except under the following circumstances:

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

(ii) The child has been released for the purpose of adoption to a child placing agency or to the department.

(iii) A guardian of the child has been appointed.

(iv) A guardian of a parent has been appointed.

(v) A parent having legal custody of the child is married to the petitioner.

(b) By the authorized representative of the department or of a child placing agency to whom the child has been permanently committed by an order of the court.

(c) By the court or by a tribal court having permanent custody of the child.

(d) By the authorized representative of the department or of a child placing agency to whom the child has been released.

(e) By the guardian of the child, subject to subsection (5), if a guardian has been appointed.

(f) By the guardian of a parent, subject to subsection (6), if a guardian has been appointed.

(g) By the authorized representative of a court or child placing agency of another state or country that has authority to consent to adoption.

(2) If the child to be adopted is over 14 years of age, that child's consent is necessary before the court may enter an order of adoption.

(3) If the individual to be adopted is an adult, the individual's consent is necessary before the court may enter an order of adoption, but consent by any other individual is not required.

(4) If the parent of the child to be adopted is an unemancipated minor, that parent's consent is not valid unless a parent, guardian, or guardian ad litem of that minor parent has also executed the consent.

(5) The guardian of the child to be adopted shall not execute a consent to that child's adoption pursuant to subsection (1) unless the guardian has first obtained authority to execute the consent from the court that appointed the guardian.

(6) The guardian of a parent shall not execute a consent to the adoption of the parent's child pursuant to subsection (1) unless the guardian has first obtained authority to execute the consent from the court that appointed the guardian. The consent shall have the same effect as if the consent were executed by the parent.

(7) If the petitioner for adoption is married to the parent having legal custody of the child and that parent has joined the petitioner in filing the petition for adoption, that parent shall not execute a consent to the adoption. The consent of the parent who does not have legal custody of the child and whose parental rights have not been terminated shall be executed before the court may enter an order of adoption under section 56 of this chapter.

Sec. 44. (1) Except as otherwise provided in this section, the consent required by section 43 of this chapter shall be by a separate instrument executed before the judge having jurisdiction or, at the court's direction, before another judge of the family division of circuit court in this state. A consent may be executed before a juvenile court referee. The consent hearing shall be held within 7 days after it is requested. If the consent of a parent or guardian is executed before a judge or referee as provided in this subsection, a verbatim record of testimony related to execution of the consent shall be made.

(2) If the individual whose consent is required is in any of the armed services or is in prison, the consent may be executed and acknowledged before any individual authorized by law to administer oaths.

(3) If the child to be adopted is legally a ward of the department or of a child placing agency, the consent required to be made under section 43 of this chapter by the authorized representative of the department or agency may be executed and acknowledged before an individual authorized by law to administer oaths.

(4) If the consent is executed in another state or country, the court having jurisdiction over the adoption proceeding in this state shall determine whether the consent was executed in accordance with the laws of that state or country or the laws of this state and shall not proceed unless it finds that the consent was so executed.

(5) In a direct placement, a consent by a parent or guardian shall be accompanied by a verified statement signed by the parent or guardian that contains all of the following:

(a) That the parent or guardian has received a list of support groups and a copy of the written document described in section 6(1)(c) of the foster care and adoption services act, Act No. 203 of the Public Acts of 1994, being section 722.956 of the Michigan Compiled Laws.

(b) That the parent or guardian has received counseling related to the adoption of his or her child or waives the counseling with the signing of the verified statement.

(c) That the parent or guardian has not received or been promised any money or anything of value for the consent to adoption of the child, except for lawful payments that are itemized on a schedule filed with the consent.

(d) That the validity and finality of the consent is not affected by any collateral or separate agreement between the parent or guardian and the adoptive parent.

(e) That the parent or guardian understands that it serves the welfare of the child for the parent to keep the child placing agency, court, or department informed of any health problems that the parent develops which could affect the child.

(f) That the parent or guardian understands that it serves the welfare of the child for the parent or guardian to keep his or her address current with the child placing agency, court, or department in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years or older.

(6) If a parent's consent to adoption is required under section 43 of this chapter or if a guardian's consent is required pursuant to section 43(1)(e) of this chapter, the consent shall not be executed until after the investigation the court considers proper and until after the judge, referee, or other individual authorized in subsection (2) has fully explained to the parent or guardian the legal rights of the parent or guardian and the fact that the parent or guardian by virtue of the consent voluntarily relinquishes permanently his or her rights to the child.

(7) If the adoptee's consent to adoption is required under section 43 of this chapter, the consent shall not be executed until after the investigation the court considers proper and until after the judge or referee has fully explained to the adoptee the fact that he or she is consenting to acquire permanently the adopting parent or parents as his or her legal parent or parents as though the adoptee had been born to the adopting parent or parents.

Sec. 45. (1) A court shall not allow the filing of a petition to adopt a child if the consent of a representative or court is required pursuant to section 43(1)(b), (c), or (d) of this chapter unless the petition is accompanied by the required consent or a motion as provided in subsection (2).

(2) If an adoption petitioner has been unable to obtain the consent required by section 43(1)(b), (c), or (d) of this chapter, the petitioner may file a motion with the court alleging that the decision to withhold consent was arbitrary and capricious. A motion under this subsection shall contain information regarding both of the following:

(a) The specific steps taken by the petitioner to obtain the consent required and the results, if any.

(b) The specific reasons why the petitioner believes the decision to withhold consent was arbitrary and capricious.

(3) If consent has been given to another petitioner and if the child has been placed with that other petitioner pursuant to an order under section 51 of this chapter, a motion under this section shall not be brought after either of the following:

(a) Fifty-six days following the entry of the order placing the child.

(b) Entry of an order of adoption.

(4) Upon the filing of a petition to adopt a child and the motion described in subsection (2), the court may waive or modify the full investigation of the petition provided in section 46 of this chapter. The court shall decide the motion within 91 days after the filing of the motion unless good cause is shown.

(5) Unless the petitioner establishes by clear and convincing evidence that the decision to withhold consent was arbitrary and capricious, the court shall deny the motion described in subsection (2) and dismiss the petition to adopt.

(6) If the court finds by clear and convincing evidence that the decision to withhold consent was arbitrary and capricious, the court may terminate the rights of the appropriate court, child placing agency, or department and may enter further orders in accordance with this chapter or section 18 of chapter XIIA as the court considers appropriate. In addition, the court may grant to the petitioner reimbursement for petitioner's costs of preparing, filing, and arguing the motion alleging the withholding of consent was arbitrary and capricious, including a reasonable allowance for attorney fees.

(7) If the consent at issue is that required of the court under section 43(1)(c) of this chapter, the motion shall be heard by a visiting judge assigned pursuant to section 8212 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.8212 of the Michigan Compiled Laws.

Sec. 51. (1) Not later than 14 days after receipt of the report of investigation, except as provided in subsections (2) and (5), the judge shall examine the report and shall enter an order terminating the rights of the child's parent or parents, if there was a parental consent, or the rights of any person in loco parentis, if there was a consent by other than parents, and approve placement of the child with the petitioner if the judge is satisfied as to both of the following:

(a) The genuineness of consent to the adoption and the legal authority of the person or persons signing the consent.

(b) The best interests of the adoptee will be served by the adoption.

(2) If it is necessary to hold a hearing before entering an order terminating the rights of a parent, parents, or a person in loco parentis, or if other good cause is shown, the time specified in subsection (1) shall be extended for an additional 14-day period.

(3) Upon entry of an order terminating rights of parents or persons in loco parentis, a child is a ward of the court and a consent to adoption executed pursuant to section 43 of this chapter shall not be withdrawn after the order is entered. Entry of the order terminates the jurisdiction of the same court or another court over the child in a divorce or separate maintenance action. If the petitioner for adoption is married to the parent having legal custody of the child, the child shall not be made a ward of the court after termination of the rights of the other parent.

(4) Without making the child a ward of the court, the court may approve placement of a child if the child is placed for adoption in this state by a public or licensed private agency of another state or country and if the law of the sending state or country prohibits the giving of consent to adoption at the time of placement. Before placement of the child in that instance, the sending agency shall tender evidence as the court requires to demonstrate that the agency possesses the necessary authority to consent to the adoption at the time of entry of the final order of adoption. After the sending

agency has given evidence of its ability to consent, the agency shall not do anything to jeopardize its ability to grant the required consent before entry of the final order of adoption. After the sending agency gives its consent for the adoption, that consent shall not be withdrawn.

(5) If a parent having legal custody of the child is married to the petitioner for adoption, the judge shall not enter an order terminating the rights of that parent.

(6) If the parents of a child are divorced, or if the parents are unmarried but the father has acknowledged paternity or is a putative father who meets the conditions in section 39(2) of this chapter, and if the parent having legal custody of the child subsequently marries and that parent's spouse petitions to adopt the child, the court upon notice and hearing may issue an order terminating the rights of the other parent if both of the following occur:

(a) The other parent, having the ability to support, or assist in supporting, the child, has failed or neglected to provide regular and substantial support for the child 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.

(b) The other parent, having the ability to visit, contact, or communicate with the child, has regularly and substantially failed or neglected to do so for a period of 2 years or more before the filing of the petition.

(7) Unless otherwise ordered by the court, the prospective adoptive parents with whom a child is placed pursuant to a court order approving placement under this section may consent to all medical, surgical, psychological, educational, and related services for the child.

Sec. 58a. (1) Beginning on the effective date of section 14c of Act No. 116 of the Public Acts of 1973, being section 722.124c of the Michigan Compiled Laws, the court shall forward to the department, not later than 15 days after the entry of an order of adoption pursuant to section 56 of this chapter, either of the following:

(a) A public information form filled out and filed with the court by the primary adoption facilitator and completed by the court as provided in subsection (2).

(b) If the primary adoption facilitator has not filed a form, a public information form completed by the court that consists only of the name of the primary adoption facilitator and the confidential information as prescribed by section 14d of Act No. 116 of the Public Acts of 1973, being section 722.124d of the Michigan Compiled Laws.

(2) If the primary adoption facilitator has filed a public information form with the court and has indicated that he or she does not have access to certain information required on the public portion of the form, the court shall complete the form by filling in missing information that is contained in court records to which the primary adoption facilitator does not have access. The court shall complete all public information forms filed with the court by filling in the information required on the confidential portion of the form.

(3) As used in this section, "primary adoption facilitator" and "public information form" mean those terms as defined in section 14b of Act No. 116 of the Public Acts of 1973, being section 722.124b of the Michigan Compiled Laws.

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 shall proceed in the same manner as is provided in section 7b of Act No. 91 of the Public Acts of 1970.

Sec. 64. (1) Upon the filing of a petition in court within 21 days after entry of any order under this chapter, and after due notice to all interested parties, the judge may grant a rehearing and may modify or set aside the order.

(2) The court shall enter an order with respect to the original hearing or rehearing of contested matters within 21 days after the termination of the hearing or rehearing.

Sec. 66. (1) If an adult adoptee who was adopted by a stepparent and the adult adoptee's parent whose rights have been terminated desire to rescind the adoption by the stepparent and restore the parental rights of that parent, they

shall file a rescission petition with the court of the county in which the adoption by the stepparent was confirmed. This section applies to an adult adoptee who was adopted by a stepparent regardless of whether the adoptee was a minor at the time of adoption.

(2) The rescission petition shall be verified by both the adult adoptee and the parent whose rights were terminated, and shall contain the following information:

(a) The present name of each petitioner, the name of the adoptee at the time of birth and immediately after an adoption if different from the adoptee's present name, the name of the parent at the time of termination of parental rights, the date and place of the adoptee's birth, and the present place of residence of each petitioner.

(b) The name, date and place of birth, and address of the parent whose rights were not terminated and whose spouse adopted the adoptee, if known to either of the petitioners.

(c) The name of the stepparent at the time of the order of adoption, including the maiden name of the stepparent if applicable and if known, and the stepparent's date and place of birth.

(3) Subsequent to or concurrent with the filing of the rescission petition but before the hearing on the rescission petition by the court, the petitioners shall file with the court a copy of the adoptee's new certificate of live birth if a new certificate was established by the department of public health.

(4) Upon receipt of a rescission petition, the court shall conduct a hearing after notice is served by petitioners on the interested parties. The court may order an investigation by an employee or agent of the court and may enter an order of rescission of the adoption that restores the parental rights of the parent who filed the petition. The rescission of the adoption shall be effective from the date of the order of rescission.

(5) Certified copies of the order of rescission shall be given to each petitioner, and a copy shall be sent to the department of public health together with any other information required by section 2829 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.2829 of the Michigan Compiled Laws.

(6) After entry of an order of rescission, the adult adoptee becomes an heir at law of the parent whose parental rights have been restored and of the lineal and collateral kindred of that parent. After entry of the order of rescission, the adult adoptee is no longer an heir at law of a person who was his or her stepparent at the time of the order of rescission or an heir at law of the lineal or collateral kindred of that person, except that a right, title, or interest vesting before entry of the order of rescission shall not be divested by that order.

CHAPTER XI

Sec. 1. (1) The family division of the circuit court for a county may enter an order to change the name of a person who has been a resident of the county for not less than 1 year and who in accordance with subsection (2) petitions in writing to the court for that purpose showing a sufficient reason for the proposed change and that the change is not sought with any fraudulent intent. If the person who petitions for a name change has a criminal record, the person is presumed to be seeking a name change with a fraudulent intent. The burden of proof is on a petitioner who has a criminal record to rebut the presumption. When the petition is filed, the court shall set a time and place for hearing and order publication as provided by supreme court rule.

(2) A person who is 22 years of age or older and who petitions to have his or her name changed shall have 2 complete sets of his or her fingerprints taken at a local police agency. The fingerprints, along with a copy of the petition and the required processing fees, shall be forwarded to the department of state police. The department of state police shall compare those fingerprints with the records of the department and shall forward a complete set of fingerprints to the federal bureau of investigation for a comparison with the records available to that agency. The department of state police shall report to the court in which the petition is filed the information contained in the department's records with respect to any pending charges against the petitioner or any record of conviction of the petitioner and shall report to the court similar information obtained from the federal bureau of investigation. If there are no pending charges against the petitioner or any record of conviction against the petitioner, the department of state police shall destroy their copy of the petitioner's fingerprints. The court shall not act upon the petition for a name change until the department of state police reports the information required by this subsection to the court.

(3) If the court enters an order to change the name of a person who has a criminal record, the court shall forward the order to the central records division of the Michigan state police and to 1 or more of the following:

(a) The department of corrections if the person named in the order is in prison or on parole or has been imprisoned or released from parole in the immediately preceding 2 years.

(b) The sheriff of the county in which the person named in the order was last convicted if the person was incarcerated in a county jail or released from a county jail within the immediately preceding 2 years.

(c) The court that has jurisdiction over the person named in the order if the person named in the order is under the jurisdiction of the family division of the circuit court or has been discharged from the jurisdiction of that court within the immediately preceding 2 years.

(4) The court may permit a person having the same name, or a similar name to that which the petitioner proposes to assume, to intervene in the proceeding for the purpose of showing fraudulent intent.

(5) Except as provided in subsection (7), if the petitioner is a minor, the petition shall be signed by the mother and father jointly, or by the surviving parent if 1 is deceased, or if both parents are deceased, by the guardian of the minor, or by 1 of the minor's parents if there is only 1 legal parent available to give consent. If either parent has been declared mentally incompetent, the petition may be signed by the guardian for that parent. The written consent to the change of name of a minor 14 years of age or older, signed by the minor in the presence of the court, shall be filed with the court before any order changing the name of the minor is entered. If the court considers the child to be of sufficient age to express a preference, a minor under 14 years of age shall be consulted by the court as to a change in his or her name and his or her wishes shall be considered by the court.

(6) If the petitioner is married, the court, in its order changing the name of the petitioner, may include the name of the spouse, if the spouse consents, and may include the names of minor children of the petitioner of whom the petitioner has legal custody. The written consent to the change of name of a child 14 years of age or older, signed by the child in the presence of the court, shall be filed with the court before the court includes that child in its order. Except as provided in subsection (7), the name of a minor under 14 years of age may not be changed unless he or she is the natural or adopted child of the petitioner and unless consent is obtained from the mother and father jointly, or from the surviving parent if 1 is deceased, or from 1 of the minor's parents if there is only 1 legal parent available to give consent. If the court considers the child to be of sufficient age to express a preference, a minor under 14 years of age shall be consulted by the court as to a change in his or her name and his or her wishes shall be considered by the court.

(7) The name of a minor may be changed pursuant to subsection (5) or (6) with the consent or signature of the custodial parent upon notice to the noncustodial parent pursuant to supreme court rule and after a hearing if both of the following occur:

(a) The other parent, having the ability to support or assist in supporting the child, has failed or neglected to provide regular and substantial support for the child or, if a support order has been entered, has failed to substantially comply with the order, for 2 years or more before the filing of the petition.

(b) The other parent, having the ability to visit, contact, or communicate with the child, has regularly and substantially failed or neglected to do so for 2 years or more before the filing of the petition.

(8) A false statement that is intentionally included within a petition for a name change constitutes perjury under section 422 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.422 of the Michigan Compiled Laws.

Sec. 2. The judge of the family division of circuit court shall require the person making a petition under section 1 of this chapter to pay to the court to be remitted to the county treasurer for the use of the county a fee of \$10.00, and shall furnish to the petitioner, if desired, a certified copy of the order made in the matter, upon payment of the required statutory fee.

CHAPTER XIIIA

Sec. 1. (1) As used in this chapter, "court" means the family division of circuit court.

(2) Except as otherwise provided, proceedings under this chapter are not criminal proceedings.

(3) This chapter shall be liberally construed so that each juvenile coming within the jurisdiction of the court receives the care, guidance, and control, preferably in his or her own home, conducive to the juvenile's welfare and the best interest of the state. If a juvenile is removed from the control of his or her parents, the juvenile shall be placed in care as nearly as possible equivalent to the care that should have been given to the juvenile by his or her parents.

Sec. 2. The court has the following authority and jurisdiction:

(a) Exclusive original jurisdiction superior to and regardless of the jurisdiction of any other court in proceedings concerning a juvenile under 17 years of age who is found within the county if 1 or more of the following applies:

(1) Except as otherwise provided in this sub-subdivision, the juvenile has violated any municipal ordinance or law of the state or of the United States. The court has jurisdiction over a juvenile 14 years of age or older who is charged with a specified juvenile violation only if the prosecuting attorney files a petition in the court instead of authorizing a complaint and warrant. As used in this sub-subdivision, "specified juvenile violation" means any of the following:

(A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531 of the Michigan Compiled Laws.

(B) A violation of section 84 or 110a(2) of Act No. 328 of the Public Acts of 1931, being sections 750.84 and 750.110a of the Michigan Compiled Laws, if the juvenile is armed with a dangerous weapon. As used in this paragraph, "dangerous weapon" means 1 or more of the following:

(i) A loaded or unloaded firearm, whether operable or inoperable.

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

(C) A violation of section 186a of Act No. 328 of the Public Acts of 1931, being section 750.186a of the Michigan Compiled Laws, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(i) A high-security or medium-security facility operated by the family independence agency.

(ii) A high-security facility operated by a private agency under contract with the family independence agency.

(D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws.

(E) An attempt to commit a violation described in paragraphs (A) to (D).

(F) Conspiracy to commit a violation described in paragraphs (A) to (D).

(G) Solicitation to commit a violation described in paragraphs (A) to (D).

(H) Any lesser included offense of a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(I) Any other violation arising out of the same transaction as a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(2) The juvenile has deserted his or her home without sufficient cause and the court finds on the record that the juvenile has been placed or refused alternative placement or the juvenile and the juvenile's parent, guardian, or custodian have exhausted or refused family counseling.

(3) The juvenile is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian and the court finds on the record by clear and convincing evidence that court-accessed services are necessary.

(4) The juvenile willfully and repeatedly absents himself or herself from school or other learning program intended to meet the juvenile's educational needs, or repeatedly violates rules and regulations of the school or other learning program, and the court finds on the record that the juvenile, the juvenile's parent, guardian, or custodian, and school officials or learning program personnel have met on the juvenile's educational problems, and educational counseling and alternative agency help have been sought. As used in this sub-subdivision only, "learning program" means an organized educational program that is appropriate, given the age, intelligence, ability, and any psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(b) Jurisdiction in proceedings concerning any juvenile under 18 years of age found within the county:

(1) Whose parent or other person legally responsible for the care and maintenance of the juvenile, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, who is subject to a substantial risk of harm to his or her mental well-being, who is abandoned by his or her parents, guardian, or other custodian, or who is without proper custody or guardianship. As used in this sub-subdivision:

(A) "Education" means learning based on an organized educational program that is appropriate, given the age, intelligence, ability, and any psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(B) "Without proper custody or guardianship" does not mean a parent has placed the juvenile with another person who is legally responsible for the care and maintenance of the juvenile and who is able to and does provide the juvenile with proper care and maintenance.

(2) Whose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, or other custodian, is an unfit place for the juvenile to live in.

(3) Whose parent has substantially failed, without good cause, to comply with a limited guardianship placement plan described in 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, regarding the juvenile.

(4) Whose parent has substantially failed, without good cause, to comply with a court-structured plan described in section 424b or 424c of the revised probate code, Act No. 642 of the Public Acts of 1978, being sections 700.424b and 700.424c of the Michigan Compiled Laws, regarding the juvenile.

(5) If the juvenile 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, and the juvenile's parent meets both of the following criteria:

(A) The parent, having the ability to support or assist in supporting the juvenile, has failed or neglected, without good cause, to provide regular and substantial support for the juvenile 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.

(B) The parent, having the ability to visit, contact, or communicate with the juvenile, 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.

If a petition is filed in the court alleging that a juvenile is within the provisions of subdivision (b)(1), (2), (3), (4), or (5), and the custody of that juvenile is subject to the prior or continuing order of another court of record of this state, the manner of notice to the other court of record and the authority of the court to proceed is governed by rule of the supreme court.

(c) Jurisdiction over juveniles under 18 years of age, jurisdiction of whom has been waived to the family division of circuit court by a circuit court pursuant to a provision in a temporary order for custody of juveniles based upon a complaint for divorce or upon a motion pursuant to a complaint for divorce by the prosecuting attorney, in a divorce judgment dissolving a marriage between the parents of the juveniles, or by an amended judgment relative to the custody of the juvenile in a divorce.

(d) If the court finds on the record that voluntary services have been exhausted or refused, concurrent jurisdiction in proceedings concerning any juvenile between the ages of 17 and 18 found within the county:

(1) Who is repeatedly addicted to the use of drugs or the intemperate use of alcoholic liquors.

(2) Who repeatedly associates with criminal, dissolute, or disorderly persons.

(3) Who is found of his or her own free will and knowledge in a house of prostitution, assignation, or ill-fame.

(4) Who repeatedly associates with thieves, prostitutes, pimps, or procurers.

(5) Who is willfully disobedient to the reasonable and lawful commands of his or her parents, guardian, or other custodian and is in danger of becoming morally depraved.

If any juvenile is brought before the family division of circuit court in a county other than that in which the juvenile resides, the court may, before a hearing and with the consent of the judge of the family division of circuit court in the county of residence, enter an order transferring the jurisdiction of the matter to the court of the county of residence. The order is not a legal settlement as defined in section 55 of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.55 of the Michigan Compiled Laws. The order, together with a certified copy of the proceedings in the transferring court, shall be delivered to the court of the county or circuit of residence. A case designated as a case in which the juvenile shall be tried in the same manner as an adult under section 2d of this chapter may be transferred for venue or for juvenile disposition, but shall not be transferred on grounds of residency. If the case is not transferred, the case shall be tried by the family division of circuit court having jurisdiction of the offense.

(e) Authority to establish or assist in developing a program or programs within the county to prevent delinquency and provide services to act upon reports submitted to the court related to the behavior of juveniles who do not require formal court jurisdiction but otherwise fall within subdivision (a). These services shall be used only if they are voluntarily accepted by the juvenile and his or her parents, guardian, or custodian.

(f) If the court operates a detention home for juveniles within the court's jurisdiction under subdivision (a)(1), authority to place a juvenile within that home pending trial if the juvenile is within the circuit court's jurisdiction under section 606 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.606 of the Michigan Compiled Laws, or within the recorder's court of the city of Detroit's jurisdiction under section 10a(1)(c) of Act No. 369 of the Public Acts of 1919, being section 725.10a of the Michigan Compiled Laws, and if the circuit court or the recorder's court of the city of Detroit orders the family division of circuit court in the same county to place the juvenile in that home. The family division of circuit court shall comply with that order.

(g) Authority to place a juvenile in a county jail under section 27a of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 764.27a of the Michigan Compiled Laws, if the case is designated by the court under section 2d of this chapter as a case in which the juvenile is to be tried in the same manner as an adult, and the court has determined that there is probable cause to believe that the offense was committed and that there is probable cause to believe the juvenile committed that offense.

Sec. 2a. (1) Except as otherwise provided in subsection (2), if the court has exercised jurisdiction over a juvenile under section 2(a) or (b) of this chapter, jurisdiction shall continue for a period of 2 years beyond the maximum age of jurisdiction conferred under section 2 of this chapter, unless the juvenile is released sooner by court order.

(2) If the court has exercised jurisdiction over a juvenile under section 2(a)(1) of this chapter for an offense that, if committed by an adult, would be a violation or attempted violation of section 72, 83, 84, 86, 88, 89, 91, 110a(2), 186a, 316, 317, 349, 520b, 520c, 520d, 520g, 529, 529a, 530, or 531 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.72, 750.83, 750.84, 750.86, 750.88, 750.89, 750.91, 750.110a, 750.186a, 750.316, 750.317, 750.349, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, 750.530, and 750.531 of the Michigan Compiled Laws, or section

7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws, jurisdiction may be continued under section 18d of this chapter until the juvenile is 21 years of age.

(3) This section does not apply if the juvenile is sentenced to the jurisdiction of the department of corrections.

(4) As used in this chapter, "child", "juvenile", "minor", or any other term signifying a person under the age of 18 applies to a person 18 years of age or older concerning whom proceedings are commenced in the court under section 2 of this chapter and over whom the court has continuing jurisdiction pursuant to subsection (1).

Sec. 2b. When a juvenile is accused of an act that constitutes a violation of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, or a provision of an ordinance substantially corresponding to any provision of Act No. 300 of the Public Acts of 1949, the following procedure applies, any other provision of this chapter notwithstanding:

(a) No petition shall be required, but the court may act upon a copy of the written notice to appear given the accused juvenile as required by section 728 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.728 of the Michigan Compiled Laws.

(b) The juvenile's parent or parents, guardian, or custodian may be required to attend a hearing conducted under this section when notified by the court, without additional service of process or delay. However, the court may extend the time for that appearance.

(c) If after hearing the case the court finds the accusation to be true, the court may dispose of the case under section 18 of this chapter.

(d) Within 14 days after entry of a court order of disposition for a juvenile found to be within this chapter, the court shall prepare and forward an abstract of the record of the court for the case in accordance with section 732 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.732 of the Michigan Compiled Laws.

(e) This section does not limit the court's discretion to restrict the driving privileges of a juvenile as a term or condition of probation.

Sec. 2c. The court may issue an order authorizing a peace officer or other person designated by the court to apprehend a juvenile who is absent without leave from an institution or facility to which he or she was committed under section 18 of this chapter, has violated probation, or has failed to appear for a hearing on a petition charging a violation of section 2 of this chapter. The order shall set forth specifically the identity of the juvenile sought and the house, building, or other location or place where there is probable cause to believe the juvenile is to be found. A person who interferes with the lawful attempt to execute an order issued under this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

Sec. 3. (1) If during the pendency of a criminal charge against a person in any other court it is ascertained that the person was under the age of 17 at the time of the commission of the offense, the other court shall transfer the case without delay, together with all the papers, documents, and testimony connected with that case, to the family division of the circuit court of the county in which the other court is situated or in which the person resides.

(2) The court making the transfer shall order the child to be taken promptly to the place of detention designated by the family division of the circuit court or to that court itself or release the juvenile in the custody of some suitable person to appear before the court at a time designated. The court shall then hear and dispose of the case in the same manner as if it had been originally instituted in that court.

Sec. 4. (1) If a juvenile 14 years of age or older is accused of an act that if committed by an adult would be a felony, the judge of the family division of circuit court in the county in which the offense is alleged to have been committed may waive jurisdiction under this section upon motion of the prosecuting attorney. After waiver, the juvenile may be tried in the court having general criminal jurisdiction of the offense.

(2) Before conducting a hearing on the motion to waive jurisdiction, the court shall give notice of the hearing in the manner provided by supreme court rule to the juvenile and the prosecuting attorney and, if addresses are known, to the juvenile's parents or guardians. The notice shall state clearly that a waiver of jurisdiction to a court of general criminal jurisdiction has been requested and that, if granted, the juvenile can be prosecuted for the alleged offense as though he or she were an adult.

(3) Before the court waives jurisdiction, the court shall determine on the record if there is probable cause to believe that an offense has been committed that if committed by an adult would be a felony and if there is probable cause to believe that the juvenile committed the offense. Before a juvenile may waive a probable cause hearing under this subsection, the court shall inform the juvenile that a waiver of this subsection waives the preliminary examination required by chapter VI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 766.1 to 766.18 of the Michigan Compiled Laws.

(4) Upon a showing of probable cause under subsection (3), the court shall conduct a hearing to determine if the best interests of the juvenile and the public would be served by granting a waiver of jurisdiction to the court of general criminal jurisdiction. In making its determination, the court shall consider all of the following criteria, giving greater weight to the seriousness of the alleged offense and the juvenile's prior record of delinquency than to the other criteria:

(a) The seriousness of the alleged offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm or other dangerous weapon, and the impact on any victim.

(b) The culpability of the juvenile in committing the alleged offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(c) The juvenile's prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior.

(d) The juvenile's programming history, including, but not limited to, the juvenile's past willingness to participate meaningfully in available programming.

(e) The adequacy of the punishment or programming available in the juvenile justice system.

(f) The dispositional options available for the juvenile.

(5) If the court determines that there is probable cause to believe that an offense has been committed that if committed by an adult would be a felony and that the juvenile committed the offense, the court shall waive jurisdiction of the juvenile if the court finds that the juvenile has previously been subject to the jurisdiction of the circuit court under this section or section 606 of the revised judiciary act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.606 of the Michigan Compiled Laws, or the recorder's court of the city of Detroit under this section or section 10a(1)(c) of Act No. 369 of the Public Acts of 1919, being section 725.10a of the Michigan Compiled Laws.

(6) If legal counsel has not been retained or appointed to represent the juvenile, the court shall advise the juvenile and his or her parents, guardian, custodian, or guardian ad litem of the juvenile's right to representation and appoint legal counsel. If the court appoints legal counsel, the judge may assess the cost of providing legal counsel as costs against the juvenile or those responsible for his or her support, or both, if the persons to be assessed are financially able to comply.

(7) Legal counsel shall have access to records or reports provided and received by the judge as a basis for decision in proceedings for waiver of jurisdiction. A continuance shall be granted at legal counsel's request if any report, information, or recommendation not previously available is introduced or developed at the hearing and the interests of justice require a continuance.

(8) The court shall enter a written order either granting or denying the motion to waive jurisdiction and the court shall state on the record or in a written opinion the court's findings of fact and conclusions of law forming the basis for entering the order. If a juvenile is waived, a transcript of the court's findings or a copy of the written opinion shall be sent to the court of general criminal jurisdiction.

(9) If the court does not waive jurisdiction, a transcript of the court's findings or, if a written opinion is prepared, a copy of the written opinion shall be sent to the prosecuting attorney, juvenile, or juvenile's attorney upon request.

(10) If the court waives jurisdiction, the juvenile shall be arraigned on an information filed by the prosecutor in the court of general criminal jurisdiction. The probable cause finding under subsection (3) satisfies the requirements of, and is the equivalent of, the preliminary examination required by chapter VI of Act No. 175 of the Public Acts of 1927.

(11) As used in this section, "felony" means an offense punishable by imprisonment for more than 1 year or an offense designated by law as a felony.

Sec. 5. The court does not have jurisdiction over a juvenile after he or she attains the age of 18 years, except as provided in section 2a of this chapter. A commitment of a juvenile to a private or public institution or agency is not valid after the juvenile has reached the age beyond which the court does not have continuing jurisdiction under section 2a of this chapter. Commitments to a private or incorporated institution or agency do not divest the court of jurisdiction unless the juvenile is adopted in a manner provided by law.

Sec. 6. The court has jurisdiction over adults as provided in this chapter and may make orders affecting adults as in the opinion of the court are necessary for the physical, mental, or moral well-being of a particular juvenile or juveniles under its jurisdiction. However, those orders shall be incidental to the jurisdiction of the court over the juvenile or juveniles.

Sec. 8. The office of county agent is created. The county agent shall be an officer of the court and under the general supervision of the judges of the court and shall serve at their pleasure. The county agent shall organize, direct and develop the juvenile welfare work of the court as authorized by the judge. When requested by the superintendent or director, the county agent shall supervise juveniles released from public institutions or agencies and may perform other

juvenile welfare work as requested and with the approval of the judge, including services to school-age juveniles of the various school districts within the county, after consultation and agreement with the county school commissioner and the superintendents of schools in a county. The county agent or assistants shall, with the approval of the judge, make investigations and reports on juveniles or families within the county as requested by the family independence agency or by the superintendent of any state institution regarding the welfare of any juvenile. Assistant county agents shall perform the duties assigned to them by the county agent.

Sec. 11. (1) Except as provided in subsection (2), if a person gives information to the court that a juvenile is within section 2(a)(2) to (6), (b), (c), or (d) of this chapter, a preliminary inquiry may be made to determine whether the interests of the public or the juvenile require that further action be taken. If the court determines that formal jurisdiction should be acquired, the court shall authorize a petition to be filed.

(2) Only the prosecuting attorney may file a petition requesting the court to take jurisdiction of a juvenile allegedly within section 2(a)(1) of this chapter. If the prosecuting attorney submits a petition requesting the court to take jurisdiction of a juvenile allegedly within section 2(a)(1) of this chapter and the court determines that formal jurisdiction should be acquired, the court shall authorize a petition to be filed.

(3) The petition described in subsections (1) and (2) shall be verified and may be upon information and belief. The petition shall set forth plainly the facts that bring the juvenile within this chapter and shall contain all of the following information:

- (a) The juvenile's name, birth date, and address.
- (b) The name and address of the juvenile's parents.
- (c) The name and address of the juvenile's legal guardian, if there is one.
- (d) The name and address of each person having custody or control of the juvenile.
- (e) The name and address of the juvenile's nearest known relative, if no parent or guardian can be found.

(4) If any of the facts required under subsection (3) are not known to the petitioner, the petition shall state that the facts are not known. If the juvenile attains his or her seventeenth birthday after the filing of the petition, the court's jurisdiction shall continue beyond the juvenile's seventeenth birthday and the court may hear and dispose of the petition under this chapter.

(5) When a petition is authorized, the court shall examine the court file to determine if a juvenile has had fingerprints taken as required under section 3 of Act No. 289 of the Public Acts of 1925, being section 28.243 of the Michigan Compiled Laws. If a juvenile has not had his or her fingerprints taken, the court shall do either of the following:

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

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

(6) A petition or other court record may be amended at any stage of the proceedings as the ends of justice require.

(7) If the juvenile diversion act, Act No. 13 of the Public Acts of 1988, being sections 722.821 to 722.831 of the Michigan Compiled Laws, is complied with and the court determines that court services can be used in the prevention of delinquency without formal jurisdiction, the court may offer court services to a juvenile without a petition being authorized as provided in section 2(e) of this chapter.

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 under court order or contractual arrangement for the care and supervision of a juvenile.

(b) "Foster care" means care provided to a juvenile in a foster family home, foster family group home, or juvenile 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 juvenile in a relative's home under an order of the court.

(2) If a juvenile is alleged to be 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 juvenile in the custody of either of the juvenile's parents or the juvenile's guardian or custodian under reasonable terms and conditions necessary for either the juvenile's physical health or mental well-being.

(4) If a petition alleging abuse by a parent, guardian, custodian, or other person residing in the juvenile'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 juvenile 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 juvenile'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 juvenile from the risk of harm to the juvenile'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 juvenile from the risk of harm to the juvenile's life, physical health, or mental well-being.

(d) It is in the best interests of the juvenile for the juvenile 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 juvenile'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 juvenile 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 juvenile's physical or mental well-being or necessary to protect the juvenile.

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

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

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

(8) If the court orders placement of the juvenile outside the juvenile'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 juvenile's placement.

(b) The general elements of an initial services plan as required by the rules promulgated under 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 juvenile pending trial, the court shall order the juvenile placed in the most family-like setting available consistent with the needs of the juvenile.

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

(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 juvenile.

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

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

(b) Engaging in sexual contact or sexual penetration 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, with a juvenile.

(c) Sexual exploitation of a juvenile, which includes, but is not limited to, allowing, permitting, or encouraging a juvenile to engage in prostitution or allowing, permitting, encouraging, or engaging in photographing, filming, or depicting a juvenile 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 juvenile.

Sec. 16. (1) If a juvenile under the age of 17 years is taken into custody or detained, the juvenile shall not be confined in any police station, prison, jail, lock-up, or reformatory, or be transported with, or compelled or permitted to associate or mingle with, criminal or dissolute persons. However, except as otherwise provided in section 15(3), (4), and (5) of this

chapter, a juvenile 15 years of age or older whose habits or conduct are considered a menace to other juveniles, or who may not otherwise be safely detained, may, on order of the court, be placed in a jail or other place of detention for adults, but in a room or ward separate from adults, and for a period not to exceed 30 days, unless longer detention is necessary for the service of process.

(2) Provision may be made by the county board of commissioners in each county or of counties contracting together for the diagnosis, treatment, care, training, and detention of juveniles in a child care home to be conducted as an agency of the county if the home or facility meets licensing standards established by the family independence agency pursuant to subsection (5). The court or a court approved agency may arrange for the boarding of juveniles by any of the following:

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

(b) In a child care institution or child placing agency licensed by the family independence agency to receive for care juveniles within the jurisdiction of the court.

(c) If in a room or ward, separate and apart from adult criminals, in the county jail in cases of juveniles over 17 years of age within the jurisdiction of the court.

(3) If a detention home is established as an agency of the county, the judge may appoint a superintendent and other necessary employees for the home who shall receive compensation as shall be provided by the county board of commissioners of the county. This section does not alter or diminish the legal responsibility of the family independence agency to receive juveniles committed by the court.

(4) If the court under subsection (2) arranges for the board of juveniles temporarily detained in private homes or in a child care institution or child placing agency, a reasonable sum, to be fixed by the court, for the board of the juveniles shall be paid by the county treasurer out of the general fund of the county.

(5) A court shall not provide foster care home services subject to the court's supervision to juveniles within section 2(b) of this chapter.

(6) A juvenile detention home described in subsection (3) shall be operated under the direction of the county board of commissioners or, in a county that has an elected county executive, under the direction of the county executive. However, a different method for directing the operation of a youth detention home may be agreed to in any county by the chief judge of the circuit court in that county and the county board of commissioners or, in a county that has an elected county executive, the county executive.

Sec. 17. (1) The court may conduct a hearing other than a criminal hearing in an informal manner. The court may adjourn a hearing under this chapter from time to time. The court shall require stenographic notes or other transcript to be taken of the hearing.

(2) In a hearing other than a criminal trial under this chapter, any person interested in the hearing may demand a jury of 6 individuals, or the judge of the family division of probate court, on his or her own motion, may order a jury of 6 individuals to try the case. In a criminal trial, a jury may be demanded as provided by law. The jury shall be summoned and impaneled in accordance with chapter 13 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.1300 to 600.1376 of the Michigan Compiled Laws, and, in the case of a criminal trial, as provided in chapter VIII of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 768.1 to 768.36 of the Michigan Compiled Laws.

(3) A parent, guardian, or other custodian of a juvenile held under this chapter has the right to give bond or other security for the appearance of the juvenile at the hearing of the case.

(4) The prosecuting attorney shall appear for the people when requested by the court, and in a proceeding under section 2(a)(1) of this chapter, the prosecuting attorney shall appear if the proceeding requires a hearing and the taking of testimony.

(5) In a proceeding under section 2(b) of this chapter, upon request of the family independence agency or an agent of the family independence agency under contract with the family independence agency, the prosecuting attorney shall serve as a legal consultant to the family independence agency or its agent at all stages of the proceeding. If in a **proceeding under section 2(b) of this chapter the prosecuting attorney does not appear on behalf of the family independence agency or its agent**, the family independence agency may contract with an attorney of its choice for legal representation.

(6) A member of a local foster care review board established under Act No. 422 of the Public Acts of 1984, being sections 722.131 to 722.140 of the Michigan Compiled Laws, shall be admitted to a hearing under subsection (1).

(7) Upon motion of any party or a victim, the court may close the hearing of a case brought under this chapter to members of the general public during the testimony of a juvenile witness or the victim if the court finds that closing the

hearing is necessary to protect the welfare of the juvenile witness or the victim. In determining whether closing the hearing is necessary to protect the welfare of the juvenile witness or the victim, the court shall consider the following:

- (a) The age of the juvenile witness or the victim.
- (b) The psychological maturity of the juvenile witness or the victim.
- (c) The nature of the proceeding.
- (d) The desire of the juvenile witness or his or her family or guardian or the desire of the victim to have the testimony taken in a room closed to the public.
- (8) As used in subsection (7), "juvenile witness" does not include a juvenile against whom a proceeding is brought under section 2(a)(1) of this chapter.

Sec. 28. (1) Before June 1, 1988, the court shall maintain records of all cases brought before it and as provided in the juvenile diversion act, Act No. 13 of the Public Acts of 1988, being sections 722.821 to 722.831 of the Michigan Compiled Laws. The records shall be open only by order of the court to persons having a legitimate interest except that diversion records shall be open only as provided in Act No. 13 of the Public Acts of 1988.

(2) Beginning June 1, 1988, the court shall maintain records of all cases brought before it and as provided in Act No. 13 of the Public Acts of 1988. Except as otherwise provided in this subsection, records of a case brought before the court shall be open to the general public. Diversion records shall be open only as provided in Act No. 13 of the Public Acts of 1988. Except as otherwise provided in section 49 of the crime victim's rights act, Act No. 87 of the Public Acts of 1985, being section 780.799 of the Michigan Compiled Laws, if the hearing of a case brought before the court is closed under section 17 of this chapter, the records of that hearing shall be open only by order of the court to persons having a legitimate interest.

(3) If the court issues an order in respect to payments by a parent under section 18(2) of this chapter, a copy shall be mailed to the department of treasury. Action taken against parents or adults shall not be released for publicity unless the parents or adults are adjudged guilty of contempt of court. The court shall furnish the family independence agency with reports of the administration of the court in a form recommended by the Michigan association of probate and juvenile court judges. Copies of these reports shall, upon request, be made available to other state departments by the family independence agency.

(4) As used in subsections (1) and (2), "persons having a legitimate interest" includes a member of a local foster care review board established under Act No. 422 of the Public Acts of 1984, being sections 722.131 to 722.140 of the Michigan Compiled Laws.

Section 2. This amendatory act shall take effect January 1, 1998.

Section 3. This amendatory act shall not take effect unless Senate Bill No. 1052 of the 88th Legislature is enacted into law.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.

