



# SENATE BILL No. 611

June 15, 1995, Introduced by Senators HONIGMAN, GEAKE, DINGELL, HOFFMAN, GOUGEON, SHUGARS, DUNASKISS, STILLE, SCHUETTE, MC MANUS, BYRUM, PETERS and EMMONS and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend sections 111, 424, 424a, and 424c of Act No. 642 of the Public Acts of 1978, entitled as amended "Revised probate code," section 111 as amended by Act No. 387 of the Public Acts of 1994, sections 424 and 424c as amended by Act No. 159 of the Public Acts of 1994, and section 424a as amended by Act No. 313 of the Public Acts of 1990, being sections 700.111, 700.424, 700.424a, and 700.424c of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 111, 424, 424a, and 424c of Act No. 642  
2 of the Public Acts of 1978, section 111 as amended by Act No. 387  
3 of the Public Acts of 1994, sections 424 and 424c as amended by  
4 Act No. 159 of the Public Acts of 1994, and section 424a as  
5 amended by Act No. 313 of the Public Acts of 1990, being sections

1 700.111, 700.424, 700.424a, and 700.424c of the Michigan Compiled  
2 Laws, are amended to read as follows:

3       Sec. 111. (1) For all purposes of intestate succession, a  
4 child is the heir of each of his or her natural parents notwith-  
5 standing the relationship between the parents except as otherwise  
6 provided by section 110.

7       (2) If a child is born or conceived during a marriage, both  
8 spouses are presumed to be the natural parents of the child for  
9 all purposes of intestate succession. A child conceived follow-  
10 ing artificial insemination of a married woman with the consent  
11 of her husband shall be considered as their child for all pur-  
12 poses of intestate succession. Consent of the husband is pre-  
13 sumed unless the contrary is shown by clear and convincing  
14 evidence. If a man and a woman participated in a marriage cere-  
15 mony in apparent compliance with the law before the birth of a  
16 child, even though the attempted marriage is void, the child is  
17 considered to be their child for all purposes of intestate  
18 succession.

19       (3) Only the person presumed to be the natural parent of a  
20 child under subsection (2) may disprove any presumption that may  
21 be relevant to the relationship, and this exclusive right to do  
22 so terminates upon the death of the presumed parent.

23       (4) If a child is born out of wedlock or if a child is born  
24 or conceived during a marriage but is not the issue of that mar-  
25 riage, a man is considered to be the natural father of that child  
26 for all purposes of intestate succession if any of the following  
27 occurs:

1       (a) The man joins with the mother of the child and  
2 acknowledges that child as his child by completing and filing an  
3 acknowledgment of paternity. The man and mother shall each sign  
4 the acknowledgment of paternity in the presence of 2 witnesses,  
5 who shall also sign the acknowledgment, and in the presence of a  
6 judge, clerk of the court, or notary public appointed in this  
7 state. The acknowledgment shall be filed at either the time of  
8 birth or another time during the child's lifetime with the pro-  
9 bate court in the mother's county of residence or, if the mother  
10 is not a resident of this state when the acknowledgment is exe-  
11 cuted, in the county of the child's birth. It is not necessary  
12 for the mother of the child to join in the acknowledgment if she  
13 is disqualified to act by reason of mental incapacity, death, or  
14 any other reason satisfactory to the probate judge of the county  
15 in which the acknowledgment may be recorded.

16       (b) The man joins with the mother in a written request for a  
17 correction of certificate of birth pertaining to the child that  
18 results in issuance of a substituted certificate recording the  
19 birth of the child.

20       (c) The man and the child have borne a mutually acknowledged  
21 relationship of parent and child that began before the child  
22 became age 18 and continued until terminated by the death of  
23 either.

24       (d) The man has been determined to be the father of the  
25 child and an order of filiation establishing that paternity has  
26 been entered pursuant to the paternity act, Act No. 205 of the

1 Public Acts of 1956, being sections 722.711 to 722.730 of the  
2 Michigan Compiled Laws.

3 (5) Property of a child born out of wedlock or a child born  
4 or conceived during a marriage but not the issue of that marriage  
5 passes in accordance with the law of intestate succession except  
6 that the father and his kindred shall not be considered as rela-  
7 tives of the child unless the child might have inherited from the  
8 father as provided in this section.

9 (6) If a person is considered or presumed by a provision of  
10 this section, not including subsection (7), to be the natural  
11 parent of a child born out of wedlock or a child born or con-  
12 ceived during a marriage but not the issue of that marriage, that  
13 child shall bear the same relationship to that person as a child  
14 born or conceived during a marriage for all other purposes and  
15 shall have the identical status, rights, and duties of a child  
16 born in lawful wedlock effective from birth.

17 (7) The biological father of a child who is born out of wed-  
18 lock, or who is born or conceived during a marriage but is not  
19 the issue of that marriage, shall be considered to be the natural  
20 father of that child for the purpose of intestate succession from  
21 the father to the child only. This subsection does not extin-  
22 guish a child's right to inherit from another person considered  
23 to be the child's natural or legal father under another provision  
24 of law. This subsection does not apply to a child who is adopted  
25 by another man before the date of death of the child's biological  
26 father.

1       (8) If the department of social services or the prosecuting  
2 attorney provides assistance to parties in executing an  
3 acknowledgment of paternity, the department or prosecutor, as  
4 applicable, shall provide to the mother and man written informa-  
5 tion on the parents' rights and responsibilities resulting from  
6 the acknowledgment. That information shall set forth at least  
7 all of the following:

8       (a) The right to assert a claim for ~~visitation~~ PARENTING  
9 TIME or custody.

10       (b) The right to notice and a hearing regarding the adoption  
11 of the child.

12       (c) The responsibility to comply with a child support order  
13 if issued after the acknowledgment.

14       (9) An acknowledgement of paternity executed as provided in  
15 this section is presumed to establish paternity for all  
16 purposes. The acknowledgement may be set aside by the circuit  
17 court in the county where it is filed only if the man is proven  
18 not to be the father by clear and convincing evidence.

19       Sec. 424. (1) A person interested in the welfare of a  
20 minor, or a minor if 14 years of age or older, may petition for  
21 the appointment of a guardian of the minor. The court may order  
22 the department of social services or an employee or agent of the  
23 court to conduct an investigation of the proposed guardianship  
24 and file a written report of the investigation.

25       (2) The court may appoint a guardian for an unmarried minor  
26 if any of the following circumstances exist:

1 (a) The parental rights of both parents or of the surviving  
2 parent have been terminated or suspended by prior court order, by  
3 judgment of divorce or separate maintenance, by death, by judi-  
4 cial determination of mental incompetency, by disappearance, or  
5 by confinement in a place of detention.

6 (b) The parent or parents have permitted the minor to reside  
7 with another person and have not provided the other person with  
8 legal authority for the care and maintenance of the minor.

9 (c) All of the following:

10 (i) The minor's biological parents have never been married  
11 to one another.

12 (ii) The minor's parent who has custody of the minor dies or  
13 is missing and the other parent has not been granted legal cus-  
14 tody under court order.

15 (iii) The person whom the petition asks to be appointed  
16 guardian is related to the minor within the fifth degree by mar-  
17 riage, blood, or adoption.

18 (3) A limited guardian of a minor may petition to be  
19 appointed a guardian for that minor, except that the petition  
20 shall not be based upon suspension of parental rights by the  
21 order that appointed that person the limited guardian of that  
22 minor.

23 (4) A guardian appointed by will as provided in section 422  
24 whose appointment is not prevented or nullified under section 423  
25 has priority over a guardian who may be appointed by the court.  
26 The court may proceed with an appointment upon a finding that the  
27 testamentary guardian has failed to accept the testamentary

1 appointment within 30 days after notice of the guardianship  
2 proceeding.

3 (5) For the welfare of the minor ward, the court may at any  
4 time order reasonable support and reasonable ~~visitation~~  
5 PARENTING TIME and contact of the minor ward by his or her  
6 parents.

7 Sec. 424a. (1) Beginning ~~on the effective date of the~~  
8 ~~amendatory act that added section 424b~~ DECEMBER 20, 1990, the  
9 court may appoint a limited guardian for an unmarried minor under  
10 this section upon the petition of the parent or parents if all of  
11 the following requirements are met:

12 (a) The parents with custody of the minor consent or, in the  
13 case of only 1 parent having custody of the minor, the sole  
14 parent consents to the appointment of a limited guardian.

15 (b) The parent or parents voluntarily consent to the suspen-  
16 sion of their parental rights.

17 (c) The court approves a limited guardianship placement plan  
18 agreed to by both of the following parties:

19 (i) The parents with custody of the minor or, in the case of  
20 only 1 parent having custody of the minor, the sole parent who  
21 has custody of the minor.

22 (ii) The person or persons who the court will appoint as  
23 limited guardian of the minor.

24 (2) The parent or parents of a minor who desire to have the  
25 court appoint a limited guardian for that minor and the person or  
26 persons who desire to be appointed limited guardian for that  
27 minor shall develop a limited guardianship placement plan. The

1 parties shall use a limited guardianship placement plan form  
2 prescribed by the state court administrator. A limited guardian-  
3 ship placement plan form shall include a notice that informs a  
4 parent who is a party to the plan that substantial failure to  
5 comply with the plan without good cause may result in the termi-  
6 nation of the parent's parental rights ~~pursuant to~~ UNDER chap-  
7 ter XIIIA of Act No. 288 of the Public Acts of 1939, being sec-  
8 tions 712A.1 to ~~712A.28~~ 712A.31 of the Michigan Compiled Laws.  
9 The proposed limited guardianship placement plan shall be  
10 attached to the petition requesting the court to appoint a  
11 limited guardian. The limited guardianship placement plan shall  
12 include provisions concerning all of the following:

13 (a) The reason why the parent or parents are requesting the  
14 court to appoint a limited guardian for the minor.

15 (b) ~~Visitation~~ PARENTING TIME and contact with the minor  
16 by his or her parent or parents sufficient to maintain a parent  
17 and child relationship.

18 (c) The duration of the limited guardianship.

19 (d) Financial support for the minor.

20 (e) Any other provisions that the parties agree to include  
21 in the plan.

22 (3) The court shall review a proposed limited guardianship  
23 placement plan filed with the court pursuant to this section and  
24 shall do 1 of the following:

25 (a) Approve the proposed plan.

26 (b) Disapprove the proposed plan.



1 (c) On its own motion, modify a proposed plan and approve it  
2 as modified, if the parties agree to the modification. The  
3 modified plan shall be filed with the court.

4 (4) A limited guardianship placement plan that has been  
5 approved by the court may be modified upon agreement of the par-  
6 ties and approval of the court. A modified limited guardianship  
7 placement plan shall be filed with the court.

8 (5) The suspension of parental rights under this section  
9 does not prevent the parent or parents from filing a petition to  
10 terminate the limited guardianship at any time ~~pursuant to~~  
11 UNDER section 424c. Appointment of a limited guardian under this  
12 section shall be a continuing appointment.

13 (6) A limited guardian appointed under this section shall  
14 have all of the powers and duties enumerated in section 431,  
15 except that a limited guardian may not consent to the adoption of  
16 the minor or release of the minor for adoption nor may a limited  
17 guardian consent to the marriage of a minor ward.

18 Sec. 424c. (1) The parent or parents of a minor may peti-  
19 tion the court to terminate a guardianship for the minor, as  
20 follows:

21 (a) If the guardianship is a limited guardianship, the par-  
22 ents or the sole parent with a right to custody of the minor.

23 (b) If the guardianship was established under section 424,  
24 the parent or parents of the minor.

25 (2) If a petition has been filed to terminate a guardianship  
26 ~~pursuant to~~ UNDER this section, the court may do 1 or more of  
27 the following:

1       (a) Order the department of social services or an employee  
2 or agent of the court to conduct an investigation and file a  
3 written report of the investigation regarding the best interests  
4 of the minor or give testimony concerning the investigation.

5       (b) Utilize the community resources in behavioral sciences  
6 and other professions in the investigation and study of the best  
7 interests of the minor and consider their recommendations for the  
8 disposition of the petition.

9       (c) Appoint a guardian ad litem or attorney to represent the  
10 minor.

11       (d) Take any other action considered necessary in a particu-  
12 lar case.

13       (3) After notice and hearing on a petition to terminate a  
14 limited guardianship, the court shall terminate the limited  
15 guardianship if it determines that the parent or parents of the  
16 minor have substantially complied with the limited guardianship  
17 placement plan. The court may enter orders to facilitate the  
18 reintegration of the minor into the home of the parent or parents  
19 for a period of up to 6 months prior to the termination.

20       (4) For all petitions to terminate a guardianship in which  
21 subsection (3) does not apply, the court, after notice and hear-  
22 ing, may do any of the following:

23       (a) Terminate the guardianship if the court determines that  
24 it is in the best interests of the minor, and may do any of the  
25 following:

1       (i) Enter orders to facilitate the reintegration of the  
2 minor into the home of the parent for a period of up to 6 months  
3 prior to the termination.

4       (ii) Order the department of social services to supervise  
5 the transition period when the minor is being reintegrated into  
6 the home of his or her parent.

7       (iii) Order the department of social services to provide  
8 services to facilitate the reintegration of the minor into the  
9 home of his or her parent.

10       (b) Continue the guardianship for not more than 1 year from  
11 the date of the hearing if the court determines that it is in the  
12 best interests of the minor, and do any of the following:

13       (i) If the guardianship is a limited guardianship, order the  
14 parent or parents to comply with 1 of the following:

15       (A) The limited guardianship placement plan.

16       (B) A court-modified limited guardianship placement plan.

17       (C) If the limited guardianship was established before  
18 December 20, 1990, a court-structured plan that enables the child  
19 to return to the home of his or her parent or parents.

20       (ii) If the guardianship was ordered ~~pursuant to~~ UNDER  
21 section 424, order the parent or parents to follow a  
22 court-structured plan that enables the child to return to the  
23 home of his or her parent or parents.

24       (iii) If a guardianship is continued pursuant to subpara-  
25 graph (i) or (ii), schedule and conduct a hearing to review the  
26 guardianship before the expiration of the period of time that the  
27 guardianship is continued and either terminate the guardianship

1 or limited guardianship, or proceed ~~pursuant to~~ UNDER  
2 subdivision (c) or (d).

3 (c) If the minor has resided with the guardian or limited  
4 guardian for not less than 1 year and if the court finds that the  
5 parent or parents of the minor have failed to provide the minor  
6 with parental care, love, guidance, and attention appropriate to  
7 the child's age and individual needs resulting in a substantial  
8 disruption of the parent-child relationship, continue the guard-  
9 ianship if it is established by clear and convincing evidence  
10 that the continuation would serve the best interests of the  
11 minor.

12 (d) Appoint an attorney to represent the minor or refer the  
13 matter to the department of social services. The attorney or the  
14 department of social services may file a complaint on behalf of  
15 the minor requesting the juvenile division of the probate court  
16 to take jurisdiction of the minor under section 2(b) of chapter  
17 XIIIA of Act No. 288 of the Public Acts of 1939, being section  
18 712A.2 of the Michigan Compiled Laws.

19 (5) As used in this section, "best interests of the minor"  
20 means the sum total of the following factors to be considered,  
21 evaluated, and determined by the court:

22 (a) The love, affection, and other emotional ties existing  
23 between the parties involved and the child.

24 (b) The capacity and disposition of the parties involved to  
25 give the child love, affection, and guidance and continuation of  
26 the educating and raising of the child in its religion or creed,  
27 if any.

1 (c) The capacity and disposition of the parties involved to  
2 provide the child with food, clothing, medical care or other  
3 remedial care recognized and permitted under the laws of this  
4 state in place of medical care, and other material needs.

5 (d) The length of time the child has lived in a stable, sat-  
6 isfactory environment, and the desirability of maintaining  
7 continuity.

8 (e) The permanence, as a family unit, of the existing or  
9 proposed custodial home.

10 (f) The moral fitness of the parties involved.

11 (g) The mental and physical health of the parties involved.

12 (h) The home, school, and community record of the child.

13 (i) The reasonable preference of the child, if the court  
14 considers the child to be of sufficient age to express  
15 preference.

16 (j) The willingness and ability of the guardian to facili-  
17 tate and encourage a close and continuing parent-child relation-  
18 ship between the child and his or her parent or parents.

19 (k) Any other factor considered by the court to be relevant  
20 to a particular dispute regarding termination of a guardianship,  
21 removal of a guardian, or ~~visitation~~ PARENTING TIME.

22 (6) This section applies to all guardianships established  
23 before, on, or after the effective date of this section.