



SENATE BILL No. 620

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

A bill to amend section 60 of chapter X and sections 13a, 18f, and 19 of chapter XIIIA of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

section 60 of chapter X as amended by Act No. 341 of the Public Acts of 1982, section 13a of chapter XIIIA as amended by Act

No. 114 of the Public Acts of 1993, and sections 18f and 19 of chapter XIIIA as amended by Act No. 264 of the Public Acts of 1994, being sections 710.60, 712A.13a, 712A.18f, and 712A.19 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 60 of chapter X and sections 13a, 18f,
2 and 19 of chapter XIIIA of Act No. 288 of the Public Acts of 1939,
3 section 60 of chapter X as amended by Act No. 341 of the Public
4 Acts of 1982, section 13a of chapter XIIIA as amended by Act
5 No. 114 of the Public Acts of 1993, and sections 18f and 19 of
6 chapter XIIIA as amended by Act No. 264 of the Public Acts of
7 1994, being sections 710.60, 712A.13a, 712A.18f, and 712A.19 of
8 the Michigan Compiled Laws, are amended to read as follows:

9 CHAPTER X

10 Sec. 60. (1) After the entry of the order of adoption, the
11 adoptee shall, in case of a change of name, be known and called
12 by the new name. The person or persons adopting the adoptee
13 ~~shall thereafter~~ THEN stand in the place of a parent or parents
14 to the adoptee in law in all respects as though the adopted
15 person had been born to the adopting parents and ~~shall thereaf-~~
16 ~~ter be~~ ARE liable for all the duties and entitled to all the
17 rights of parents.

18 (2) After entry of the order of adoption, there ~~shall not~~
19 ~~be any~~ IS NO distinction between the rights and duties of natu-
20 ral progeny and adopted persons, and the adopted person ~~shall~~
21 ~~become~~ BECOMES an heir at law of the adopting parent or parents,
22 and an heir at law of the lineal and collateral kindred of the

1 adopting parent or parents. After entry of the order of
2 adoption, an adopted child ~~shall~~ IS no longer ~~be~~ an heir at
3 law of a parent whose rights have been terminated under this
4 chapter or chapter XIIIA or the lineal or collateral kindred of
5 that parent, nor ~~shall~~ IS an adopted adult ~~be~~ an heir at law
6 of a person who was his or her parent at the time the order of
7 adoption was entered or the lineal or collateral kindred of that
8 person, except that a right, title, or interest vesting before
9 entry of the final order of adoption ~~shall~~ IS not ~~be~~ divested
10 by that order.

11 (3) This section ~~shall~~ DOES not prohibit the entry of an
12 order for ~~grandparent visitation~~ GRANDPARENTING TIME under sec-
13 tion 7b of the child custody act of 1970, Act No. 91 of the
14 Public Acts of 1970, being section 722.27b of the Michigan
15 Compiled Laws. During the pendency of a stepparent adoption pro-
16 ceeding, a parent of a natural parent may seek an order for
17 ~~visitation~~ GRANDPARENTING TIME of the adoptee in the same
18 manner as set forth in section 7b of Act No. 91 of the Public
19 Acts of 1970, and the judge of probate shall proceed in the same
20 manner as is provided for the circuit court judge in section 7b
21 of Act No. 91 of the Public Acts of 1970.

22 CHAPTER XIIIA

23 Sec. 13a. (1) As used in this section and sections 18f, 19,
24 19a, 19b, and 19c of this chapter: .

25 (a) "Agency" means a public or private organization, insti-
26 tution, or facility responsible pursuant to court order or
27 contractual arrangement for the care and supervision of a child.

1 (b) "Foster care" means care provided to a child in a foster
2 family home, foster family group home, or child caring institu-
3 tion licensed or approved under Act No. 116 of the Public Acts of
4 1973, being sections 722.111 to 722.128 of the Michigan Compiled
5 Laws, or care provided to a child in a relative's home pursuant
6 to an order by the juvenile division of the probate court.

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

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

19 (4) If a petition alleging abuse by a parent, guardian, cus-
20 todian, or other person residing in the child's home is autho-
21 rized under subsection (2) and the court after a hearing finds
22 probable cause to believe the parent, guardian, custodian, or
23 other person committed the abuse, the court may order that
24 parent, guardian, custodian, or other person to leave the home
25 and not subsequently return to it, except as the court orders,
26 and may release the child to the other parent or to another
27 guardian or custodian. The court shall not enter an order under

1 this subsection unless the court determines all of the
2 following:

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

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

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

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

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

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

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

25 (b) The court may order the alleged abusive person, accord-
26 ing to terms the court may set, to surrender to a local law

1 enforcement agency any firearms or other potentially dangerous
2 weapons the alleged abusive person owns, possesses or uses.

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

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

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

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

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

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

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

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

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

4 (10) Unless ~~visitation~~ PARENTING TIME, even if supervised,
5 would be harmful to the child, the child's parent shall be per-
6 mitted to ~~visit~~ HAVE PARENTING TIME frequently with the child.

7 (11) Upon the motion of any party, the court shall review
8 custody and placement orders and initial services plans pending
9 trial and may modify those orders and plans as the court consid-
10 ers ~~pursuant to~~ UNDER this section are in the best interests of
11 the child.

12 (12) As used in subsection (4), "abuse" means ~~any~~ 1 OR
13 MORE of the following:

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

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

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

1 (d) Maltreatment of a child.

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

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

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

16 (c) Likely harm to the child if the child were to be sepa-
17 rated from his or her parent, guardian, or custodian.

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

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

24 (3) The case service plan shall provide for placing the
25 child in the most family-like setting available and in as close
26 proximity to the child's parents' home as is consistent with the

1 best interests and special needs of the child. The case service
2 plan shall include, but not be limited to, the following:

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

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

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

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

13 (e) Unless ~~visitation~~ PARENTING TIME, even if supervised,
14 would be harmful to the child, a schedule for regular and fre-
15 quent ~~visitation~~ PARENTING TIME between the child and his or
16 her parent which shall not be less than once every 7 days.

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

1 (5) If a child continues in placement outside of the child's
2 home, the case service plan shall be updated and revised at
3 90-day intervals as required by the rules promulgated pursuant to
4 Act No. 116 of the Public Acts of 1973, being sections 722.111 to
5 722.128 of the Michigan Compiled Laws. The agency shall consult
6 with the foster parents when it updates and revises the case
7 service plan, and shall attach a statement summarizing the infor-
8 mation received from the foster parents to the updated and
9 revised case service plan. Updated and revised case service
10 plans shall be available to the court and all the parties to the
11 proceeding. Written reports, other than those portions made con-
12 fidential by law, case service plans, and court orders, including
13 all updates and revisions, shall be available to the foster
14 parent, child caring institution, or relative with whom the child
15 is placed.

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

23 (2) Except as otherwise provided in subsections (3), (5),
24 (6), (8), (9), and (10), if a child is placed in foster care, the
25 cause shall be reheard not more than 182 days after entry of the
26 order of disposition. The showing shall be recorded
27 stenographically at a hearing held by the judge or referee. If

1 the child remains in foster care in the temporary custody of the
2 court following the hearing, the cause shall be further reheard
3 not more than 182 days after the hearing. In conducting the
4 review hearing, the court shall review the performance of the
5 child, the child's parent, guardian, or custodian, the juvenile
6 worker, and other persons providing assistance to the child and
7 his or her family.

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

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

21 (a) The agency. The agency shall advise the child of the
22 hearing if the child is 11 years of age or older.

23 (b) The foster parent or custodian of the child.

24 (c) If the parental rights to the child have not been termi-
25 nated, the child's parents.

26 (d) If the child has a guardian, the guardian for the
27 child.

1 (e) If the child has a guardian ad litem, the guardian ad
2 litem for the child.

3 (f) If tribal affiliation has been determined, the elected
4 leader of the Indian tribe.

5 (g) The attorney for the child, the attorneys for each
6 party, and the prosecuting attorney if the prosecuting attorney
7 has appeared in the case.

8 (h) If the child is 11 years of age or older, the child.

9 (i) Other persons as the court may direct.

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

12 (a) Compliance with the case service plan with respect to
13 services provided or offered to the child and ~~his or her~~ THE
14 CHILD'S parent, guardian, or custodian and whether the parent,
15 guardian, or custodian has complied with and benefited from those
16 services.

17 (b) Compliance with the case service plan with respect to
18 ~~visitation~~ PARENTING TIME with the child. If ~~visitation~~
19 PARENTING TIME did not occur or was infrequent, the court shall
20 determine why ~~visitation~~ PARENTING TIME did not occur or was
21 infrequent.

22 (c) The extent to which the parent complied with each provi-
23 sion of the case service plan, prior court orders, and ~~any~~ AN
24 agreement between the parent and the agency.

25 (d) Likely harm to the child if the child continues to be
26 separated from ~~his or her~~ THE CHILD'S parent, guardian, or
27 custodian.

1 (e) Likely harm to the child if the child is returned to
2 ~~his or her~~ THE CHILD'S parent, guardian, or custodian.

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

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

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

16 (7) At a review hearing under subsection (2) or (3), the
17 court shall determine the continuing necessity and appropriate-
18 ness of the child's placement and shall order the return of the
19 child to the custody of the parent, continue the dispositional
20 order, modify the dispositional order, or enter a new disposi-
21 tional order.

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

1 (a) The parent's ability and motivation to make necessary
2 changes to provide a suitable environment for the child.

3 (b) Whether there is a reasonable likelihood that the child
4 may be returned to his or her home prior to the next review hear-
5 ing required by subsection (3).

6 (9) Unless waived, if not less than 7 days' notice is given
7 to all parties prior to the return of a child to ~~his or her~~ THE
8 CHILD'S home, and no party requests a hearing within the 7 days,
9 the court may issue an order without a hearing permitting the
10 agency to return the child to ~~his or her~~ THE CHILD'S home.

11 (10) An agency report filed with the court shall be accessi-
12 ble to all parties to the action and shall be offered into
13 evidence. The court shall consider any written or oral informa-
14 tion concerning the child from the child's parent, guardian, cus-
15 todian, foster parent, child caring institution, or relative with
16 whom a child is placed, in addition to any other evidence offered
17 at the hearing.