



SENATE BILL No. 1037

May 21, 1996, Introduced by Senator SCHUETTE and referred to the Committee on Judiciary.

A bill 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, 5, 6, 8, 11, 13a, 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. 341 of the Public Acts of 1982, 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. 370 of the Public Acts of 1988, section 1 of chapter XIIA as amended by Act No. 224 of the Public Acts of 1988, sections 2 and 2a of chapter XIIA as amended by Act No. 192 of the Public Acts of 1994, section 2b of chapter XIIA as amended by Act No. 124 of the Public Acts of 1988, 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. 114 of the Public Acts of 1993, 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.5, 712A.6, 712A.8, 712A.11, 712A.13a, and 712A.28 of the Michigan Compiled Laws; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 22, 23d, 24, 24a, 26, 28, 29, 34, 36,
2 39, 43, 44, 45, 51, 58a, 60, 64, and 66 of chapter X, sections 1

1 and 2 of chapter XI, and sections 1, 2, 2a, 2b, 2c, 3, 5, 6, 8,
2 11, 13a, and 28 of chapter XIIA of Act No. 288 of the Public Acts
3 of 1939, sections 22, 23d, 24, 24a, 29, 39, 44, and 58a of chap-
4 ter X as amended by Act No. 373 of the Public Acts of 1994,
5 sections 26 and 45 of chapter X as amended by Act No. 239 of the
6 Public Acts of 1994, sections 28, 43, and 51 of chapter X as
7 amended by Act No. 222 of the Public Acts of 1994, section 36 of
8 chapter X as amended by Act No. 72 of the Public Acts of 1982,
9 section 60 of chapter X as amended by Act No. 341 of the Public
10 Acts of 1982, section 64 of chapter X as amended by Act No. 244
11 of the Public Acts of 1994, section 66 of chapter X as added by
12 Act No. 247 of the Public Acts of 1992, section 1 of chapter XI
13 as amended by Act No. 370 of the Public Acts of 1988, section 1
14 of chapter XIIA as amended by Act No. 224 of the Public Acts of
15 1988, sections 2 and 2a of chapter XIIA as amended by Act No. 192
16 of the Public Acts of 1994, section 2b of chapter XIIA as amended
17 by Act No. 124 of the Public Acts of 1988, section 11 of chapter
18 XIIA as amended by Act No. 92 of the Public Acts of 1988, section
19 13a of chapter XIIA as amended by Act No. 114 of the Public Acts
20 of 1993, and section 28 of chapter XIIA as amended by Act No. 73
21 of the Public Acts of 1989, being sections 710.22, 710.23d,
22 710.24, 710.24a, 710.26, 710.28, 710.29, 710.34, 710.36, 710.39,
23 710.43, 710.44, 710.45, 710.51, 710.58a, 710.60, 710.64, 710.66,
24 711.1, 711.2, 712A.1, 712A.2, 712A.2a, 712A.2b, 712A.2c, 712A.3,
25 712A.5, 712A.6, 712A.8, 712A.11, 712A.13a, and 712A.28 of the
26 Michigan Compiled Laws, are amended to read as follows:

CHAPTER X

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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.

1 (d) "Agency placement" means a placement in which a child
2 placing agency, the department, or a court selects the adoptive
3 parent for the child and transfers physical custody of the child
4 to the prospective adoptive parent.

5 (e) "Attending practitioner" means a licensed physician or a
6 registered professional nurse certified as a nurse midwife by the
7 Michigan board of nursing.

8 (f) "Best interests of the adoptee" or "best interests of
9 the child" means the sum total of the following factors to be
10 considered, evaluated, and determined by the court to be applied
11 to give the adoptee permanence at the earliest possible date:

12 (i) The love, affection, and other emotional ties existing
13 between the adopting individual or individuals and the adoptee
14 or, in the case of a hearing under section 39 of this chapter,
15 the putative father and the adoptee.

16 (ii) The capacity and disposition of the adopting individual
17 or individuals or, in the case of a hearing under section 39 of
18 this chapter, the putative father to give the adoptee love,
19 affection, and guidance, and to educate and create a milieu that
20 fosters the religion, racial identity, and culture of the
21 adoptee.

22 (iii) The capacity and disposition of the adopting individ-
23 ual or individuals or, in the case of a hearing under section 39
24 of this chapter, the putative father, to provide the adoptee with
25 food, clothing, education, permanence, medical care or other
26 remedial care recognized and permitted under the laws of this
27 state in place of medical care, and other material needs.

1 (iv) The length of time the adoptee has lived in a stable,
2 satisfactory environment, and the desirability of maintaining
3 continuity.

4 (v) The permanence as a family unit of the proposed adoptive
5 home, or, in the case of a hearing under section 39 of this chap-
6 ter, the home of the putative father.

7 (vi) The moral fitness of the adopting individual or indi-
8 viduals or, in the case of a hearing under section 39 of this
9 chapter, of the putative father.

10 (vii) The mental and physical health of the adopting indi-
11 vidual or individuals or, in the case of a hearing under section
12 39 of this chapter, of the putative father, and of the adoptee.

13 (viii) The home, school, and community record of the
14 adoptee.

15 (ix) The reasonable preference of the adoptee, if the
16 adoptee is 14 years of age or less and if the court considers the
17 adoptee to be of sufficient age to express a preference.

18 (x) The ability and willingness of the adopting individual
19 or individuals to adopt the adoptee's siblings.

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

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

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

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

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

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

13 (l) "Court" means the ~~probate~~ FAMILY DIVISION OF CIRCUIT
14 court of this state, ~~and~~ OR when the context requires, the
15 court having jurisdiction over adoption in another state or
16 country.

17 (m) "Department" means the state department of social
18 services.

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

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

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

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

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

7 (s) "Release" means a document in which all parental rights
8 over a specific child are voluntarily relinquished to the depart-
9 ment or to a child placing agency.

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

15 (u) "Suitable to be a parent of an adoptee" means a conclu-
16 sion that there is no specific concern with respect to an indi-
17 vidual that would suggest that placement of any child, or a par-
18 ticular child, in the home of the individual would pose a risk of
19 harm to the physical or psychological well-being of the child.

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

23 (w) "Within the fifth degree by marriage, blood, or
24 adoption" means any of the following relationships: parent,
25 step-parent, grandparent, step-grandparent, brother,
26 step-brother, sister, step-sister, uncle, step-uncle, aunt,
27 step-aunt, first cousin, step-first cousin, great aunt,

1 step-great aunt, great uncle, step-great uncle, great
2 grandparent, step-great grandparent, first cousin once removed,
3 step-first cousin once removed, great great grandparent,
4 step-great great grandparent, great great uncle, step-great great
5 uncle, great great aunt, step-great great aunt, great great great
6 grandparent, or step-great great great grandparent.

7 Sec. 23d. (1) In a direct placement, a parent or guardian
8 with legal and physical custody of a child may make a temporary
9 placement of the child as prescribed by this section. In an
10 agency placement, a child placing agency with written authoriza-
11 tion from the parent or guardian pursuant to section 23b of this
12 chapter may make a temporary placement of the child as prescribed
13 by this section. A temporary placement shall meet all of the
14 following requirements:

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

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

19 (c) In the presence of a witness who also signs the docu-
20 ment, the parent, guardian, or representative of the child plac-
21 ing agency signs a statement evidencing the transfer of physical
22 custody of the child. If the parent making the temporary place-
23 ment is an unemancipated minor, the statement is not valid unless
24 it is also signed in the presence of the witness by a parent or
25 guardian of that minor parent. The statement shall contain all
26 of the following:

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

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

5 (iii) Language indicating that unless the parent or guardian
6 and the prospective adoptive parent agree otherwise, the prospec-
7 tive adoptive parent has the authority to consent to all medical,
8 surgical, psychological, educational, and related services for
9 the child and language indicating that the parent or guardian
10 otherwise retains full parental rights to the child being tempo-
11 rarily placed and that the temporary placement may be revoked by
12 the filing of a petition under subsection (5).

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

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

26 (d) In the presence of a witness who also signs the
27 document, the prospective adoptive parent signs a statement

1 setting forth the date of the transfer of physical custody and
2 the name and address of the prospective adoptive parent and
3 attesting to both of the following:

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

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

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

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

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

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

26 (d) Even if only 1 parent is making the temporary placement,
27 the name and address of both parents of the child, including, in

1 the case of a child born out of wedlock, the name of each
2 putative father, if known.

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

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

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

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

16 (4) If the court has not received the report required under
17 subsection (3) within 45 days after the transfer of physical cus-
18 tody of a child, the ~~probate register~~ COURT shall immediately
19 investigate and determine whether an adoption petition has been
20 filed or the child has been returned to a parent or other person
21 having legal custody. If the report required under
22 subsection (3) or the ~~probate register's~~ COURT'S investigation
23 reveals that neither disposition has occurred, the ~~probate~~
24 ~~register~~ COURT shall immediately report to the prosecutor, who
25 shall immediately file a petition in the court that received the
26 report described in subsection (2) for disposition of the child
27 pursuant to section 23e of this chapter. If a petition has been

1 filed under subsection (5), (6), or (7), the prosecutor is not
2 required to file a petition.

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

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

21 (7) If a child placing agency that temporarily placed a
22 child is unable to proceed with an adoption because of the
23 unavailability of a parent or guardian to execute a release, or
24 if a child placing agency with legal custody of a child decides
25 not to proceed with the adoption by a prospective adoptive parent
26 with whom the child has been temporarily placed and the
27 prospective adoptive parent refuses upon the agency's request to

1 return the child to the agency, the child placing agency shall
2 file a petition in the court that received the report described
3 in subsection (2) for disposition of the child pursuant to sec-
4 tion 23e of this chapter.

5 (8) Except as otherwise agreed to by the parties, the pro-
6 spective adoptive parent with whom a child is temporarily placed
7 under this section may consent to all medical, surgical, psycho-
8 logical, educational, and related services for the child.

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

13 Sec. 24. (1) If a person desires to adopt a child or an
14 adult and to bestow upon the adoptee his or her family name, or
15 to adopt a child or an adult without a change of name, with the
16 intent to make the adoptee his or her heir, that person, together
17 with his wife or her husband, if married, shall file a petition
18 with the ~~probate~~ court of the county in which the petitioner
19 resides or where the adoptee is found. If there has been a tem-
20 porary placement of the child, the petition for adoption shall be
21 filed with the court that received the report described in sec-
22 tion 23d(2) of this chapter.

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

25 (a) The name, date and place of birth, and place of resi-
26 dence of each petitioner, including the maiden name of the
27 adopting mother.

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

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

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

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

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

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

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

21 (4) Except as otherwise provided in this subsection, in a
22 direct placement, the petitioner shall attach a copy of a pre-
23 placement assessment of the petitioner completed or updated
24 within 1 year before the petition is filed with a finding that
25 the petitioner is suitable to be a parent of an adoptee, copies
26 of all other preplacement assessments of the petitioner, if any
27 others have been completed, and a verified statement stating that

1 no preplacement assessments of the petitioner have been completed
2 other than those attached to the petition and explaining any pre-
3 placement assessments of the petitioner that have been initiated
4 but not completed. If the petitioner is seeking review of a pre-
5 placement assessment under section 23f(8) of this chapter, the
6 petitioner may comply with this subsection by attaching a copy of
7 that preplacement assessment and a copy of the application for
8 review, together with copies of all other preplacement assess-
9 ments and the verified statement required by this section.

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

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

19 (a) The petitioner.

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

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

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

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

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

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

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

6 (d) The department or a child placing agency to which the
7 adoptee has been, or for purposes of subsection (3) is proposed
8 to be, released or committed by an order of the ~~juvenile divi-~~
9 ~~sion of the probate~~ court.

10 (e) A parent, guardian, or guardian ad litem of an unemanci-
11 pated minor parent of the adoptee.

12 (f) The ~~juvenile division of the probate~~ court with per-
13 manent custody of the adoptee.

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

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

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

19 (2) Interested parties in a petition for a hearing to iden-
20 tify the father of an adoptee and to determine or terminate his
21 rights are all of the following:

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

23 (b) A putative father of the adoptee.

24 (3) Interested parties in a proceeding relating to the exe-
25 cution of a voluntary release are all of the following:

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

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

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

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

6 (a) The petitioners.

7 (b) The stepparent who adopted the adult adoptee.

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

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

11 (a) The parent or guardian who made or authorized the tempo-
12 rary placement.

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

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

17 (d) If only 1 parent made or authorized the temporary place-
18 ment, the other parent and each putative father of the adoptee.

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

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

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

25 (6) In the interest of justice, the court may require addi-
26 tional parties to be served.

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

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

9 (a) Except in instances of parental consent to adoption, a
10 copy of each release or order terminating parental rights over
11 the child having a bearing upon the authority of a person to exe-
12 cute the consent to adoption.

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

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

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

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

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

1 (g) If the petition alleges nonsupport and noncommunication
2 by a parent, as described in section 51(6), an affidavit verify-
3 ing that fact.

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

5 (2) Before or at the time of the hearing on the adoption
6 petition, the court shall inform the adoptee, if he or she is
7 14 years old or older, and the adoptive parents of the provisions
8 described in sections 27a, 27b, 68, 68a, and 68b. This subsec-
9 tion also applies to a stepparent adoption and the adoption of a
10 child related to the petitioner within the fifth degree by mar-
11 riage, blood, or adoption.

12 (3) Before or at the time of the hearing on the adoption
13 petition, the court shall provide the adoptee, if he or she is 14
14 years old or older, and the adoptive parents with a list of adop-
15 tion support groups. This subsection also applies to a steppar-
16 ent adoption and to the adoption of a child related to the peti-
17 tioner within the fifth degree by marriage, blood, or adoption.

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

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

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

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

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

1 (b) By the authorized representative of a child placing
2 agency to whom the child has been committed by an order of the
3 ~~juvenile division of the probate~~ court.

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

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

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

10 (2) If the parent of the child to be adopted is an unemanci-
11 pated minor, that parent's release is not valid unless a parent,
12 guardian, or guardian ad litem of that minor parent has also exe-
13 cuted the release.

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

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

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

25 (6) Before the department arranges a release from a parent
26 or guardian, a representative of the department shall advise the
27 parent or guardian about child placing agencies serving the

1 county and, upon the parent's or guardian's request, shall refer
2 the parent or guardian to a child placing agency. After the
3 release of a child by a parent or guardian to the department, the
4 department shall advise the child placing agencies serving the
5 county that the child is available for adoption.

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

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

11 (9) Where applicable under this section, proof of the termi-
12 nation of parental rights, release of parental rights, appoint-
13 ment, authorization, or commitment shall accompany the release.

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

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

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

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

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

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

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

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

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

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

5 (f) That the parent or guardian understands that it serves
6 the welfare of the child for the parent or guardian to keep his
7 or her address current with the child placing agency or depart-
8 ment in order to permit a response to any inquiry concerning med-
9 ical or social history from an adoptive parent of a minor adoptee
10 or from an adoptee who is 18 years of age or older.

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

20 (7) Upon the release of a child by a parent or guardian, the
21 court immediately shall issue an order terminating the rights of
22 that parent or guardian to that child. If the rights of both
23 parents, the surviving parent, or the guardian have been termi-
24 nated, the court shall issue an order committing the child to the
25 child placing agency or department to which the release was
26 given.

1 (8) The court shall authorize foster care funding pending
2 expiration of the period of appeal or rehearing as provided in
3 sections 64 and 65 of this chapter, and pending disposition of
4 any appeal or rehearing, for all persons committed to a child
5 placing agency. Foster care funding authorized under this sub-
6 section shall exclude the administrative costs of the child plac-
7 ing agency. The costs of foster care shall be paid through the
8 use of the child care fund as provided by section 117c of the
9 social welfare act, Act No. 280 of the Public Acts of 1939, ~~as~~
10 ~~amended,~~ being section 400.117c of the Michigan Compiled Laws,
11 or by any successor statute. When foster care funding is autho-
12 rized pursuant to this subsection, the court shall send a copy of
13 the order to the department. Upon receiving a copy of this
14 order, the department shall reimburse the court child care fund
15 of the county where the court order for foster care funding was
16 made in the total amount of the court ordered payment. The reim-
17 bursement shall be made monthly.

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

22 (10) Upon petition of the same person or persons who exe-
23 cuted the release and of the department or child placing agency
24 to which the child was released, the court with which the release
25 was filed may grant a hearing to consider whether the release
26 should be revoked. A release may not be revoked if the child has
27 been placed for adoption unless the child is placed as provided

1 in section 41(2) of this chapter and a petition for rehearing or
2 claim of appeal is filed within the time required. A verbatim
3 record of testimony related to a petition to revoke a release
4 shall be made.

5 Sec. 34. (1) In order to provide due notice at the earliest
6 possible time to a putative father who may have an interest in
7 the custody of an expected child or in the mother's intended
8 release of an expected child for adoption or consent to adoption
9 of the expected child, and in order to facilitate early placement
10 of a child for adoption, a woman pregnant out of wedlock may file
11 with the ~~probate~~ court an ex parte petition which evidences her
12 intent to release her expected child for adoption or to consent
13 to the child's adoption, which indicates the approximate date and
14 location of conception and the expected date of her confinement,
15 which alleges that a particular person is the putative father of
16 her expected child, and which requests the court to notify the
17 putative father about his rights to file a notice of intent to
18 claim paternity pursuant to section 33. The petition may allege
19 more than 1 putative father where circumstances warrant. The
20 petition shall be verified. Upon the filing of the petition, the
21 court shall issue a notice of intent to release or consent, which
22 notice shall be served upon the putative father by any officer or
23 person authorized to serve process of the court. Proof of serv-
24 ice shall be filed with the court.

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

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

1 (b) Inform the putative father of his right under section
2 33(1) to file a notice of intent to claim paternity before the
3 birth of the child.

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

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

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

18 Sec. 36. (1) If a child is claimed to be born out of wed-
19 lock and the mother executes or proposes to execute a release or
20 consent relinquishing her rights to the child or joins in a peti-
21 tion for adoption filed by her husband, and the release or con-
22 sent of the natural father cannot be obtained, the judge ~~of~~
23 ~~probate~~ shall hold a hearing as soon as practical to determine
24 whether the child was born out of wedlock, to determine the iden-
25 tity of the father, and to determine or terminate the rights of
26 the father as provided in this section and sections 37 and 39 of
27 this chapter.

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

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

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

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

18 (c) Any other male who was not served pursuant to section
19 34(1) of this chapter with a notice of intent to release or con-
20 sent and who the court has reason to believe may be the father of
21 the child.

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

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

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

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

19 Sec. 39. (1) If the putative father does not come within
20 the provisions of subsection (2), and if the putative father
21 appears at the hearing and requests custody of the child, the
22 court shall inquire into his fitness and his ability to properly
23 care for the child and shall determine whether the best interests
24 of the child will be served by granting custody to him. If the
25 court finds that it would not be in the best interests of the
26 child to grant custody to the putative father, the court shall
27 terminate his rights to the child.

1 (2) If the putative father has established a custodial
2 relationship with the child or has provided support or care for
3 the mother during pregnancy or for either mother or child after
4 the child's birth during the 90 days before notice of the hearing
5 was served upon him, the rights of the putative father shall not
6 be terminated except by proceedings in accordance with section
7 51(6) of this chapter or section 2 of chapter XIIIA.

8 (3) If the parental rights of the mother are terminated pur-
9 suant to this chapter or other law and if the court awards cus-
10 tody of a child born out of wedlock to the putative father, the
11 court shall enter an order granting custody to the putative
12 father and legitimating the child for all purposes. The judge
13 ~~of probate~~ shall duly record the legitimation in accordance
14 with section 111 of the revised probate code, Act No. 642 of the
15 Public Acts of 1978, ~~as amended,~~ being section 700.111 of the
16 Michigan Compiled Laws.

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

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

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

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

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

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

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

4 (b) By the authorized representative of the department or of
5 a child placing agency to whom the child has been permanently
6 committed by an order of the ~~juvenile division of the probate~~
7 court.

8 (c) By the ~~juvenile division of the probate~~ court or by a
9 tribal court having permanent custody of the child.

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

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

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

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

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

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

26 (4) If the parent of the child to be adopted is an
27 unemancipated minor, that parent's consent is not valid unless a

1 parent, guardian, or guardian ad litem of that minor parent has
2 also executed the consent.

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

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

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

21 Sec. 44. (1) Except as otherwise provided in this section,
22 the consent required by section 43 of this chapter shall be by a
23 separate instrument executed before the judge ~~of probate~~ having
24 jurisdiction or, at the court's direction, before another judge
25 ~~of probate~~ in this state. ~~A consent may be executed before a~~
26 ~~referee of the probate court.~~ The consent hearing shall be held
27 within 7 days after it is requested. If the consent of a parent

1 or guardian is executed before a judge ~~or referee~~ as provided
2 in this subsection, a verbatim record of testimony related to
3 execution of the consent shall be made.

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

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

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

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

23 (a) That the parent or guardian has received a list of sup-
24 port groups and a copy of the written document described in sec-
25 tion 6(1)(c) of the foster care and adoption services act, Act
26 No. 203 of the Public Acts of 1994, being section 722.956 of the
27 Michigan Compiled Laws.

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

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

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

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

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

21 (6) If a parent's consent to adoption is required under sec-
22 tion 43 of this chapter or if a guardian's consent is required
23 pursuant to section 43(1)(e) of this chapter, the consent shall
24 not be executed until after the investigation the court considers
25 proper and until after the judge, referee, or other individual
26 authorized in subsection (2) has fully explained to the parent or
27 guardian the legal rights of the parent or guardian and the fact

1 that the parent or guardian by virtue of the consent voluntarily
2 relinquishes permanently his or her rights to the child.

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

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

16 (2) If an adoption petitioner has been unable to obtain the
17 consent required by section 43(1)(b), (c), or (d) of this chap-
18 ter, the petitioner may file a motion with the court alleging
19 that the decision to withhold consent was arbitrary and
20 capricious. A motion under this subsection shall contain infor-
21 mation regarding both of the following:

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

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

26 (3) If consent has been given to another petitioner and if
27 the child has been placed with that other petitioner pursuant to

1 an order under section 51 of this chapter, a motion under this
2 section shall not be brought after either of the following:

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

5 (b) Entry of an order of adoption.

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

11 (5) Unless the petitioner establishes by clear and convinc-
12 ing evidence that the decision to withhold consent was arbitrary
13 and capricious, the court shall deny the motion described in sub-
14 section (2) and dismiss the petition to adopt.

15 (6) If the court finds by clear and convincing evidence that
16 the decision to withhold consent was arbitrary and capricious,
17 the court may terminate the rights of the appropriate court,
18 child placing agency, or department and may enter further orders
19 in accordance with this chapter or section 18 of chapter XIIIA as
20 the court considers appropriate. In addition, the court may
21 grant to the petitioner reimbursement for petitioner's costs of
22 preparing, filing, and arguing the motion alleging the withhold-
23 ing of consent was arbitrary and capricious, including a reason-
24 able allowance for attorney fees.

25 (7) If the consent at issue is that required of the
26 ~~juvenile division of the probate~~ court under section 43(1)(c)
27 of this chapter, the motion shall be heard by a visiting judge

1 assigned pursuant to section 8212 of the revised judicature act
2 of 1961, Act No. 236 of the Public Acts of 1961, ~~as amended,~~
3 being section 600.8212 of the Michigan Compiled Laws.

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

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

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

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

21 (3) Upon entry of an order terminating rights of parents or
22 persons in loco parentis, a child is a ward of the court and a
23 consent to adoption executed pursuant to section 43 of this chap-
24 ter shall not be withdrawn after the order is entered. Entry of
25 the order terminates the jurisdiction of the circuit court over
26 the child in a divorce or separate maintenance action. If the
27 petitioner for adoption is married to the parent having legal

1 custody of the child, the child shall not be made a ward of the
2 court after termination of the rights of the other parent.

3 (4) Without making the child a ward of the court, the court
4 may approve placement of a child if the child is placed for adop-
5 tion in this state by a public or licensed private agency of
6 another state or country and if the law of the sending state or
7 country prohibits the giving of consent to adoption at the time
8 of placement. Before placement of the child in that instance,
9 the sending agency shall tender evidence as the court requires to
10 demonstrate that the agency possesses the necessary authority to
11 consent to the adoption at the time of entry of the final order
12 of adoption. After the sending agency has given evidence of its
13 ability to consent, the agency shall not do anything to jeopar-
14 dize its ability to grant the required consent before entry of
15 the final order of adoption. After the sending agency gives its
16 consent for the adoption, that consent shall not be withdrawn.

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

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

1 (a) The other parent, having the ability to support, or
2 assist in supporting, the child, has failed or neglected to pro-
3 vide regular and substantial support for the child or if a sup-
4 port order has been entered, has failed to substantially comply
5 with the order, for a period of 2 years or more before the filing
6 of the petition.

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

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

16 Sec. 58a. (1) Beginning on the effective date of section
17 14c of Act No. 116 of the Public Acts of 1973, being section
18 722.124c of the Michigan Compiled Laws, the ~~probate register~~
19 COURT shall forward to the department, not later than 15 days
20 after the entry of an order of adoption pursuant to section 56 of
21 this chapter, either of the following:

22 (a) A public information form filled out and filed with the
23 court by the primary adoption facilitator and completed by the
24 ~~probate register~~ COURT as provided in subsection (2).

25 (b) If the primary adoption facilitator has not filed a
26 form, a public information form completed by the ~~probate~~
27 ~~register~~ COURT that consists only of the name of the primary

1 adoption facilitator and the confidential information as
2 prescribed by section 14d of Act No. 116 of the Public Acts of
3 1973, being section 722.124d of the Michigan Compiled Laws.

4 (2) If the primary adoption facilitator has filed a public
5 information form with the court and has indicated that he or she
6 does not have access to certain information required on the
7 public portion of the form, the ~~probate register~~ COURT shall
8 complete the form by filling in missing information that is con-
9 tained in court records to which the primary adoption facilitator
10 does not have access. The ~~probate register~~ COURT shall com-
11 plete all public information forms filed with the court by fill-
12 ing in the information required on the confidential portion of
13 the form.

14 (3) As used in this section, "primary adoption facilitator"
15 and "public information form" mean those terms as defined in sec-
16 tion 14b of Act No. 116 of the Public Acts of 1973, being section
17 722.124b of the Michigan Compiled Laws.

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

25 (2) After entry of the order of adoption there shall not be
26 any distinction between the rights and duties of natural progeny
27 and adopted persons, and the adopted person shall become an heir

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

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

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

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

4 Sec. 66. (1) If an adult adoptee who was adopted by a step-
5 parent and the adult adoptee's parent whose rights have been ter-
6 minated desire to rescind the adoption by the stepparent and
7 restore the parental rights of that parent, they shall file a
8 rescission petition with the ~~probate~~ court of the county in
9 which the adoption by the stepparent was confirmed. This section
10 applies to an adult adoptee who was adopted by a stepparent
11 regardless of whether the adoptee was a minor at the time of
12 adoption.

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

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

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

25 (c) The name of the stepparent at the time of the order of
26 adoption, including the maiden name of the stepparent if

1 applicable and if known, and the stepparent's date and place of
2 birth.

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

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

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

21 (6) After entry of an order of rescission, the adult adoptee
22 becomes an heir at law of the parent whose parental rights have
23 been restored and of the lineal and collateral kindred of that
24 parent. After entry of the order of rescission, the adult
25 adoptee is no longer an heir at law of a person who was his or
26 her stepparent at the time of the order of rescission or an heir
27 at law of the lineal or collateral kindred of that person, except

1 that a right, title, or interest vesting before entry of the
2 order of rescission shall not be divested by that order.

3 CHAPTER XI

4 Sec. 1. (1) The ~~probate~~ FAMILY DIVISION OF CIRCUIT court
5 for a county may enter an order to change the name of a person
6 who has been a resident of the county for not less than 1 year
7 and who makes a petition in writing to the court for that purpose
8 showing a sufficient reason for the proposed change and that the
9 change is not sought with any fraudulent intent. When the peti-
10 tion is filed, the court shall set a time and place for hearing
11 and order publication as provided by supreme court rule. Upon
12 the filing of a petition, the court may permit a person having
13 the same name, or a similar name to that which the petitioner
14 proposes to assume, to intervene in the proceeding for the pur-
15 pose of showing fraudulent intent. Except as provided in
16 subsection (3), if the petitioner is a minor, the petition shall
17 be signed by the mother and father jointly, or by the surviving
18 parent if 1 is deceased, or if both parents are deceased, by the
19 guardian of the person of the minor, or by the minor's parent, if
20 there is not another legal parent to give consent. If either
21 parent has been declared mentally incompetent, the petition may
22 be signed by the guardian for that parent. The written consent
23 to the change of name of a minor 14 years of age or older, signed
24 by the minor in the presence of the court, shall be filed with
25 the court before any order changing the name of the minor is
26 entered. If the court considers the child to be of sufficient
27 age to express a preference, a minor under 14 years of age shall

1 be consulted by the court as to a change in his or her name and
2 his or her wishes shall be considered by the court.

3 (2) If the petitioner is married, the court, in its order
4 changing the name of the petitioner, may include the name of the
5 spouse, if the spouse consents, and may include the names of
6 minor children of the petitioner of whom the petitioner has legal
7 custody. The written consent to the change of name of a child 14
8 years of age or older, signed by the child in the presence of the
9 court, shall be filed with the court before the court includes
10 that child in its order. Except as provided in subsection (3),
11 the name of a minor under 14 years of age may not be changed
12 unless he or she is the natural or adopted child of the peti-
13 tioner and unless consent is obtained from the mother and father
14 jointly, or from the surviving parent if 1 is deceased, or from
15 the minor's parent if there is not another legal parent to give
16 consent. If the court considers the child to be of sufficient
17 age to express a preference, a minor under 14 years of age shall
18 be consulted by the court as to a change in his or her name and
19 his or her wishes shall be considered by the court.

20 (3) The name of a minor may be changed pursuant to
21 subsection (1) or (2) with the consent or signature of the custo-
22 dial parent upon notice to the noncustodial parent pursuant to
23 supreme court rule and after hearing if both of the following
24 occur:

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

1 support order has been entered, has failed to substantially
 2 comply with the order, for a period of 2 years or more before the
 3 filing of the petition.

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

8 Sec. 2. ~~Such~~ THE judge of ~~probate~~ THE FAMILY DIVISION
 9 OF CIRCUIT COURT shall require the person making ~~such~~ A peti-
 10 tion under ~~the preceding~~ section 1 OF THIS CHAPTER to pay to
 11 the ~~probate~~ court to be remitted to the county treasurer for
 12 the use of the county a fee of \$10.00, and shall furnish to the
 13 petitioner, if desired, a certified copy of the order made in
 14 ~~such~~ THE matter, upon payment of the REQUIRED statutory fee.
 15 ~~therefor.~~

16 CHAPTER XIIA

17 Sec. 1. (1) ~~While proceeding under this chapter, the pro-~~
 18 ~~bate court shall be termed the juvenile division of the probate~~
 19 ~~court.~~ AS USED IN THIS CHAPTER, "COURT" MEANS THE FAMILY DIVI-
 20 SION OF CIRCUIT COURT.

21 (2) Proceedings under this chapter shall not be considered
 22 to be criminal proceedings.

23 (3) ~~(2)~~ This chapter shall be liberally construed to the
 24 end that each child coming within the jurisdiction of the court
 25 shall receive the care, guidance, and control, preferably in his
 26 or her own home, as will be conducive to the child's welfare and
 27 the best interest of the state. If a child is removed from the

1 control of his or her parents, the child shall be placed in care
2 as nearly as possible equivalent to the care which should have
3 been given to the child by his or her parents.

4 Sec. 2. The ~~juvenile division of the probate~~ court has
5 the following authority and jurisdiction:

6 (a) Exclusive original jurisdiction superior to and regard-
7 less of the jurisdiction of any other court in proceedings con-
8 cerning a child under 17 years of age who is found within the
9 county if 1 or more of the following applies:

10 (1) Except as otherwise provided in this subparagraph, the
11 child has violated any municipal ordinance or law of the state or
12 of the United States. The ~~juvenile division of the probate~~
13 court has jurisdiction over a child 15 years of age or older who
14 is charged with a violation of section 83, 89, 91, 316, 317,
15 520b, 529, or 529a of the Michigan penal code, Act No. 328 of the
16 Public Acts of 1931, being sections 750.83, 750.89, 750.91,
17 750.316, 750.317, 750.520b, 750.529, and 750.529a of the Michigan
18 Compiled Laws, or section 7401(2)(a)(i) or 7403(2)(a)(i) of the
19 public health code, Act No. 368 of the Public Acts of 1978, being
20 sections 333.7401 and 333.7403 of the Michigan Compiled Laws,
21 only if the prosecuting attorney files a petition in ~~juvenile~~
22 THE court instead of authorizing a complaint and warrant.

23 (2) The child has deserted his or her home without suffi-
24 cient cause and the court finds on the record that the child has
25 been placed or refused alternative placement or the child and the
26 child's parent, guardian, or custodian have exhausted or refused
27 family counseling.

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

5 (4) The child willfully and repeatedly absents himself or
6 herself from school or other learning program intended to meet
7 the child's educational needs, or repeatedly violates rules and
8 regulations of the school or other learning program, and the
9 court finds on the record that the child, the child's parent,
10 guardian, or custodian, and school officials or learning program
11 personnel have met on the child's educational problems, and edu-
12 cational counseling and alternative agency help have been
13 sought. As used in this subparagraph only, "learning program"
14 means an organized educational program that is appropriate, given
15 the age, intelligence, ability, and any psychological limitations
16 of a child, in the subject areas of reading, spelling, mathemat-
17 ics, science, history, civics, writing, and English grammar.

18 (b) Jurisdiction in proceedings concerning any child under
19 18 years of age found within the county:

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

1 (A) "Education" means learning based on an organized
2 educational program that is appropriate, given the age, intelli-
3 gence, ability, and any psychological limitations of a child, in
4 the subject areas of reading, spelling, mathematics, science,
5 history, civics, writing, and English grammar.

6 (B) "Without proper custody or guardianship" does not
7 include the situation where a parent has placed the child with
8 another person who is legally responsible for the care and main-
9 tenance of the child and who is able to and does provide the
10 child with proper care and maintenance.

11 (2) Whose home or environment, by reason of neglect, cruel-
12 ty, drunkenness, criminality, or depravity on the part of a
13 parent, guardian, or other custodian, is an unfit place for the
14 child to live in.

15 (3) Whose parent has substantially failed, without good
16 cause, to comply with a limited guardianship placement plan
17 described in section 424a of the revised probate code, Act
18 No. 642 of the Public Acts of 1978, being section 700.424a of the
19 Michigan Compiled Laws, regarding the child.

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

25 (5) If the child has a guardian under the revised probate
26 code, Act No. 642 of the Public Acts of 1978, being sections

1 700.1 to 700.993 of the Michigan Compiled Laws, and the child's
2 parent meets both of the following criteria:

3 (A) The parent, having the ability to support or assist in
4 supporting the child, has failed or neglected, without good
5 cause, to provide regular and substantial support for the child
6 for a period of 2 years or more before the filing of the petition
7 or, if a support order has been entered, has failed to substan-
8 tially comply with the order for a period of 2 years or more
9 before the filing of the petition.

10 (B) The parent, having the ability to visit, contact, or
11 communicate with the child, has regularly and substantially
12 failed or neglected, without good cause, to do so for a period of
13 2 years or more before the filing of the petition.

14 If a petition is filed in ~~any probate~~ THE FAMILY DIVISION
15 OF CIRCUIT court alleging that a child is within the provisions
16 of subdivision (b)(1), (2), (3), (4), or (5), and the custody of
17 that child is subject to the prior or continuing order of another
18 court of record of this state, the manner of notice to the other
19 court and the authority of the ~~probate~~ FAMILY DIVISION OF
20 CIRCUIT court to proceed is governed by rule of the supreme
21 court.

22 ~~(c) Jurisdiction over children under 18 years of age,~~
23 ~~jurisdiction of whom has been waived to the juvenile division of~~
24 ~~the probate court by a circuit court pursuant to a provision in a~~
25 ~~temporary order for custody of children based upon a complaint~~
26 ~~for divorce or upon a motion pursuant to a complaint for divorce~~
27 ~~by the prosecuting attorney, in a divorce judgment dissolving a~~

1 ~~marriage between the parents of the minor children, or by an~~
2 ~~amended judgment relative to the custody of the child in a~~
3 ~~divorce.~~

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

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

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

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

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

16 (5) Who is willfully disobedient to the reasonable and
17 lawful commands of his or her parents, guardian, or other custo-
18 dian and is in danger of becoming morally depraved.

19 If any child is brought before the ~~juvenile division of the~~
20 ~~probate~~ court in a county other than that in which the child
21 resides, the court may enter an order before a hearing transfer-
22 ring the jurisdiction of the matter to the court of the county of
23 residence, which shall not be construed as a legal settlement as
24 defined in section 55 of the social welfare act, Act No. 280 of
25 the Public Acts of 1939, ~~as amended,~~ being section 400.55 of
26 the Michigan Compiled Laws, with the consent of the probate judge
27 of the county of residence. The order, together with a certified

1 copy of the proceedings in the transferring court, shall be
2 delivered to the court of the county of residence.

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

11 (E) ~~(f)~~ If the court operates a detention home for chil-
12 dren within the court's jurisdiction under subdivision (a)(1),
13 authority to place a child within that home pending trial if the
14 child is within the circuit court's jurisdiction under section
15 606 of the revised judicature act of 1961, Act No. 236 of the
16 Public Acts of 1961, being section 600.606 of the Michigan
17 Compiled Laws, or within the recorder's court of the city of
18 Detroit's jurisdiction under section 10a(1)(c) of Act No. 369 of
19 the Public Acts of 1919, being section 725.10a of the Michigan
20 Compiled Laws, and if the circuit court or the recorder's court
21 of the city of Detroit orders the ~~juvenile division of the~~
22 ~~probate~~ FAMILY DIVISION OF CIRCUIT court in the same county to
23 place the child in that home. The ~~juvenile division~~ COURT
24 shall comply with that order.

25 Sec. 2a. (1) Except as otherwise provided in
26 subsection (2), if the ~~juvenile division of the probate~~ court
27 has exercised jurisdiction over a child under section 2(a) or (b)

1 of this chapter, jurisdiction shall continue for a period of 2
2 years beyond the maximum age of jurisdiction conferred under sec-
3 tion 2 of this chapter, unless the child is released sooner by
4 order of the court.

5 (2) If the ~~juvenile division of the probate~~ court has
6 exercised jurisdiction over a child under section 2(a)(1) of this
7 chapter for an offense that, if committed by an adult, would be a
8 violation or attempted violation of section 72, 83, 84, 88, 89,
9 91, 316, 317, 349, 520b, 520c, 520d, 520g, 529, 529a, or 530 of
10 the Michigan penal code, Act No. 328 of the Public Acts of 1931,
11 being sections 750.72, 750.83, 750.84, 750.88, 750.89, 750.91,
12 750.316, 750.317, 750.349, 750.520b, 750.520c, 750.520d,
13 750.520g, 750.529, 750.529a, and 750.530 of the Michigan Compiled
14 Laws, or section 7401(2)(a)(i) or 7403(2)(a)(i) of the public
15 health code, Act No. 368 of the Public Acts of 1978, being sec-
16 tions 333.7401 and 333.7403 of the Michigan Compiled Laws, juris-
17 diction may be continued until the child is 21 years of age under
18 section 18d of this chapter.

19 (3) As used in this chapter, "child", "minor" or any other
20 term signifying a person under the age of 18 applies to a person
21 18 years of age or older concerning whom proceedings are com-
22 menced in the ~~juvenile division of the probate~~ court pursuant
23 to section 2 of this chapter and over whom the ~~juvenile~~
24 ~~division~~ COURT has continuing jurisdiction pursuant to subsec-
25 tion (1).

26 Sec. 2b. When a child is accused of an act, the nature of
27 which constitutes a violation of the Michigan vehicle code, Act

1 No. 300 of the Public Acts of 1949, ~~as amended,~~ being sections
2 257.1 to 257.923 of the Michigan Compiled Laws, or of a provision
3 of an ordinance substantially corresponding to any provision of
4 Act No. 300 of the Public Acts of 1949, ~~as amended,~~ the follow-
5 ing procedure shall apply, any other provision of this chapter
6 notwithstanding:

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

12 (b) The parent or parents, guardian, or custodian of the
13 child may be required to attend a hearing conducted in accordance
14 with this section when notified by the ~~probate~~ court, without
15 additional service of process or delay; however, the ~~probate~~
16 court may extend the time for such appearance.

17 (c) If, after hearing the case, the ~~probate~~ court finds
18 the accusation to be true, the court may dispose of the case in
19 accordance with section 18 of this chapter.

20 (d) Within 14 days after entry of a ~~probate~~ court order of
21 disposition for a child found to be within the provisions of this
22 chapter, the court shall prepare and forward an abstract of the
23 record of the court for the case in accordance with section 732
24 of the Michigan vehicle code, Act No. 300 of the Public Acts of
25 1949, ~~as amended,~~ being section 257.732 of the Michigan
26 Compiled Laws.

1 (e) This section shall not be construed as limiting the
2 discretion of the ~~probate~~ court to restrict the driving
3 privileges of a child as a term or condition of probation.

4 Sec. 2c. A judge of ~~probate~~ THE COURT may issue an order
5 authorizing a peace officer or other person designated by the
6 court to apprehend a child who is absent without leave from an
7 institution or facility to which he was committed pursuant to
8 section 18, has violated probation, or has failed to appear for a
9 hearing on a petition charging violation of section 2 of this
10 chapter. The order shall set forth specifically the identity of
11 the child sought and the house, building or other location or
12 place where there is probable cause to believe the child is to be
13 found. A person who interferes with the lawful attempt to exe-
14 cute an order issued pursuant to this section is guilty of a
15 misdemeanor.

16 Sec. 3. (1) If during the pendency of a criminal charge
17 against a person in any other court, it is ascertained that the
18 person was under the age of 17 at the time of the commission of
19 the offense, the OTHER court shall transfer ~~such~~ THE case with-
20 out delay, together with all the papers, documents, and testimony
21 connected therewith, to the ~~juvenile division of the probate~~
22 FAMILY DIVISION OF CIRCUIT court of the county in which ~~such~~
23 THE other court is situated or in which the person resides.

24 (2) The court making ~~such~~ THE transfer shall order the
25 child to be taken ~~forthwith~~ PROMPTLY to the place of detention
26 designated by the ~~juvenile division of the probate~~ FAMILY
27 DIVISION OF CIRCUIT court or to that court itself, or release the

1 child in the custody of some suitable person to appear before the
2 ~~probate~~ court at a time designated. The ~~juvenile division of~~
3 ~~the probate~~ FAMILY DIVISION OF CIRCUIT court shall ~~thereupon~~
4 ~~proceed to~~ THEN hear and dispose of the case in the same manner
5 as if it had been instituted in ~~the probate~~ THAT court in the
6 first instance.

7 Sec. 5. The ~~juvenile division of the probate~~ court shall
8 not have jurisdiction over a child after he or she attains the
9 age of 18 years, except as provided in section 2a. A commitment
10 of a child to a private or public institution or agency shall not
11 be valid after the child has reached the age beyond which the
12 ~~juvenile division~~ COURT does not have continuing jurisdiction
13 pursuant to section 2a. Commitments to a private or incorporated
14 institution or agency shall not divest the ~~juvenile division of~~
15 ~~the probate~~ court of jurisdiction unless the child is adopted in
16 a manner provided by law.

17 Sec. 6. The ~~juvenile division of the probate~~ court ~~shall~~
18 ~~have~~ HAS jurisdiction over adults as ~~hereinafter~~ provided IN
19 THIS CHAPTER and may make such orders affecting adults as in the
20 opinion of the court are necessary for the physical, mental, or
21 moral well-being of a particular child or children under its
22 jurisdiction. ~~Provided, That~~ HOWEVER, such orders shall be
23 incidental to the jurisdiction of the court over ~~such~~ THE child
24 or children.

25 Sec. 8. The office of county agent is hereby created. The
26 county agent shall be an officer of the ~~juvenile division of the~~
27 ~~probate~~ court and under the general supervision of the judges

1 ~~thereof~~ OF THE COURT and shall serve during their pleasure.
2 The county agent shall organize, direct and develop the child
3 welfare work of the court when so authorized by the judge. ~~He~~
4 THE COUNTY AGENT shall, when requested by the superintendent or
5 director, supervise children when released from public institu-
6 tions or agencies and may perform such other child welfare work
7 as requested and with the approval of the judge, including serv-
8 ices to school-age children of the various school districts
9 within the county, after consultation and agreement with the
10 county school commissioner and the superintendents of schools in
11 a county. The county agent or assistants shall, with the
12 approval of the judge of ~~probate~~ THE COURT, make ~~such~~ inves-
13 tigations and reports on children or families within the county
14 as may be requested by the state department of social welfare or
15 by the superintendent of any state institution relative to the
16 welfare of any child. ~~The state department of social welfare~~
17 ~~shall assist in the work of the county agents and assistants as~~
18 ~~provided in subdivision (c) of section 14 of Act No. 280 of the~~
19 ~~Public Acts of 1939.~~ Assistant county agents shall perform such
20 duties as may be assigned to them by the county agent.

21 Sec. 11. (1) Before June 1, 1988, if a person gives infor-
22 mation to the ~~juvenile division of the probate~~ court that a
23 child is within the provisions of this chapter, a preliminary
24 inquiry may be made to determine whether the interests of the
25 public or of the child require that further action be taken. If
26 it appears that formal jurisdiction should be acquired, the court
27 shall authorize a petition to be filed.

1 (2) Beginning June 1, 1988 and except as provided in
2 subsection (3), if a person gives information to the ~~juvenile~~
3 ~~division of the probate~~ court that a child is within section
4 2(a)(2) to (6), (b), (c), or (d) of this chapter, a preliminary
5 inquiry may be made to determine whether the interests of the
6 public or of the child require that further action be taken. If
7 it appears that formal jurisdiction should be acquired, the court
8 shall authorize a petition to be filed.

9 (3) Beginning June 1, 1988, only the prosecuting attorney
10 may file a petition requesting the court to take jurisdiction of
11 a child allegedly within section 2(a)(1) of this chapter. If the
12 prosecuting attorney submits a petition requesting the court to
13 take jurisdiction of a child allegedly within section 2(a)(1) of
14 this chapter and it appears that formal jurisdiction should be
15 acquired, the court shall authorize a petition to be filed.

16 (4) The petition described in subsections (1), (2), and
17 (3), shall be verified and may be upon information and belief.
18 The petition shall set forth plainly the facts that bring the
19 child within this chapter and shall contain all of the following
20 information:

21 (a) The name, birth date, and address of the child.

22 (b) The name and address of the child's parents.

23 (c) The name and address of the child's legal guardian, if
24 there is one.

25 (d) The name and address of each person having custody or
26 control of the child.

1 (e) The name and address of the child's nearest known
2 relative, if no parent or guardian can be found.

3 (5) If any of the facts required by subsection (4) are not
4 known to the petitioner, the petition shall so state. If the
5 child attains his or her seventeenth birthday after the filing of
6 the petition, the jurisdiction of the court shall continue beyond
7 the child's seventeenth birthday, and the court shall have
8 authority to hear and dispose of the petition in accordance with
9 this chapter.

10 (6) Beginning June 1, 1988, at the time a petition is autho-
11 rized, the court shall examine the court file to determine if a
12 child has had fingerprints taken as required by section 3 of Act
13 No. 289 of the Public Acts of 1925, being section 28.243 of the
14 Michigan Compiled Laws. If a child has not had his or her fin-
15 gerprints taken, the court shall do either of the following:

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

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

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

23 (8) If the juvenile diversion act is complied with and it
24 appears that court services can be used in the prevention of
25 delinquency without formal jurisdiction, the court may offer
26 court services to children without a petition being authorized as
27 provided in section 2(e) of this chapter.

1 Sec. 13a. (1) As used in this section and sections 18f, 19,
2 19a, 19b, and 19c of this chapter:

3 (a) "Agency" means a public or private organization, insti-
4 tution, or facility responsible pursuant to court order or con-
5 tractual arrangement for the care and supervision of a child.

6 (b) "Foster care" means care provided to a child in a foster
7 family home, foster family group home, or child caring institu-
8 tion licensed or approved under Act No. 116 of the Public Acts of
9 1973, being sections 722.111 to 722.128 of the Michigan Compiled
10 Laws, or care provided to a child in a relative's home pursuant
11 to an order by the ~~juvenile division of the probate~~ court.

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

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

24 (4) If a petition alleging abuse by a parent, guardian, cus-
25 todian, or other person residing in the child's home is autho-
26 rized under subsection (2) and the court after a hearing finds
27 probable cause to believe the parent, guardian, custodian, or

1 other person committed the abuse, the court may order that
2 parent, guardian, custodian, or other person to leave the home
3 and not subsequently return to it, except as the court orders,
4 and may release the child to the other parent or to another
5 guardian or custodian. The court shall not enter an order under
6 this subsection unless the court determines all of the
7 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (c) Without a court order participation in an initial serv-
5 ices plan is voluntary.

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

9 (10) Unless visitation, even if supervised, would be harmful
10 to the child, the child's parent shall be permitted to visit fre-
11 quently with the child.

12 (11) Upon the motion of any party, the court shall review
13 custody and placement orders and initial services plans pending
14 trial and may modify those orders and plans as the court consid-
15 ers pursuant to this section are in the best interests of the
16 child.

17 (12) As used in subsection (4), "abuse" means any of the
18 following:

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

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

26 (c) Sexual exploitation of a child, which includes, but is
27 not limited to, allowing, permitting, or encouraging a child to

1 engage in prostitution, or allowing, permitting, encouraging, or
2 engaging in the photographing, filming, or depicting of a child
3 engaged in a listed sexual act as defined in section 145c of Act
4 No. 328 of the Public Acts of 1931, being section 750.145c of the
5 Michigan Compiled Laws.

6 (d) Maltreatment of a child.

7 Sec. 28. (1) Before June 1, 1988, the court shall maintain
8 records of all cases brought before it and as provided in the
9 juvenile diversion act, Act No. 13 of the Public Acts of 1988,
10 being sections 722.821 to 722.831 of the Michigan Compiled Laws.
11 The records shall be open only by order of the court to persons
12 having a legitimate interest except that diversion records shall
13 be open only as provided in Act No. 13 of the Public Acts of
14 1988.

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

1 (3) Whenever the court issues an order in respect to
2 payments by a parent under section 18(2) of this chapter, a copy
3 shall be mailed to the department of treasury. Action taken
4 against parents or adults shall not be released for publicity
5 unless the parents or adults are adjudged guilty of contempt of
6 court. The court shall furnish the department of social services
7 with reports of the administration of the ~~juvenile division~~
8 COURT in a form as shall be recommended by the Michigan associa-
9 tion of probate and juvenile court judges. Copies of these
10 reports shall, upon request, be made available to other state
11 departments by the department of social services.

12 (4) As used in subsections (1) and (2), "persons having a
13 legitimate interest" includes a member of a local foster care
14 review board established under Act No. 422 of the Public Acts of
15 1984, being sections 722.131 to 722.140 of the Michigan Compiled
16 Laws.

17 Section 2. This amendatory act applies to actions and pro-
18 ceedings commenced on or after January 1, 1998.

19 Section 3. Sections 7 and 27 of chapter XIIA of Act No. 288
20 of the Public Acts of 1939, being sections 712A.7 and 712A.27 of
21 the Michigan Compiled Laws, are repealed.

22 Section 4. This amendatory act shall not take effect unless
23 House Bill No. 5158 of the 88th Legislature is enacted into law.