

The Committee on Families, Mental Health and Human Services offered the following substitute:

May 22, 1997

**SUBSTITUTE FOR  
SENATE BILL NO. 516**

A bill to amend 1939 PA 288, entitled

"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,"

by amending sections 13a, 17, 17c, 19, and 19b of chapter XIIIA (MCL 712A.13a, 712A.17, 712A.17c, 712A.18f, 712A.19, and 712A.19b), sections 13a and 17 as amended by 1996 PA 409, sections 17c and 19b as amended by 1994 PA 264, and section 19 as



1 juvenile's parents or the juvenile's guardian or custodian under  
2 reasonable terms and conditions necessary for either the  
3 juvenile's physical health or mental well-being.

4 (4) If a petition alleging abuse by a parent, guardian, cus-  
5 todian, or other person residing in the juvenile's home is autho-  
6 rized under subsection (2) and the court after a hearing finds  
7 probable cause to believe the parent, guardian, custodian, or  
8 other person committed the abuse, the court may order that  
9 parent, guardian, custodian, or other person to leave the home  
10 and not subsequently return to it, except as the court orders,  
11 and may release the juvenile to the other parent or to another  
12 guardian or custodian. The court shall not enter an order under  
13 this subsection unless the court determines all of the  
14 following:

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

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

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

26 (d) It is in the best interests of the juvenile for the  
27 juvenile to remain in the home.

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

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

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

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

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

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

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

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

4 (8) If the court orders placement of the juvenile outside  
5 the juvenile's home, the court shall inform the parties of the  
6 following:

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

9 (b) The general elements of an initial services plan as  
10 required by the rules promulgated under ~~Act No. 116 of the~~  
11 ~~Public Acts of 1973~~ 1973 PA 116, MCL 722.111 TO 722.128.

12 (c) Without a court order, participation in an initial serv-  
13 ices plan is voluntary.

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

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

20 (11) Upon the motion of any party, the court shall review  
21 custody and placement orders and initial services plans pending  
22 trial and may modify those orders and plans as the court consid-  
23 ers under this section are in the best interests of the  
24 juvenile.

25 (12) IF A PETITION IS FILED UNDER SECTION 2(B) OF THIS CHAP-  
26 TER, THE COURT SHALL ADHERE STRICTLY TO EACH TIME PERIOD  
27 PRESCRIBED BY THIS ACT OR COURT RULE FOR MANAGEMENT AND

1 DISPOSITION OF THE CHILD'S CASE. THE STATE COURT ADMINISTRATIVE  
2 OFFICE SHALL SPECIFICALLY MONITOR THE COURT FOR ADHERENCE TO  
3 THOSE TIME PERIODS. THE STATE COURT ADMINISTRATIVE OFFICE SHALL  
4 PUBLISH AN ANNUAL REPORT EVALUATING THE ACHIEVEMENTS OF THE COURT  
5 IN OBTAINING PERMANENCY FOR CHILDREN.

6 (13) ~~(12)~~ As used in subsection (4), "abuse" means 1 or  
7 more of the following:

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

11 (b) Engaging in sexual contact or sexual penetration as  
12 defined in section 520a of the Michigan penal code, ~~Act No. 328~~  
13 ~~of the Public Acts of 1931, being section 750.520a of the~~  
14 ~~Michigan Compiled Laws~~ 1931 PA 328, MCL 750.520A, with a  
15 juvenile.

16 (c) Sexual exploitation of a juvenile, which includes, but  
17 is not limited to, allowing, permitting, or encouraging a juve-  
18 nile to engage in prostitution or allowing, permitting, encourag-  
19 ing, or engaging in photographing, filming, or depicting a juve-  
20 nile engaged in a listed sexual act as defined in section 145c of  
21 ~~Act No. 328 of the Public Acts of 1931, being section 750.145c~~  
22 ~~of the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA  
23 328, MCL 750.145C.

24 (d) Maltreatment of a juvenile.

25 SEC. 13C. (1) THE FAMILY INDEPENDENCE AGENCY SHALL FILE A  
26 PETITION WITH THE COURT IF 1 OR MORE OF THE FOLLOWING APPLY:

1 (A) THE PARENT IS ALLEGED TO HAVE ABUSED THE CHILD OR A  
2 SIBLING OF THE CHILD AND THE ABUSE INCLUDED 1 OR MORE OF THE  
3 FOLLOWING:

4 (i) ABANDONMENT, AND THE CHILD OR SIBLING IS VERY YOUNG OR  
5 SEVERELY IMPAIRED.

6 (ii) CRIMINAL SEXUAL CONDUCT INVOLVING PENETRATION.

7 (iii) CHRONIC BATTERING, TORTURE, OR OTHER SEVERE PHYSICAL  
8 ABUSE.

9 (iv) LOSS OR SERIOUS IMPAIRMENT OF AN ORGAN OR LIMB.

10 (v) LIFE THREATENING INJURY.

11 (vi) MURDER OR ATTEMPTED MURDER.

12 (B) THE PARENT'S PARENTAL RIGHTS TO ANOTHER CHILD HAVE BEEN  
13 TERMINATED.

14 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), THE FAMILY INDE-  
15 PENDENCE AGENCY SHALL ALSO PETITION FOR TERMINATION OF PARENTAL  
16 RIGHTS UPON FILING OF THE PETITION DESCRIBED IN SUBSECTION (1).  
17 IF A PETITION IS NOT REQUIRED UNDER SUBSECTION (1) AND THE FAMILY  
18 INDEPENDENCE AGENCY IS CONSIDERING PETITIONING FOR TERMINATION OF  
19 PARENTAL RIGHTS AT THE INITIAL DISPOSITIONAL HEARING, THE FAMILY  
20 INDEPENDENCE AGENCY SHALL HOLD A CONFERENCE BETWEEN THE PROTEC-  
21 TIVE SERVICES SUPERVISOR, THE PROTECTIVE SERVICES WORKER, AND THE  
22 FOSTER CARE WORKER, IF ANY, TO AGREE UPON THE COURSE OF ACTION.  
23 IF AN AGREEMENT CANNOT BE REACHED AT THIS CONFERENCE, THE FAMILY  
24 INDEPENDENCE AGENCY DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL  
25 RESOLVE THE DISAGREEMENT.

1 (3) SUBSECTION (2) DOES NOT APPLY IF THE COURT FINDS ON THE  
2 RECORD THAT IT IS NOT IN THE CHILD'S BEST INTEREST TO FILE A  
3 PETITION FOR TERMINATION OF PARENTAL RIGHTS.

4 Sec. 17. (1) The court may conduct a hearing other than a  
5 criminal hearing in an informal manner. ~~The court may adjourn a~~  
6 ~~hearing under this chapter from time to time.~~ The court shall  
7 require stenographic notes or ~~other~~ ANOTHER transcript to be  
8 taken of the hearing. THE COURT SHALL ADJOURN A HEARING OR GRANT  
9 A CONTINUANCE REGARDING A CASE UNDER SECTION 2(B) OF THIS CHAPTER  
10 ONLY FOR GOOD CAUSE WITH FACTUAL FINDINGS ON THE RECORD AND NOT  
11 SOLELY UPON STIPULATION OF COUNSEL OR FOR THE CONVENIENCE OF A  
12 PARTY. IN ADDITION TO FACTUAL GOOD CAUSE, THE COURT SHALL ONLY  
13 ADJOURN A HEARING OR GRANT A CONTINUANCE IF EITHER OF THE FOLLOW-  
14 ING ARE TRUE:

15 (A) A PARTY MOVES FOR THE ADJOURNMENT OR CONTINUANCE IN  
16 WRITING AT LEAST 10 DAYS BEFORE THE HEARING.

17 (B) UPON THE COURT'S OWN MOTION. AN ADJOURNMENT OR CONTINU-  
18 ANCE UNDER THIS SUBDIVISION SHALL ONLY BE GRANTED IF THE DELAY IS  
19 IN THE CHILD'S BEST INTEREST AND FOR A PERIOD OF NOT MORE THAN 30  
20 DAYS.

21 (2) In a hearing other than a criminal trial under this  
22 chapter, any person interested in the hearing may demand a jury  
23 of 6 individuals, or the judge of the family division of probate  
24 court, on his or her own motion, may order a jury of 6 individu-  
25 als to try the case. In a criminal trial, a jury may be demanded  
26 as provided by law. The jury shall be summoned and impaneled in  
27 accordance with chapter 13 of the revised judicature act of 1961,

1 ~~Act No. 236 of the Public Acts of 1961, being sections 600.1300~~  
2 ~~to 600.1376 of the Michigan Compiled Laws 1961 PA 236, MCL~~  
3 ~~600.1300 TO 600.1376, and, in the case of a criminal trial, as~~  
4 ~~provided in chapter VIII of the code of criminal procedure, Act~~  
5 ~~No. 175 of the Public Acts of 1927, being sections 768.1 to~~  
6 ~~768.36 of the Michigan Compiled Laws 1927 PA 175, MCL 768.1 TO~~  
7 ~~768.36.~~

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

12 (4) The prosecuting attorney shall appear for the people  
13 when requested by the court, and in a proceeding under section  
14 2(a)(1) of this chapter, the prosecuting attorney shall appear if  
15 the proceeding requires a hearing and the taking of testimony.

16 (5) In a proceeding under section 2(b) of this chapter, upon  
17 request of the family independence agency or an agent of the  
18 family independence agency under contract with the family inde-  
19 pendence agency, the prosecuting attorney shall serve as a legal  
20 consultant to the family independence agency or its agent at all  
21 stages of the proceeding. If in a proceeding under section 2(b)  
22 of this chapter the prosecuting attorney does not appear on  
23 behalf of the family independence agency or its agent, the family  
24 independence agency may contract with an attorney of its choice  
25 for legal representation.

26 (6) A member of a local foster care review board established  
27 under ~~Act No. 422 of the Public Acts of 1984, being sections~~

1 ~~722.131 to 722.140 of the Michigan Compiled Laws~~ 1984 PA 422,  
2 MCL 722.131 TO 722.139A, shall be admitted to a hearing under  
3 subsection (1).

4 (7) Upon motion of any party or a victim, the court may  
5 close the hearing of a case brought under this chapter to members  
6 of the general public during the testimony of a juvenile witness  
7 or the victim if the court finds that closing the hearing is nec-  
8 essary to protect the welfare of the juvenile witness or the  
9 victim. In determining whether closing the hearing is necessary  
10 to protect the welfare of the juvenile witness or the victim, the  
11 court shall consider the following:

12 (a) The age of the juvenile witness or the victim.

13 (b) The psychological maturity of the juvenile witness or  
14 the victim.

15 (c) The nature of the proceeding.

16 (d) The desire of the juvenile witness or his or her family  
17 or guardian or the desire of the victim to have the testimony  
18 taken in a room closed to the public.

19 (8) As used in subsection (7), "juvenile witness" does not  
20 include a juvenile against whom a proceeding is brought under  
21 section 2(a)(1) of this chapter.

22 Sec. 17c. (1) In a proceeding under section 2(a) or (d) of  
23 this chapter, the court shall advise the child that the child has  
24 a right to an attorney at each stage of the proceeding.

25 (2) In a proceeding under section 2(a) or (d) of this chap-  
26 ter, the court shall appoint an attorney to represent the child  
27 if 1 or more of the following apply:

1 (a) The child's parent refuses or fails to appear and  
2 participate in the proceedings.

3 (b) The child's parent is the complainant or victim.

4 (c) The child and those responsible for his or her support  
5 are financially unable to employ an attorney and the child does  
6 not waive his or her right to an attorney.

7 (d) Those responsible for the child's support refuse or  
8 neglect to employ an attorney for the child and the child does  
9 not waive his or her right to an attorney.

10 (e) The court determines that the best interests of the  
11 child or the public require appointment.

12 (3) Except as otherwise provided in this subsection, in a  
13 proceeding under section 2(a) or (d) of this chapter, the child  
14 may waive his or her right to an attorney. The waiver by a child  
15 shall be made in open court, on the record, and shall not be made  
16 unless the court finds on the record that the waiver was volun-  
17 tarily and understandingly made. The child may not waive his or  
18 her right to an attorney if the child's parent or guardian ad  
19 litem objects or if the appointment is made pursuant to subsec-  
20 tion (2)(e).

21 (4) In a proceeding under section 2(b) or (c) of this chap-  
22 ter, the court shall advise the respondent at the respondent's  
23 first court appearance of all of the following:

24 (a) The right to an attorney at each stage of the  
25 proceeding.

26 (b) The right to a court-appointed attorney if the  
27 respondent is financially unable to employ an attorney.

1 (c) If the respondent is not represented by an attorney, the  
2 right to request and receive a court-appointed attorney at a  
3 later proceeding.

4 (5) If it appears to the court in a proceeding under section  
5 2(b) or (c) of this chapter that the respondent wants an attorney  
6 and is financially unable to retain an attorney, the court shall  
7 appoint an attorney to represent the respondent.

8 (6) Except as otherwise provided in this subsection, in a  
9 proceeding under section 2(b) or (c) of this chapter, the respon-  
10 dent may waive his or her right to an attorney. A respondent who  
11 is a minor may not waive his or her right to an attorney if the  
12 respondent's parent or guardian ad litem objects.

13 (7) In a proceeding under section 2(b) or (c) of this chap-  
14 ter, the court shall appoint an attorney to represent the child.  
15 The child shall not waive the assistance of an attorney. The  
16 appointed attorney shall observe and, dependent upon the child's  
17 age and capability, interview the child. If the child is placed  
18 in foster care, the attorney shall, before representing the child  
19 in each subsequent proceeding or hearing, review the agency case  
20 file and consult with the foster parents and the caseworker. THE  
21 CHILD'S ATTORNEY SHALL BE PRESENT AT ALL HEARINGS CONCERNING THE  
22 CHILD AND SHALL NOT SUBSTITUTE COUNSEL UNLESS THE COURT APPROVES.

23 (8) If an attorney is appointed for a party under this sec-  
24 tion, the court may enter an order assessing attorney costs  
25 against the party or the person responsible for the support of  
26 that party. An order assessing attorney costs may be enforced  
27 through contempt proceedings.

1 (9) An attorney appointed by the court under this section  
2 shall serve until discharged by the court. THE COURT SHALL NOT  
3 DISCHARGE THE ATTORNEY UNTIL THE CHILD IS ADOPTED, HAS A PER-  
4 MANENT GUARDIAN, OR IS NO LONGER A STATE OR COURT WARD.

5 Sec. 19. (1) Subject to section 20 of this chapter, if a  
6 child remains under the jurisdiction of the court, a cause may be  
7 terminated or an order may be amended or supplemented, within the  
8 authority granted to the court in section 18 of this chapter, at  
9 any time as the court considers necessary and proper. An amended  
10 or supplemented order shall be referred to as a "supplemental  
11 order of disposition". IF THE FAMILY INDEPENDENCE AGENCY BECOMES  
12 AWARE OF ABUSE OR NEGLECT OF A CHILD WHO IS UNDER THE JURISDIC-  
13 TION OF THE COURT AND THAT ABUSE OR NEGLECT IS SUBSTANTIATED AS  
14 PROVIDED IN THE CHILD PROTECTION LAW, 1975 PA 238, MCL 722.621 TO  
15 722.636, THE DEPARTMENT SHALL FILE A SUPPLEMENTAL PETITION WITH  
16 THE COURT.

17 (2) Except as otherwise provided in subsections (3), (5),  
18 (6), (8), (9), and (10), if a child is placed in foster care, the  
19 cause shall be reheard not more than 182 days after entry of the  
20 order of disposition. The showing shall be recorded stenographi-  
21 cally at a hearing held by the judge or referee. If the child  
22 remains in foster care in the temporary custody of the court fol-  
23 lowing the hearing, the cause shall be further reheard not more  
24 than 182 days after the hearing. In conducting the review hear-  
25 ing, the court shall review the performance of the child, the  
26 child's parent, guardian, or custodian, the juvenile worker, and

1 other persons providing assistance to the child and his or her  
2 family.

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

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

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

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

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

21 (d) If the child has a guardian, the guardian for the  
22 child.

23 (e) If the child has a guardian ad litem, the guardian ad  
24 litem for the child.

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

1 (g) The attorney for the child, the attorneys for each  
2 party, and the prosecuting attorney if the prosecuting attorney  
3 has appeared in the case.

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

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

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

8 (a) Compliance with the case service plan with respect to  
9 services provided or offered to the child and the child's parent,  
10 guardian, or custodian and whether the parent, guardian, or cus-  
11 todian has complied with and benefited from those services.

12 (b) Compliance with the case service plan with respect to  
13 parenting time with the child. If parenting time did not occur  
14 or was infrequent, the court shall determine why parenting time  
15 did not occur or was infrequent.

16 (c) The extent to which the parent complied with each provi-  
17 sion of the case service plan, prior court orders, and an agree-  
18 ment between the parent and the agency.

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

21 (e) Likely harm to the child if the child is returned to the  
22 child's parent, guardian, or custodian.

23 (6) After review of the case service plan, the court shall  
24 determine the extent of progress made toward alleviating or miti-  
25 gating the conditions that caused the child to be placed in  
26 foster care or that caused the child to remain in foster care.

1 The court may modify any part of the case service plan including,  
2 but not limited to, the following:

3 (a) Prescribing additional services that are necessary to  
4 rectify the conditions that caused the child to be placed in  
5 foster care or to remain in foster care.

6 (b) Prescribing additional actions to be taken by the  
7 parent, guardian, or custodian to rectify the conditions that  
8 caused the child to be placed in foster care or to remain in  
9 foster care.

10 (7) At a review hearing under subsection (2) or (3), the  
11 court shall determine the continuing necessity and appropriate-  
12 ness of the child's placement and shall order the return of the  
13 child to the custody of the parent, continue the dispositional  
14 order, modify the dispositional order, or enter a new disposi-  
15 tional order.

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

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

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

1 (9) Unless waived, if not less than 7 days' notice is given  
2 to all parties prior to the return of a child to the child's  
3 home, and no party requests a hearing within the 7 days, the  
4 court may issue an order without a hearing permitting the agency  
5 to return the child to the child's home.

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

13 Sec. 19b. (1) Except as provided in subsection (4), if a  
14 child remains in foster care in the temporary custody of the  
15 court following a review hearing under section 19(3) of this  
16 chapter or a permanency planning hearing under section 19a of  
17 this chapter or if a child remains in the custody of a guardian  
18 or limited guardian, upon petition of the prosecuting attorney,  
19 whether or not the prosecuting attorney is representing or acting  
20 as legal consultant to the agency or any other party, or of the  
21 child, guardian, custodian, concerned person as defined in sub-  
22 section (6), agency, or the children's ombudsman pursuant to sec-  
23 tion 7 of the children's ombudsman act, 1994 PA 204, MCL 722.927,  
24 the court shall hold a hearing to determine if the parental  
25 rights to a child should be terminated and, if all parental  
26 rights to the child are terminated, the child placed in permanent  
27 custody of the court. The court shall state on the record or in

1 writing its findings of fact and conclusions of law with respect  
2 to whether or not parental rights should be terminated. THE  
3 COURT SHALL ISSUE AN OPINION OR ORDER REGARDING A PETITION FOR  
4 TERMINATION OF PARENTAL RIGHTS WITHIN 70 DAYS AFTER THE COMMENCEMENT OF THE  
5 INITIAL HEARING ON THE PETITION.

6 (2) Not less than 14 days before a hearing to determine if  
7 the parental rights to a child should be terminated, written  
8 notice of the hearing shall be served upon all of the following:

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

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

12 (c) The child's parents.

13 (d) If the child has a guardian, the guardian for the  
14 child.

15 (e) If the child has a guardian ad litem, the guardian ad  
16 litem for the child.

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

19 (g) The attorney for the child and the attorneys for all  
20 parties.

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

22 (i) The prosecutor.

23 (3) The court may terminate ~~the~~ A PARENT'S parental rights  
24 ~~of a parent~~ to a child if the court finds, by clear and con-  
25 vincing evidence, 1 or more of the following:

26 (a) The child has been deserted under either of the  
27 following circumstances:

1       (i) ~~If the~~ THE parent of ~~a~~ THE child is unidentifiable,  
2 ~~and~~ has deserted the child for 28 or more days, and has not  
3 sought custody of the child during that period. For the purposes  
4 of this section, a parent is unidentifiable if the parent's iden-  
5 tity cannot be ascertained after reasonable efforts have been  
6 made to locate and identify the parent.

7       (ii) The parent of a child has deserted the child for 91 or  
8 more days and has not sought custody of the child during that  
9 period.

10       (b) The child or a sibling of the child has suffered physi-  
11 cal injury or physical or sexual abuse under either of the fol-  
12 lowing circumstances:

13       (i) ~~A~~ THE parent's act caused the physical injury or phys-  
14 ical or sexual abuse and the court finds that there is a reason-  
15 able likelihood that the child will suffer from injury or abuse  
16 in the foreseeable future if placed in the parent's home.

17       (ii) ~~A~~ THE parent who had the opportunity to prevent the  
18 physical injury or physical or sexual abuse failed to do so and  
19 the court finds that there is a reasonable likelihood that the  
20 child will suffer injury or abuse in the foreseeable future if  
21 placed in the parent's home.

22       (c) The parent was a respondent in a proceeding brought  
23 under this chapter, 182 or more days have elapsed since the issu-  
24 ance of an initial dispositional order, and the court, by clear  
25 and convincing evidence, finds either of the following:

26       (i) The conditions that led to the adjudication continue to  
27 exist and there is no reasonable likelihood that the conditions

1 will be rectified within a reasonable time considering the age of  
2 the child.

3       (ii) Other conditions exist that cause the child to come  
4 within the jurisdiction of the court, the parent has received  
5 recommendations to rectify those conditions, the conditions have  
6 not been rectified by the parent after the parent has received  
7 notice, a hearing, and been given a reasonable opportunity to  
8 rectify the conditions, and there is no reasonable likelihood  
9 that the conditions will be rectified within a reasonable time  
10 considering the age of the child.

11       (d) The parent of a child has placed the child in a limited  
12 guardianship under section 424a of the revised probate code, ~~Act~~  
13 ~~No. 642 of the Public Acts of 1978, being section 700.424a of the~~  
14 ~~Michigan Compiled Laws~~ 1978 PA 642, MCL 700.424A, and has sub-  
15 stantially failed, without good cause, to comply with a limited  
16 guardianship placement plan described in section 424a of ~~Act~~  
17 ~~No. 642 of the Public Acts of 1978~~ THE REVISED PROBATE CODE,  
18 1978 PA 642, MCL 700.424A, regarding the child to the extent that  
19 ~~such~~ THE noncompliance has resulted in a disruption of the  
20 parent-child relationship.

21       (e) The ~~parent of a~~ child ~~who~~ has a guardian under the  
22 revised probate code, ~~Act No. 642 of the Public Acts of 1978,~~  
23 ~~being sections 700.1 to 700.993 of the Michigan Compiled Laws~~  
24 1978 PA 642, MCL 700.1 TO 700.993, AND THE PARENT has substan-  
25 tially failed, without good cause, to comply with a  
26 court-structured plan described in section 424b or 424c of ~~Act~~  
27 ~~No. 642 of the Public Acts of 1978, being sections 700.424b and~~

1 ~~700.424c of the Michigan Compiled Laws~~ THE REVISED PROBATE CODE,  
2 1978 PA 642, MCL 700.424B AND 700.424C, regarding the child to  
3 the extent that ~~such~~ THE noncompliance has resulted in a dis-  
4 ruption of the parent-child relationship.

5 (f) The child has a guardian under the revised probate code,  
6 ~~Act No. 642 of the Public Acts of 1978~~ 1978 PA 642, MCL 700.1  
7 TO 700.993, and both of the following have occurred:

8 (i) The parent, having the ability to support or assist in  
9 supporting the minor, has failed or neglected, without good  
10 cause, to provide regular and substantial support for the minor  
11 for a period of 2 years or more before the filing of the petition  
12 or, if a support order has been entered, has failed to substan-  
13 tially comply with the order for a period of 2 years or more  
14 before the filing of the petition.

15 (ii) The parent, having the ability to visit, contact, or  
16 communicate with the minor, has regularly and substantially  
17 failed or neglected, without good cause, to do so for a period of  
18 2 years or more before the filing of the petition.

19 (g) The parent, without regard to intent, fails to provide  
20 proper care or custody for the child and there is no reasonable  
21 expectation that the parent will be able to provide proper care  
22 and custody within a reasonable time considering the age of the  
23 child.

24 (h) The parent is imprisoned for such a period that the  
25 child will be deprived of a normal home for a period exceeding 2  
26 years, and the parent has not provided for the child's proper  
27 care and custody, and there is no reasonable expectation that the

1 parent will be able to provide proper care and custody within a  
2 reasonable time considering the age of the child.

3 (i) Parental rights to 1 or more siblings of the child have  
4 been terminated due to serious and chronic neglect or physical or  
5 sexual abuse, and prior attempts to rehabilitate the parents have  
6 been unsuccessful.

7 (j) There is a reasonable likelihood, based on the conduct  
8 or capacity of the child's parent, that the child will be harmed  
9 if he or she is returned to the home of the parent.

10 (K) THE PARENT IS CONVICTED OF A CRIME WHOSE VICTIM WAS A  
11 CHILD AND THE NATURE OF WHICH MAKES THE PARENT UNFIT TO ASSOCIATE  
12 WITH CHILDREN.

13 (4) If a petition to terminate the parental rights to a  
14 child is filed, the court may enter an order terminating parental  
15 rights under subsection (3) at the initial dispositional  
16 hearing.

17 (5) If the court finds that there are grounds for termina-  
18 tion of parental rights, the court shall order termination of  
19 parental rights and order that additional efforts for reunifica-  
20 tion of the child with the parent ~~shall~~ not be made, unless the  
21 court finds that termination of parental rights to the child is  
22 clearly not in the child's best interests.

23 (6) As used in this section, "concerned person" means a  
24 foster parent with whom the child is living or has lived who has  
25 specific knowledge of behavior by the parent constituting grounds  
26 for termination under subsection (3)(b) or (g) and who has  
27 contacted the ~~department of social services~~ FAMILY INDEPENDENCE

1 AGENCY, the prosecuting attorney, the child's attorney, and the  
2 child's guardian ad litem, if any, and is satisfied that none of  
3 these persons intend to file a petition under this section.