

HOUSE BILL No. 6236

November 5, 1998, Introduced by Reps. Horton, Walberg, Jansen, Lowe, Goschka, Voorhees, Gernaat, Cropsey, Whyman, Green, Llewellyn, McManus, Gustafson, Kaza, Sanborn and Perricone and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled

"An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties,"

by amending sections 22a, 23f, 24, and 46 of chapter X (MCL 710.22a, 710.23f, 710.24, and 710.46), section 22a as added by 1994 PA 430, section 23f as amended by 1994 PA 373, section 24 as amended by 1996 PA 409, and section 46 as amended by 1994 PA 222.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

1

2 Sec. 22a. (1) A child shall not be placed with a prospec-
3 tive adoptive parent and an adoption order shall not be issued if
4 a person authorized to place the child or the court authorized to
5 issue the order has reliable information that the prospective
6 adoptive parent has been convicted under ~~any~~ 1 OR MORE of the
7 following:

8 (a) Section 145a or 145c of the Michigan penal code, ~~Act~~
9 ~~No. 328 of the Public Acts of 1931, being sections 750.145a and~~
10 ~~750.145c of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.145A
11 AND 750.145C.

12 (b) Sections 520b to 520g of the Michigan penal code, ~~Act~~
13 ~~No. 328 of the Public Acts of 1931, being sections 750.520b to~~
14 ~~750.520g of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.520B
15 TO 750.520G, if the victim was under the age of 18 at the time
16 the crime was committed.

17 (c) A law of another state substantially similar to 1 of the
18 sections included in subdivision (a) or (b).

19 (2) A CHILD SHALL NOT BE PLACED WITH A PROSPECTIVE ADOPTIVE
20 PARENT AND THE COURT SHALL NOT ISSUE AN ADOPTION ORDER IF A
21 PERSON AUTHORIZED TO PLACE THE CHILD OR THE COURT AUTHORIZED TO
22 ISSUE THE ORDER HAS RELIABLE INFORMATION THAT THE PROSPECTIVE
23 ADOPTIVE PARENT IS HOMOSEXUAL.

24 Sec. 23f. (1) In a direct placement, an individual seeking
25 to adopt may request at any time that a preplacement assessment
26 be prepared by a child placing agency. ~~-(2)-~~ An individual

requesting a preplacement assessment need not have located a prospective adoptee when the request is made or when the assessment is completed. ~~-(3)-~~ An individual may have more than 1 preplacement assessment or may request that an assessment, once initiated, not be completed.

(2) ~~-(4)-~~ If an individual is seeking to adopt a child from a particular child placing agency, the agency may require the individual to be assessed by its own employee, even if the individual has already had a favorable preplacement assessment completed by another child placing agency.

(3) ~~-(5)-~~ A preplacement assessment shall be based upon personal interviews and visits at the residence of the individual being assessed, interviews of others who know the individual, and reports received under this subsection. The assessment shall contain all of the following information about the individual being assessed:

(a) Age, nationality, race or ethnicity, and any religious preference.

(b) Marital and family status and history, including the presence of other children or adults in the household and the relationship of those individuals to the adoptive parent.

(c) Physical and mental health, including any history of substance abuse.

(d) Educational and employment history and any special skills and interests.

(e) Property and income, including outstanding financial obligations as indicated in a current financial report provided by the individual.

(f) Reason for wanting to adopt.

(g) Any previous request for an assessment or involvement in an adoptive placement and the outcome of the assessment or placement.

(h) Whether the individual has ever been the respondent in a domestic violence proceeding or a proceeding concerning a child who was allegedly abused, dependent, deprived, neglected, abandoned, or delinquent, and the outcome of the proceeding.

(i) Whether the individual has ever been convicted of a crime.

(j) Whether the individual has located a parent interested in placing a child with the individual for adoption and a brief description of the parent and the child.

(k) Any fact or circumstance that raises a specific concern about the suitability of the individual as an adoptive parent, including the quality of the environment in the home, the functioning of other children in the household, and any aspect of the individual's familial, social, psychological, or financial circumstances that may be relevant to a determination that the individual is not suitable. A specific concern is one that suggests that placement of any child, or a particular child, in the home of the individual would pose a risk of harm to the CHILD'S physical or psychological well-being. ~~of the child.~~

(4) ~~-(6)-~~ A child placing agency shall request an individual seeking a preplacement assessment to provide a document from the Michigan state police and the federal bureau of investigation describing all of the individual's criminal convictions as shown by ~~that agency's~~ BOTH AGENCIES' records, or stating that ~~the agency's~~ BOTH AGENCIES' records indicate that the individual has not been convicted of a crime. Upon request of the individual and receipt of a signed authorization, the child placing agency shall obtain the criminal record from the law enforcement ~~agency~~ AGENCIES on the individual's behalf.

(5) IF AN INDIVIDUAL IS A HOMOSEXUAL, A CHILD PLACING AGENCY DOING A PREPLACEMENT ASSESSMENT OF THE INDIVIDUAL SHALL FIND THE INDIVIDUAL NOT SUITABLE TO BE A PARENT OF AN ADOPTEE.

(6) ~~-(7)-~~ A preplacement assessment shall contain a list of the sources of information on which it is based. If the child placing agency determines that the information assessed does not raise a specific concern, the child placing agency shall find that the individual is suited to be an adoptive parent. If the child placing agency determines that the information assessed does raise a specific concern, the child placing agency shall find that the individual is not suitable to be an adoptive parent. The conclusion shall be supported by a written account of how 1 or more specific concerns pose a risk to the physical or psychological well-being of any child or a particular child. If the conclusion of a preplacement assessment regarding the suitability of the individual differs from the conclusion in a prior

assessment, the child placing agency shall explain and justify the difference.

(7) ~~—(8)—~~ An individual who receives a preplacement assessment with a conclusion of unsuitability may seek a review of the assessment by the court after filing an adoption petition. The court may order ~~—an—~~ A COURT agent or employee ~~—of the court—~~ to make an investigation and report to the court before the hearing. If, at the hearing, the court finds by clear and convincing evidence that the conclusion of unsuitability is not justified, the person with legal custody of the child may place the child with that individual. If the court determines that the conclusion of unsuitability is justified, it shall order that the child shall not be placed with the individual.

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

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

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

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

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

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

(e) The full description of the ADOPTEE'S property, if any.
~~, of the adoptee.~~

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

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

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

(4) Except as otherwise provided in this subsection, in a direct placement, the petitioner shall attach a copy of a preplacement assessment of the petitioner completed or updated

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

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

Sec. 46. (1) Upon the filing of an adoption petition, the court shall direct a full investigation by ~~an~~ A COURT employee or agent, ~~of the court,~~ a child placing agency, or the department. The court may use the preplacement assessment described in section 23f of this chapter and may order an additional investigation by ~~an~~ A COURT employee or agent ~~of the~~

~~court~~ or a child placing agency. The following shall be considered in the investigation:

- (a) The best interests of the adoptee.
- (b) The adoptee's family background, including names and identifying data regarding the parent or parents, if obtainable.
- (c) The reasons for the adoptee's placement away from his or her parent or parents.

(2) A written report of the investigation shall be filed within 3 months after the order for investigation.

(3) IF AN INDIVIDUAL IS A HOMOSEXUAL, A PERSON INVESTIGATING THE INDIVIDUAL AS PRESCRIBED BY THIS SECTION SHALL FIND THE INDIVIDUAL NOT SUITABLE TO BE A PARENT OF AN ADOPTEE.

(4) ~~—(3)—~~ If the adoptee has been placed for foster care with the petitioner for 12 months or longer and the foster family study was completed or updated not more than 12 months before the petition was filed, the court, upon motion by the petitioner, may waive the full investigation required by this section. The foster family study, with information added as necessary to update or supplement the original study, may be substituted for the written report required under subsection (2).