

HOUSE BILL No. 4884

June 24, 2003, Introduced by Reps. Lipsey, Elkins, O'Neil, Plakas, Pappageorge, Hunter, Minore, Tobocman, McConico, Sak, Dennis and Gillard and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 21a of chapter X and sections 2 and 7 of
chapter XII (MCL 710.21a, 712.2, and 712.7), section 21a of
chapter X as added by 1982 PA 72 and sections 2 and 7 of chapter
XII as added by 2000 PA 232.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 21a. (1) The general purposes of this chapter are:

(a) To provide that each adoptee in this state who needs
adoption services receives those services.

(b) To provide procedures and services ~~which~~ **that** will
safeguard and promote the best interests of each adoptee in need
of adoption and ~~which~~ **that** will protect the rights of all
parties concerned. If conflicts arise between the rights of the

1 adoptee and the rights of another, the rights of the adoptee
2 shall be paramount.

3 (c) To provide prompt legal proceedings to assure that the
4 adoptee is free for adoptive placement at the earliest possible
5 time.

6 (2) A child placing agency, or an officer or employee of a
7 child placing agency, shall use the procedures prescribed and
8 authorized by this chapter only to facilitate adoptions initiated
9 by willing birth parents. If a court determines that a child
10 placing agency, or an officer or employee of a child placing
11 agency, has used the procedures prescribed and authorized by this
12 chapter to the detriment of a child or a child's birth parent,
13 the court may impose on the child placing agency a civil fine of
14 not more than \$20,000.00. The court may also order the child
15 placing agency to pay the child's or birth parent's costs and
16 attorney fees.

17 CHAPTER XII

18 Sec. 2. (1) The court has jurisdiction over a newborn who
19 is surrendered to an emergency service provider as provided in
20 section 3 of this chapter. The court may appoint a
21 lawyer-guardian ad litem to represent a newborn in proceedings
22 under this chapter.

23 (2) Except as provided in section 5 of this chapter, the
24 reporting requirement of section 3 of the child protection law,
25 1975 PA 238, MCL 722.623, does not apply regarding a child
26 surrendered to an emergency service provider as provided in
27 section 3 of this chapter.

1 (3) Unless this chapter specifically provides otherwise, a
2 provision in another chapter of this act does not apply to a
3 proceeding under this chapter. Unless this chapter specifically
4 provides otherwise, the child custody act of 1970, 1970 PA 91,
5 MCL 722.21 to ~~722.30~~ **722.31**, does not apply to a proceeding
6 under this chapter.

7 (4) ~~—A—~~ **Except as provided in section 7, a** hospital and a
8 child placing agency, and their agents and employees, are immune
9 in a civil action for damages for an act or omission in accepting
10 or transferring a newborn under this chapter, except for an act
11 or omission constituting gross negligence or willful or wanton
12 misconduct. To the extent not protected by the immunity
13 conferred by 1964 PA 170, MCL 691.1401 to ~~691.1415~~ **691.1419**, an
14 employee or contractor of a fire department or police station has
15 the same immunity that this subsection provides to a hospital's
16 or child placing agency's agent or employee.

17 Sec. 7. **(1)** Upon receipt of notice from a hospital under
18 section 5 of this chapter, the child placing agency shall do all
19 of the following:

20 (a) Immediately assume the care, control, and temporary
21 protective custody of the newborn.

22 (b) If a parent is known and willing, immediately meet with
23 the parent.

24 (c) Make a temporary placement of the newborn with a
25 prospective adoptive parent who has an approved preplacement
26 assessment and resides within the state.

27 (d) Immediately request assistance from law enforcement

1 officials to investigate and determine, through the missing
2 children information clearinghouse, the national center for
3 missing and exploited children, and any other national and state
4 resources, whether the newborn is a missing child.

5 (e) Not later than 48 hours after a transfer of physical
6 custody to a prospective adoptive parent, petition the court in
7 the county in which the prospective adoptive parent resides to
8 provide authority to place the newborn and provide care for the
9 newborn. The petition shall include all of the following:

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

11 (ii) The name and address of the emergency service provider
12 to whom the newborn was surrendered.

13 (iii) Any information, either written or verbal, that was
14 provided by and to the parent who surrendered the newborn. The
15 emergency service provider that originally accepted the newborn
16 as required by section 3 of this chapter shall provide this
17 information to the child placing agency.

18 (f) Within 28 days, make reasonable efforts to identify and
19 locate a parent who did not surrender the newborn. If the
20 identity and address of that parent are unknown, the child
21 placing agency shall provide notice by publication in a newspaper
22 of general circulation in the county where the newborn was
23 surrendered.

24 (2) A child placing agency, or an officer or employee of a
25 child placing agency, shall use the procedures prescribed and
26 authorized by this chapter only under the circumstances and for
27 the purposes for which they are intended, and not as an

1 alternative adoption process. If a court determines that a child
2 placing agency, or an officer or employee of a child placing
3 agency, has used the procedures prescribed and authorized by this
4 chapter to the detriment of a child or a child's birth parent,
5 the court may impose on the child placing agency a civil fine of
6 not more than \$20,000.00. The court may also order the child
7 placing agency to pay the child's or birth parent's costs and
8 attorney fees.