

SENATE BILL No. 1440

September 30, 2004, Introduced by Senator BISHOP and referred to the Committee on
Judiciary.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 19 of chapter XIIA (MCL 712A.19), as amended
by 1998 PA 530.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

1
2 Sec. 19. (1) Subject to section 20 of this chapter, if a
3 child remains under the jurisdiction of the court, a cause may be
4 terminated or an order may be amended or supplemented, within the
5 authority granted to the court in section 18 of this chapter, at
6 any time as the court considers necessary and proper. An amended
7 or supplemented order shall be referred to as a "supplemental
8 order of disposition". If the ~~family independence agency~~
9 **department** becomes aware of additional abuse or neglect of a
10 child who is under the jurisdiction of the court and if that

1 abuse or neglect is substantiated as provided in the child
2 protection law, 1975 PA 238, MCL 722.621 to 722.638, the
3 department shall file a supplemental petition with the court.

4 (2) Except as otherwise provided in this section, if a child
5 is placed in foster care, the cause shall be reheard not more
6 than 182 days after entry of the order of disposition. The
7 showing shall be recorded stenographically at a hearing held by
8 the judge or referee. If the child remains in foster care in the
9 temporary custody of the court following the hearing, the cause
10 shall be further reheard not more than 182 days after the
11 hearing. In conducting the review hearing, the court shall
12 review the performance of the child, the child's parent,
13 guardian, or custodian, the juvenile worker, and other persons
14 providing assistance to the child and his or her family.

15 (3) Except as otherwise provided in subsection (4), if, in a
16 proceeding under section 2(b) of this chapter, a child is placed
17 and remains in foster care, a review hearing shall be held not
18 more than 91 days after ~~entry of the order of disposition~~ **the**
19 **child's removal from his or her home** and every 91 days after that
20 ~~as long as~~ **for the first year that** the child is subject to the
21 jurisdiction, control, or supervision of the court, or of the
22 Michigan children's institute or other agency. Upon motion by
23 any party or in the court's discretion, a review hearing may be
24 accelerated to review any element of the case service plan
25 prepared ~~pursuant~~ **according** to section 18f of this chapter.

26 (4) If a child is in a permanent foster family agreement or
27 if a child is placed with a relative and the placement is

1 intended to be permanent, the court shall hold a review hearing
2 not more than 182 days after a permanency planning hearing held
3 ~~pursuant~~ **according** to section 19a of this chapter and every 182
4 days after that so long as the child is subject to the
5 jurisdiction, control, or supervision of the court, or of the
6 Michigan children's institute or other agency. Upon the motion
7 of any party or at the court's discretion, a review hearing may
8 be accelerated to review any element of the case service plan.

9 (5) Written notice of a review hearing under subsection (2),
10 (3), or (4) shall be served upon all of the following:

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

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

14 (c) If the parental rights to the child have not been
15 terminated, the child's parents.

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

17 (e) If the child has a guardian ad litem, the guardian ad
18 litem for the child.

19 (f) A nonparent adult if the nonparent adult is required to
20 comply with the case service plan.

21 (g) If tribal affiliation has been determined, the elected
22 leader of the Indian tribe.

23 (h) The attorney for the child, the attorneys for each party,
24 and the prosecuting attorney if the prosecuting attorney has
25 appeared in the case.

26 (i) If the child is 11 years of age or older, the child.

27 (j) Other persons as the court may direct.

1 (6) At a review hearing under subsection (2), (3), or (4),
2 the court shall review on the record all of the following:

3 (a) Compliance with the case service plan with respect to
4 services provided or offered to the child and the child's parent,
5 guardian, custodian, or nonparent adult if the nonparent adult is
6 required to comply with the case service plan and whether the
7 parent, guardian, custodian, or nonparent adult if the nonparent
8 adult is required to comply with the case service plan has
9 complied with and benefited from those services.

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

14 (c) The extent to which the parent complied with each
15 provision of the case service plan, prior court orders, and an
16 agreement between the parent and the agency.

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

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

21 (7) After review of the case service plan, the court shall
22 determine the extent of progress made toward alleviating or
23 mitigating the conditions that caused the child to be placed in
24 foster care or that caused the child to remain in foster care.
25 The court may modify any part of the case service plan including,
26 but not limited to, the following:

27 (a) Prescribing additional services that are necessary to

1 rectify the conditions that caused the child to be placed in
2 foster care or to remain in foster care.

3 (b) Prescribing additional actions to be taken by the parent,
4 guardian, nonparent adult, or custodian, to rectify the
5 conditions that caused the child to be placed in foster care or
6 to remain in foster care.

7 (8) At a review hearing under subsection (2), (3), or (4),
8 the court shall determine the continuing necessity and
9 appropriateness of the child's placement and shall order the
10 return of the child to the custody of the parent, continue the
11 dispositional order, modify the dispositional order, or enter a
12 new dispositional order.

13 (9) If in a proceeding under section 2(b) of this chapter a
14 child is placed in foster care, the court shall determine at the
15 dispositional hearing and each review hearing whether the cause
16 should be reviewed before the next review hearing required by
17 subsection (2), (3), or (4). In making this determination, the
18 court shall consider at least all of the following:

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

21 (b) Whether there is a reasonable likelihood that the child
22 may be returned to his or her home prior to the next review
23 hearing required by subsection (2), (3), or (4).

24 (10) Unless waived, if not less than 7 days' notice is given
25 to all parties prior to the return of a child to the child's
26 home, and no party requests a hearing within the 7 days, the
27 court may issue an order without a hearing permitting the agency

1 to return the child to the child's home.

2 (11) An agency report filed with the court shall be
3 accessible to all parties to the action and shall be offered into
4 evidence. The court shall consider any written or oral
5 information concerning the child from the child's parent,
6 guardian, custodian, foster parent, child caring institution,
7 relative with whom a child is placed, attorney, lawyer-guardian
8 ad litem, or guardian ad litem, in addition to any other
9 evidence, including the appropriateness of parenting time,
10 offered at the hearing.