

SENATE BILL No. 1442

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

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 19a of chapter XIIIA (MCL 712A.19a), as amended by 2000 PA 46.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIIA

1
2 Sec. 19a. (1) Subject to subsection (2), if a child remains
3 in foster care and parental rights to the child have not been
4 terminated, the court shall conduct a permanency planning hearing
5 ~~within 1 year after an original petition has been filed~~ 12
6 months after the child was removed from his or her home.
7 Subsequent permanency planning hearings shall be held not less
8 frequently than every 12 months during the continuation of foster
9 care. Except as otherwise provided in section 19(4) of this
10 chapter, the court shall hold a review hearing not more than 91

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1 days after the original permanency planning hearing and every 91
2 days after that so long as the child is subject to the
3 jurisdiction, control, or supervision of the court — or of the
4 Michigan children's institute or other agency. A permanency
5 planning hearing may be combined with a review hearing held under
6 section 19(3) of this chapter. **A permanency planning hearing
7 shall not be canceled or delayed even if there is a petition for
8 permanent custody pending.**

9 (2) The court shall conduct a permanency planning hearing
10 within ~~28~~ 30 days after a petition is adjudicated and the
11 parent is found to have abused the child or a sibling of the
12 child and the abuse included 1 or more of the following:

13 (a) Abandonment of a young child.

14 (b) Criminal sexual conduct involving penetration, attempted
15 penetration, or assault with intent to penetrate.

16 (c) Battering, torture, or other severe physical abuse.

17 (d) Loss or serious impairment of an organ or limb.

18 (e) Life threatening injury.

19 (f) Murder or attempted murder.

20 (g) Voluntary manslaughter.

21 (h) Aiding, abetting, attempting, conspiring, or soliciting
22 the commission of murder or voluntary manslaughter.

23 ~~(3) If a child remains in foster care and parental rights to
24 the child have not been terminated, the court shall conduct a
25 permanency planning hearing within 1 year after an initial
26 hearing under subsection (1) or (2), and within 1 year after each
27 subsequent hearing.~~

1 (3) ~~—(4)—~~ A permanency planning hearing shall be conducted to
2 review the status of the child and the progress being made toward
3 the child's return home or to show why the child should not be
4 placed in the permanent custody of the court.

5 (4) ~~—(5)—~~ Not less than 14 days before a permanency planning
6 hearing, written notice of the hearing and a statement of the
7 purposes of the hearing, including a notice that the hearing may
8 result in further proceedings to terminate parental rights, shall
9 be served upon all of the following:

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

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

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

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

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

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

20 (g) The attorney for the child, the attorneys for each party,
21 and the prosecuting attorney if the prosecuting attorney has
22 appeared in the case.

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

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

25 (5) ~~—(6)—~~ If parental rights to the child have not been
26 terminated and the court determines at a permanency planning
27 hearing that the return of the child to his or her parent would

1 not cause a substantial risk of harm to the child's life,
2 physical health, or mental well-being, the court shall order the
3 child returned to his or her parent. In determining whether the
4 return of the child would cause a substantial risk of harm to the
5 child, the court shall view the failure of the parent to
6 substantially comply with the terms and conditions of the case
7 service plan prepared under section 18f of this chapter as
8 evidence that return of the child to his or her parent would
9 cause a substantial risk of harm to the child's life, physical
10 health, or mental well-being. In addition to considering conduct
11 of the parent as evidence of substantial risk of harm, the court
12 shall consider any condition or circumstance of the child that
13 may be evidence that a return to the parent would cause a
14 substantial risk of harm to the child's life, physical health, or
15 mental well-being.

16 (6) ~~-(7)-~~ If the court determines at a permanency planning
17 hearing that the child should not be returned to his or her
18 parent, the court shall order the agency to initiate proceedings
19 to terminate parental rights to the child not later than 42 days
20 after the permanency planning hearing, unless the court finds
21 that initiating the termination of parental rights to the child
22 is clearly not in the child's best interests.

23 (7) ~~-(8)-~~ If the agency demonstrates under subsection ~~-(7)-~~
24 (6) that initiating the termination of parental rights to the
25 child is clearly not in the child's best interests, then the
26 court shall order either of the following alternative placement
27 plans:

1 (a) If the court determines that other permanent placement is
2 not possible, the child's placement in foster care shall continue
3 for a limited period to be stated by the court.

4 (b) If the court determines that it is in the child's best
5 interests, the child's placement in foster care shall continue on
6 a long-term basis.

7 **(8)** ~~—(9)—~~ In making the determinations under this section,
8 the court shall consider any written or oral information
9 concerning the child from the child's parent, guardian,
10 custodian, foster parent, child caring institution, relative with
11 whom the child is placed, or guardian ad litem in addition to any
12 other evidence, including the appropriateness of parenting time,
13 offered at the hearing.