

Act No. 68
Public Acts of 2004
Approved by the Governor
April 20, 2004
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**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Senator Hammerstrom

ENROLLED SENATE BILL No. 702

AN ACT 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; to provide for certain immunity from liability; and to provide remedies and penalties," by amending section 23d of chapter X (MCL 710.23d), as amended by 1996 PA 409.

The People of the State of Michigan enact:

CHAPTER X

Sec. 23d. (1) In a direct placement, a parent or guardian with legal and physical custody of a child may make a temporary placement of the child as prescribed by this section. In an agency placement, a child placing agency with written authorization from the parent or guardian as prescribed by section 23b of this chapter may make a temporary placement of the child as prescribed by this section. A temporary placement shall meet all of the following requirements:

(a) The prospective adoptive parent with whom a child is temporarily placed has had a preplacement assessment completed within 1 year before the date of the transfer with a finding that the prospective adoptive parent is suitable to be a parent of an adoptee.

(b) In a direct placement, the parent or guardian is assisted by an adoption attorney or a child placing agency.

(c) In the presence of a witness who also signs the document, the parent, guardian, or representative of the child placing agency signs a statement evidencing the transfer of physical custody of the child. If the parent making the temporary placement is an unemancipated minor, the statement is not valid unless it is also signed in the presence of the witness by a parent or guardian of that minor parent. The statement shall contain all of the following:

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

(ii) Language providing that the transfer is for the purpose of adoption by the prospective adoptive parent.

(iii) Language indicating that unless the parent or guardian and the prospective adoptive parent agree otherwise, the prospective adoptive parent has the authority to consent to all medical, surgical, psychological, educational, and related services for the child and language indicating that the parent or guardian otherwise retains full parental rights to the child being temporarily placed and that the temporary placement may be revoked by the filing of a petition under subsection (5).

(iv) Language providing that the person making the transfer has read a preplacement assessment of the prospective adoptive parent completed or updated within 1 year before the date of the transfer with a finding that the prospective adoptive parent is suitable to be a parent of an adoptee. If a child placing agency makes the transfer of physical custody, the statement shall include a verification that the child placing agency has given the parent or guardian who authorized the temporary placement an opportunity to review the preplacement assessment.

(v) Even if only 1 parent is making the temporary placement, the name and address of both parents of the child, including in the case of a child born out of wedlock, the name and the address of each putative father of the child, if known.

(d) In the presence of a witness who also signs the document, the prospective adoptive parent signs a statement setting forth the date of the transfer of physical custody and the name and address of the prospective adoptive parent and attesting to all of the following:

(i) That the prospective adoptive parent understands that the temporary placement will not become a formal placement until the parents consent or release their parental rights and the court orders the termination of parental rights and approves the placement and that the prospective adoptive parent must relinquish custody of the child within 24 hours after being served with an order under section 23e(2) of this chapter.

(ii) That, if the prospective adoptive parent is a Michigan resident, the prospective adoptive parent agrees to reside with the child in Michigan until formal placement occurs.

(iii) That the prospective adoptive parent agrees to obtain approval in compliance with the interstate compact on the placement of children, 1984 PA 114, MCL 3.711 to 3.717, before the child is sent, brought, or caused to be sent or brought into a receiving state as that term is defined in section 1 of the interstate compact on the placement of children, 1984 PA 114, MCL 3.711.

(iv) That the prospective adoptive parent submits to this state's jurisdiction.

(2) Not later than 2 days, excluding weekends and holidays, after a transfer of physical custody of a child in accordance with subsection (1), the adoption attorney or child placing agency who assists with the temporary placement or the child placing agency that makes the temporary placement shall submit to the court in the county in which the child's parent or guardian or the prospective adoptive parent resides, or in which the child is found, a report that contains all of the following:

(a) The date of the transfer of physical custody.

(b) The name and address of the parent or guardian or the child placing agency who made the temporary placement.

(c) The name and address of the prospective adoptive parent with whom the temporary placement was made.

(d) Even if only 1 parent is making the temporary placement, the name and address of both parents of the child, including, in the case of a child born out of wedlock, the name of each putative father, if known.

(e) The documents required under subsection (1)(c) and (d) and, if applicable, the authorization required under section 23b of this chapter.

(3) Not later than 30 days after the transfer of physical custody of a child under this section, the adoption attorney or child placing agency who assists with the temporary placement or the child placing agency that makes the temporary placement shall submit to the court that received the report described in subsection (2) a report indicating whether or not 1 of the following dispositions has occurred:

(a) A petition for adoption of the child has been filed.

(b) The child has been returned to the agency or to a parent or other person having legal custody.

(4) If the court has not received the report required under subsection (3) within 45 days after the transfer of physical custody of a child, the court shall immediately investigate and determine whether an adoption petition has been filed or the child has been returned to a parent or other person having legal custody. If the report required under subsection (3) or the court's investigation reveals that neither disposition has occurred, the court shall immediately report to the prosecutor, who shall immediately file a petition in the court that received the report described in subsection (2) for disposition of the child as required by section 23e of this chapter. If a petition has been filed under subsection (5), (6), or (7), the prosecutor is not required to file a petition.

(5) A parent or guardian who wishes to regain custody of a child who has been placed temporarily shall file a petition in the court that received the report described in subsection (2) requesting that the temporary placement be revoked and that the child be returned to the parent or guardian. Upon request of the parent or guardian, the adoption attorney or child placing agency who assisted in making the temporary placement shall assist the parent or guardian in filing the petition to revoke the temporary placement. If the temporary placement was made by a child placing agency under section 23b(3) of this chapter, the child placing agency shall file the petition on behalf of a parent or guardian who wishes to regain custody of the child.

(6) If a prospective adoptive parent with whom a child has been temporarily placed is either unwilling or unable to proceed with the adoption, the prospective adoptive parent may file a petition in the court that received the report described in subsection (2) for disposition of the child as required by section 23e of this chapter.

(7) If a child placing agency that temporarily placed a child is unable to proceed with an adoption because of the unavailability of a parent or guardian to execute a release, or if a child placing agency with legal custody of a child decides not to proceed with the adoption by a prospective adoptive parent with whom the child has been temporarily placed and the prospective adoptive parent refuses upon the agency's request to return the child to the agency, the child placing agency shall file a petition in the court that received the report described in subsection (2) for disposition of the child as required by section 23e of this chapter.

(8) Except as otherwise agreed to by the parties, the prospective adoptive parent with whom a child is temporarily placed under this section may consent to all medical, surgical, psychological, educational, and related services for the child.

(9) A hospital or attending practitioner shall not release a child to an individual or agency not otherwise legally entitled to the physical custody of the child unless all of the requirements of subsection (1) are met.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor