

SENATE BILL No. 672

August 1, 2007, Introduced by Senators JANSEN, HARDIMAN, JACOBS, KAHN and BIRKHOLZ and referred to the Committee on Families and Human Services.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 19c of chapter XIIA (MCL 712A.19c), as amended
by 2004 PA 476.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

Sec. 19c. (1) Except as provided in section 19(4) and subject
to subsection ~~(2)~~ (3), if a child remains in placement following
the termination of parental rights to the child, the court shall
conduct a review hearing not more than 91 days after the
termination of parental rights and no later than every 91 days
after that hearing for the first year following termination of
parental rights to the child. If a child remains in a placement for
more than 1 year following termination of parental rights to the
child, a review hearing shall be held no later than 182 days from

1 the immediately preceding review hearing before the end of the
2 first year and no later than every 182 days from each preceding
3 review hearing thereafter until the case is dismissed. A review
4 hearing under this subsection shall not be canceled or delayed
5 beyond the number of days required in this subsection, regardless
6 of whether any other matters are pending. Upon motion by any party
7 or in the court's discretion, a review hearing may be accelerated
8 to review any element of the case. The court shall conduct the
9 first permanency planning hearing within 12 months from the date
10 that the child was originally removed from the home. Subsequent
11 permanency planning hearings shall be held within 12 months of the
12 preceding permanency planning hearing. If proper notice for a
13 permanency planning hearing is provided, a permanency planning
14 hearing may be combined with a review hearing held under section
15 19(2) to (4) of this chapter. A permanency planning hearing under
16 this section shall not be canceled or delayed beyond the number of
17 months required in this subsection, regardless of whether any other
18 matters are pending. At a hearing under this section, the court
19 shall review all of the following:

20 (a) The appropriateness of the permanency planning goal for
21 the child.

22 (b) The appropriateness of the child's placement.

23 (c) The reasonable efforts being made to place the child for
24 adoption or in other permanent placement in a timely manner.

25 **(2) SUBJECT TO SUBSECTION (3), IF THE COURT DETERMINES THAT IT**
26 **IS IN THE CHILD'S BEST INTERESTS, THE COURT MAY APPOINT A GUARDIAN**
27 **FOR THE CHILD.**

1 (3) THE COURT SHALL NOT APPOINT A GUARDIAN FOR THE CHILD
2 WITHOUT THE WRITTEN CONSENT OF THE MCI SUPERINTENDENT.

3 (4) IF A PERSON BELIEVES THAT THE DECISION TO WITHHOLD THE
4 CONSENT REQUIRED IN SUBSECTION (3) IS ARBITRARY OR CAPRICIOUS, THE
5 PERSON MAY FILE A MOTION WITH THE COURT. A MOTION UNDER THIS
6 SUBSECTION SHALL CONTAIN INFORMATION REGARDING BOTH OF THE
7 FOLLOWING:

8 (A) THE SPECIFIC STEPS TAKEN BY THE PERSON TO OBTAIN THE
9 CONSENT REQUIRED AND THE RESULTS, IF ANY.

10 (B) THE SPECIFIC REASONS WHY THE PERSON BELIEVES THAT THE
11 DECISION TO WITHHOLD CONSENT WAS ARBITRARY OR CAPRICIOUS.

12 (5) THE COURT SHALL SET A HEARING DATE AND PROVIDE NOTICE TO
13 THE MCI SUPERINTENDENT, THE FOSTER PARENTS, THE PROSPECTIVE
14 GUARDIAN, THE CHILD, AND EACH INTERESTED PARTY.

15 (6) IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT
16 THE DECISION TO WITHHOLD CONSENT WAS ARBITRARY OR CAPRICIOUS, THE
17 COURT MAY APPROVE THE GUARDIANSHIP WITHOUT THE CONSENT OF THE MCI
18 SUPERINTENDENT.

19 (7) A GUARDIAN APPOINTED UNDER THIS SECTION HAS ALL OF THE
20 POWERS AND DUTIES SET FORTH UNDER SECTION 15 OF THE ESTATES AND
21 PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5215.

22 (8) THE COURT SHALL REVIEW A GUARDIANSHIP FOR A CHILD NOT
23 LATER THAN 365 DAYS AFTER THE GUARDIAN IS APPOINTED AND MAY REVIEW
24 A GUARDIANSHIP AT ANY TIME THE COURT CONSIDERS NECESSARY.

25 (9) THE COURT MAY ORDER THE DEPARTMENT OF HUMAN SERVICES OR A
26 COURT EMPLOYEE OR AGENT TO CONDUCT AN INVESTIGATION AND FILE A
27 WRITTEN REPORT OF THE INVESTIGATION FOR A REVIEW UNDER SUBSECTION

1 (8) .

2 (10) ~~(2)~~—This section applies only to a child's case in which
3 parental rights to the child were either terminated as the result
4 of a proceeding under section 2(b) of this chapter or a similar law
5 of another state or terminated voluntarily following the initiation
6 of a proceeding under section 2(b) of this chapter or a similar law
7 of another state. This section applies as long as the child is
8 subject to the jurisdiction, control, or supervision of the court
9 or of the Michigan children's institute or other agency.

10 Enacting section 1. This amendatory act does not take effect
11 unless Senate Bill No. 671

12 of the 94th Legislature is enacted into law.