

HOUSE BILL No. 4660

May 2, 2013, Introduced by Reps. Shirkey and Kurtz and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 22, 31, and 36 of chapter X (MCL 710.22,
710.31, and 710.36), section 22 as amended by 2004 PA 487, section
31 as amended by 1994 PA 373, and section 36 as amended by 1996 PA
409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 22. As used in this chapter:

(a) "Adoptee" means the individual who is to be adopted,
regardless of whether the individual is a child or an adult.

(b) "Adoption attorney" means an attorney acting as counsel in
an adoption proceeding or case.

(c) "Adult former sibling" means an individual who is 18 years

1 of age or older and is related to an adult adoptee either
2 biologically or through adoption by at least 1 common parent,
3 regardless of whether the adult former sibling ever lived in the
4 same household as the adult adoptee.

5 (d) "Agency placement" means a placement in which a child
6 placing agency, the department, or a court selects the adoptive
7 parent for the child and transfers physical custody of the child to
8 the prospective adoptive parent.

9 (e) "Applicant" means an individual or individuals who desire
10 to adopt a child and who have submitted an adoption application to
11 a child placing agency.

12 (f) "Attending practitioner" means a licensed physician or a
13 registered professional nurse certified as a nurse midwife by the
14 Michigan board of nursing.

15 (g) "Best interests of the adoptee" or "best interests of the
16 child" means the sum total of the following factors to be
17 considered, evaluated, and determined by the court to be applied to
18 give the adoptee permanence at the earliest possible date:

19 (i) The love, affection, and other emotional ties existing
20 between the adopting individual or individuals and the adoptee or,
21 in the case of a hearing under section 39 of this chapter, the
22 putative father and the adoptee.

23 (ii) The capacity and disposition of the adopting individual or
24 individuals or, in the case of a hearing under section 39 of this
25 chapter, the putative father to give the adoptee love, affection,
26 and guidance, and to educate and create a milieu that fosters the
27 religion, racial identity, and culture of the adoptee.

1 (iii) The capacity and disposition of the adopting individual or
2 individuals or, in the case of a hearing under section 39 of this
3 chapter, the putative father, to provide the adoptee with food,
4 clothing, education, permanence, medical care or other remedial
5 care recognized and permitted under the laws of this state in place
6 of medical care, and other material needs.

7 (iv) The length of time the adoptee has lived in a stable,
8 satisfactory environment, and the desirability of maintaining
9 continuity.

10 (v) The permanence as a family unit of the proposed adoptive
11 home, or, in the case of a hearing under section 39 of this
12 chapter, the home of the putative father.

13 (vi) The moral fitness of the adopting individual or
14 individuals or, in the case of a hearing under section 39 of this
15 chapter, of the putative father.

16 (vii) The mental and physical health of the adopting individual
17 or individuals or, in the case of a hearing under section 39 of
18 this chapter, of the putative father, and of the adoptee.

19 (viii) The home, school, and community record of the adoptee.

20 (ix) The reasonable preference of the adoptee, if the adoptee
21 is 14 years of age or less and if the court considers the adoptee
22 to be of sufficient age to express a preference.

23 (x) The ability and willingness of the adopting individual or
24 individuals to adopt the adoptee's siblings.

25 (xi) Any other factor considered by the court to be relevant to
26 a particular adoption proceeding, or to a putative father's request
27 for child custody.

1 (h) "Born out of wedlock" means a child conceived and born to
2 a woman who was not married from the conception to the date of
3 birth of the child, or a child whom the court has determined to be
4 a child born during a marriage but not the issue of that marriage.

5 (i) "Central adoption registry" means the registry established
6 by the department under section 27b of this chapter to control the
7 release of identifying adoption information.

8 (j) "Child" means an individual less than 18 years of age.

9 (k) "Child placing agency" means a private organization
10 licensed under 1973 PA 116, MCL 722.111 to 722.128, to place
11 children for adoption.

12 (l) "Consent" means a document in which all parental rights
13 over a specific child are voluntarily relinquished to the court for
14 placement with a specific adoptive parent.

15 (m) "Court" means the family division of circuit court of this
16 state, or if the context requires, the court having jurisdiction
17 over adoption in another state or country.

18 (n) "Department" means the ~~family independence~~
19 ~~agency.~~ **DEPARTMENT OF HUMAN SERVICES.**

20 (o) "Direct placement" means a placement in which a parent or
21 guardian selects an adoptive parent for a child, other than a
22 stepparent or an individual related to the child within the fifth
23 degree by marriage, blood, or adoption, and transfers physical
24 custody of the child to the prospective adoptive parent.

25 (p) "Formal placement" means a placement that is approved by
26 the court under section 51 of this chapter.

27 (q) "Person" means an individual, partnership, corporation,

1 association, governmental entity, or other legal entity.

2 (r) "Petitioner", except as used in section 68b of this
3 chapter, means the individual or individuals who file an adoption
4 petition with the court.

5 (s) "Placement" or "to place" means selection of an adoptive
6 parent for a child and transfer of physical custody of the child to
7 a prospective adoptive parent according to this chapter.

8 (t) "Relative" means an individual who is related to the child
9 within the fifth degree by marriage, blood, or adoption.

10 (u) "Release" means a document in which all parental rights
11 over a specific child are voluntarily relinquished to the
12 department or to a child placing agency.

13 (v) "Rescission petition" means a petition filed by an adult
14 adoptee and his or her parent whose rights have been terminated to
15 rescind the adoption in which a stepparent acquired parental rights
16 and to restore parental rights of that parent according to section
17 66 of this chapter.

18 **(W) "RESPONSIBLE FATHER REGISTRY" MEANS THE RESPONSIBLE FATHER**
19 **REGISTRY CREATED AND MAINTAINED UNDER SECTIONS 2892 TO 2892E OF THE**
20 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.2892 TO 333.2892E.**

21 **(X)** ~~(w)~~—"Suitable to be a parent of an adoptee" means a
22 conclusion that there is no specific concern with respect to an
23 individual that would suggest that placement of any child, or a
24 particular child, in the home of the individual would pose a risk
25 of harm to the physical or psychological well-being of the child.

26 **(Y)** ~~(x)~~—"Temporary placement" means a placement that occurs
27 before court approval under section 51 of this chapter and that

1 meets the requirements of section 23d of this chapter.

2 **(Z)** ~~(y)~~—"Within the fifth degree by marriage, blood, or
 3 adoption" means any of the following relationships: parent, step-
 4 parent, grandparent, step-grandparent, brother, step-brother,
 5 sister, step-sister, uncle, step-uncle, aunt, step-aunt, first
 6 cousin, step-first cousin, great aunt, step-great aunt, great
 7 uncle, step-great uncle, great grandparent, step-great grandparent,
 8 first cousin once removed, step-first cousin once removed, great
 9 great grandparent, step-great great grandparent, great great uncle,
 10 step-great great uncle, great great aunt, step-great great aunt,
 11 great great great grandparent, or step-great great great
 12 grandparent.

13 Sec. 31. (1) Except as provided in section 23d of this
 14 chapter, if a child is born out of wedlock and the release or
 15 consent of the biological father cannot be obtained **OR THE**
 16 **BIOLOGICAL FATHER HAS REGISTERED WITH THE RESPONSIBLE FATHER**
 17 **REGISTRY**, the child shall not be placed for adoption until the
 18 parental rights of the father are terminated by the court as
 19 provided in section 37 or 39 of this chapter, by the court ~~pursuant~~
 20 ~~to~~ **UNDER** chapter XIIIA, or by a court of competent jurisdiction in
 21 another state or country.

22 (2) Pending the termination or other disposition of the rights
 23 of the father of a child born out of wedlock, the mother may
 24 execute a release terminating her rights to the child. If the
 25 mother releases the child, the child placing agency or department
 26 to which the child is released may file a petition of dependency or
 27 neglect ~~pursuant to~~ **UNDER** chapter XIIIA. Pending disposition of the

1 dependency or neglect petition, the court may enter an order
2 authorizing temporary care of the child.

3 (3) At the request of the mother, her formal execution of a
4 release or consent shall be delayed until after court determination
5 of the status of the putative father's request for custody of the
6 child.

7 Sec. 36. (1) If a child is claimed to be born out of wedlock
8 and the mother executes or proposes to execute a release or consent
9 relinquishing her rights to the child or joins in a petition for
10 adoption filed by her husband, and the release or consent of the
11 natural father cannot be obtained, the judge shall hold a hearing
12 as soon as practical to determine whether the child was born out of
13 wedlock, to determine the identity of the father, and to determine
14 or terminate the rights of the father as provided in this section
15 and sections 37 and 39 of this chapter.

16 (2) Proof of service of a notice of intent to release or
17 consent or the putative father's verified acknowledgment of notice
18 of intent to release or consent shall be filed with the court, if
19 the notice was given to the putative father. The court shall
20 request the vital records division of the department of ~~public~~
21 **COMMUNITY** health to send to the court a copy of any notice of
22 intent to claim paternity of the particular child ~~which~~ **THAT** the
23 division has received **OR ANY INFORMATION REGARDING A PUTATIVE**
24 **FATHER WHO HAS REGISTERED WITH THE RESPONSIBLE FATHER REGISTRY.**

25 (3) Notice of the hearing shall be served upon ~~the following:~~
26 ~~—— (a) A A putative father who has timely filed a notice of~~
27 ~~intent to claim paternity as provided in section 33 or 34 of this~~

~~chapter.~~ **WHO HAS REGISTERED WITH THE RESPONSIBLE FATHER REGISTRY.**

~~(b) A putative father who was not served a notice of intent to release or consent at least 30 days before the expected date of confinement specified in the notice of intent to release or consent.~~

~~(c) Any other male who was not served pursuant to section 34(1) of this chapter with a notice of intent to release or consent and who the court has reason to believe may be the father of the child.~~

(4) The notice of hearing shall inform the putative father that his failure to appear at the hearing shall constitute a denial of his interest in custody of the child, which denial shall result in the court's termination of his rights to the child.

(5) Proof of service of the notice of hearing required by subsection (3) shall be filed with the court. A verified acknowledgment of service by the party to be served is proof of personal service. Notice of the hearing ~~shall~~ **IS** not be required if the putative father is present at the hearing. A waiver of notice of hearing by a person entitled to receive it is sufficient.

(6) The court shall receive evidence as to the identity of the father of the child. **THE COURT MAY RECEIVE IN LIEU OF THE MOTHER'S LIVE TESTIMONY AN AFFIDAVIT OR A VERIFIED WRITTEN DECLARATION FROM THE MOTHER AS EVIDENCE OF THE IDENTITY OF THE CHILD'S FATHER.** Based upon the evidence received, the court shall enter a finding identifying the father or declaring that the identity of the father cannot be determined.

(7) If the court finds that the **CHILD'S** father ~~of the child is~~

1 a person who **REGISTERED IN A TIMELY MANNER WITH THE RESPONSIBLE**
2 **FATHER REGISTRY BUT** did not receive either a timely notice of
3 intent to release or consent ~~pursuant to~~**UNDER** section 34(1) of
4 this chapter or a notice required ~~pursuant to~~**UNDER** subsection (3),
5 and who has neither waived his right to notice of hearing nor is
6 present at the hearing, the court shall adjourn further proceedings
7 until that person is served with a notice of hearing.

8 Enacting section 1. This amendatory act does not take effect
9 unless Senate Bill No. ____ or House Bill No. 4659(request no.
10 02100'13) of the 97th Legislature is enacted into law.