

SUBSTITUTE FOR
SENATE BILL NO. 483

(As amended December 3, 2015)

<<A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 24 and 36 of chapter X and sections 13a and 18f of
chapter XIIA (MCL 710.24, 710.36, 712A.13a, and 712A.18f), section 24 of
chapter X as amended by 2014 PA 531, section 36 of chapter X as amended
by 1996 PA 409, section 13a of chapter XIIA as amended by 2012 PA 163,
and section 18f of chapter XIIA as amended by 2012 PA 115.>>

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

<<CHAPTER X

Sec. 24. (1) Except as otherwise provided in this section, if
a person desires to adopt a child or an adult and to bestow upon
the adoptee his or her family name, or to adopt a child or an adult
without a name change, with the intent to make the adoptee his or
her heir, that person, together with his ~~wife or her husband~~, **OR HER
SPOUSE**, if married, shall file a petition with the court of the
county in which the petitioner resides, where the adoptee is found or,
where the parent's parental rights were terminated or are pending
termination. If both parents' parental rights were terminated at
different times and in different courts, a petition filed under this
section shall be filed in the court of the county where parental
rights were first terminated. If there has been a temporary placement
of the child, the petition for adoption shall be filed with the court
that received the report described in section 23d(2) of this chapter.

(2) Notwithstanding any other provision in this section, the
court may allow either of the following to occur:

(a) A married individual to adopt an adult without his or her

spouse joining in the petition if all of the interested parties consent.

(b) A married individual to adopt without his or her spouse joining in the petition if the failure of the other spouse to join in the petition or to consent to the adoption is excused by the court for good cause shown or in the best interest of the child.

(3) In an adoption proceeding in which there is more than 1 applicant, the petition for adoption shall be filed with the court of the county where the parent's parental rights were terminated or are pending termination. If both parents' parental rights were terminated at different times and in different courts, a petition filed under this section shall be filed in the court of the county where parental rights were first terminated.

(4) The petition for adoption shall be verified by each petitioner and shall contain the following information:

(a) The name, date and place of birth, and place of residence of each petitioner, including the maiden name of the adopting mother.

(b) Except as otherwise provided in subsection (7), the name, date and place of birth, and place of residence if known of the adoptee.

(c) The relationship, if any, of the adoptee to the petitioner.

(d) The full name by which the adoptee shall be known after adoption.

(e) The full description of the property, if any, of the adoptee.

(f) Unless the rights of the parents have been terminated by a court of competent jurisdiction or except as otherwise provided in subsection (7), the names of the parents of the adoptee and the place of residence of each living parent if known.

(g) Except as otherwise provided in subsection (7), the name and place of residence of the guardian of the person or estate of the adoptee, if any has been appointed.

(5) In a direct placement, the petitioner shall attach to the petition a verified statement certifying that the petitioner has been informed of the availability of counseling services and whether the petitioner has received counseling.

(6) Except as otherwise provided in this subsection, in a direct placement, the petitioner shall attach a copy of a preplacement assessment of the petitioner completed or updated within 1 year before the petition is filed with a finding that the petitioner is suitable to be a parent of an adoptee, copies of all other preplacement assessments of the petitioner, if any others have been completed, and a verified statement stating that no preplacement assessments of the petitioner have been completed other than those attached to the petition and explaining any preplacement assessments of the petitioner that have been initiated but not completed. If the petitioner is seeking review of a preplacement assessment under section 23f(8) of this chapter, the petitioner may comply with this subsection by attaching a copy of that preplacement assessment and a copy of the application for review, together with copies of all other preplacement assessments and the verified statement required by this section.

(7) In a direct placement in which the parties have elected not to exchange identifying information, the information required by

subsection (4)(f) and (g) and the surname and place of residence of the adoptee required under subsection (4)(b) may be omitted. The attorney or child placing agency assisting in the adoption shall file a verified statement containing the omitted information.

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

(2) Proof of service of a notice of intent to release or consent or the putative father's verified acknowledgment of notice of intent to release or consent shall be filed with the court, if the notice was given to the putative father. The court shall request the vital records division of the department of ~~public health~~ **AND HUMAN SERVICES** to send to the court a copy of any notice of intent to claim paternity of the particular child ~~which~~ **THAT** the division has received.

(3) Notice of the hearing shall be served upon the following:

(a) A putative father who has timely filed a notice of intent to claim paternity as provided in section 33 or 34 of this chapter.

(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~~ **ACCORDING** 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~~ **CONSTITUTES** 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 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. 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 father of the child is a person who did not receive either a timely notice of intent to release or consent pursuant to section 34(1) of this chapter or a notice required ~~pursuant to~~ **UNDER** subsection (3), and who has neither waived his right to notice of hearing nor is present at the hearing, the court shall adjourn further proceedings until that person is served with a notice of hearing.>>

3 17c, 17d, 18f, 19, 19a, 19b, and 19c of this chapter:

4 (a) "Agency" means a public or private organization,
5 institution, or facility that is performing the functions under
6 part D of title IV of the social security act, 42 USC 651 to 669b,
7 or that is responsible under court order or contractual arrangement
8 for a juvenile's care and supervision.

1 (b) "Agency case file" means the current file from the agency
2 providing direct services to the child, that can include the child
3 protective services file if the child has not been removed from the
4 home or the department ~~of human services~~ or contract agency foster
5 care file as ~~defined~~ **PROVIDED** under 1973 PA 116, MCL 722.111 to
6 722.128.

7 (c) "Attorney" means, if appointed to represent a child in a
8 proceeding under section 2(b) or (c) of this chapter, an attorney
9 serving as the child's legal advocate in a traditional attorney-
10 client relationship with the child, as governed by the Michigan
11 rules of professional conduct. An attorney defined under this
12 subdivision owes the same duties of undivided loyalty,
13 confidentiality, and zealous representation of the child's
14 expressed wishes as the attorney would to an adult client. For the
15 purpose of a notice required under these sections, attorney
16 includes a child's lawyer-guardian ad litem.

17 (d) "Case service plan" means the plan developed by an agency
18 and prepared under section 18f of this chapter that includes
19 services to be provided by and responsibilities and obligations of
20 the agency and activities, responsibilities, and obligations of the
21 parent. The case service plan may be referred to using different
22 names than case service plan including, but not limited to, a
23 parent/agency agreement or a parent/agency treatment plan and
24 service agreement.

25 (e) "Foster care" means care provided to a juvenile in a
26 foster family home, foster family group home, or child caring
27 institution licensed or approved under 1973 PA 116, MCL 722.111 to

1 722.128, or care provided to a juvenile in a relative's home under
2 a court order.

3 (f) "Guardian ad litem" means an individual whom the court
4 appoints to assist the court in determining the child's best
5 interests. A guardian ad litem does not need to be an attorney.

6 (g) "Lawyer-guardian ad litem" means an attorney appointed
7 under section 17c of this chapter. A lawyer-guardian ad litem
8 represents the child, and has the powers and duties, as set forth
9 in section 17d of this chapter. The provisions of section 17d of
10 this chapter also apply to a lawyer-guardian ad litem appointed
11 under each of the following:

12 (i) Section 5213 or 5219 of the estates and protected
13 individuals code, 1998 PA 386, MCL 700.5213 and 700.5219.

14 (ii) Section 4 of the child custody act of 1970, 1970 PA 91,
15 MCL 722.24.

16 (iii) Section 10 of the child protection law, 1975 PA 238, MCL
17 722.630.

18 (h) "Nonparent adult" means a person who is 18 years of age or
19 older and who, regardless of the person's domicile, meets all of
20 the following criteria in relation to a child over whom the court
21 takes jurisdiction under this chapter:

22 (i) Has substantial and regular contact with the child.

23 (ii) Has a close personal relationship with the child's parent
24 or with a person responsible for the child's health or welfare.

25 (iii) Is not the child's parent or a person otherwise related
26 to the child by blood or affinity to the third degree.

27 (i) "Permanent foster family agreement" means an agreement for

1 a child 14 years old or older to remain with a particular foster
2 family until the child is 18 years old under standards and
3 requirements established by the department of human services, which
4 agreement is among all of the following:

5 (i) The child.

6 (ii) If the child is a temporary ward, the child's family.

7 (iii) The foster family.

8 (iv) The child placing agency responsible for the child's care
9 in foster care.

10 (j) "Relative" means an individual who is at least 18 years of
11 age and related to the child by blood, marriage, or adoption, as
12 grandparent, great-grandparent, great-great-grandparent, aunt or
13 uncle, great-aunt or great-uncle, great-great-aunt or great-great-
14 uncle, sibling, stepsibling, nephew or niece, first cousin or first
15 cousin once removed, and the spouse of any of the above, even after
16 the marriage has ended by death or divorce. A child may be placed
17 with the parent of a man whom the court has found probable cause to
18 believe is the putative father if there is no man with legally
19 established rights to the child. A placement with the parent of a
20 putative father under this subdivision is not to be construed as a
21 finding of paternity or to confer legal standing on the putative
22 father.

23 (k) "Sex offenders registration act" means the sex offenders
24 registration act, 1994 PA 295, MCL 28.721 to 28.736.

25 (l) **"SIBLING" MEANS A CHILD WHO IS RELATED THROUGH BIRTH OR**
26 **ADOPTION BY AT LEAST 1 COMMON PARENT. SIBLING INCLUDES THAT TERM AS**
27 **DEFINED BY THE AMERICAN INDIAN OR ALASKAN NATIVE CHILD'S TRIBAL**

1 **CODE OR CUSTOM.**

2 (2) If a juvenile is alleged to be within the provisions of
3 section 2(b) of this chapter, the court may authorize a petition to
4 be filed at the conclusion of the preliminary hearing or inquiry.
5 The court may authorize the petition upon a showing of probable
6 cause that 1 or more of the allegations in the petition are true
7 and fall within the provisions of section 2(b) of this chapter. If
8 a petition is before the court because the department of human
9 services is required to submit the petition under section 17 of the
10 child protection law, 1975 PA 238, MCL 722.637, the court shall
11 hold a hearing on the petition within 24 hours or on the next
12 business day after the petition is submitted, at which hearing the
13 court shall consider at least the matters governed by subsections
14 (4) and (5).

15 (3) Except as provided in subsections (5) and (6), if a
16 petition under subsection (2) is authorized, the court may release
17 the juvenile in the custody of either of the juvenile's parents or
18 the juvenile's guardian or custodian under reasonable terms and
19 conditions necessary for either the juvenile's physical health or
20 mental well-being.

21 (4) The court may order a parent, guardian, custodian,
22 nonparent adult, or other person residing in a child's home to
23 leave the home and, except as the court orders, not to subsequently
24 return to the home if all of the following take place:

25 (a) A petition alleging abuse of the child by the parent,
26 guardian, custodian, nonparent adult, or other person is authorized
27 under subsection (2).

1 (b) The court after a hearing finds probable cause to believe
2 the parent, guardian, custodian, nonparent adult, or other person
3 committed the abuse.

4 (c) The court finds on the record that the presence in the
5 home of the person alleged to have committed the abuse presents a
6 substantial risk of harm to the child's life, physical health, or
7 mental well-being.

8 (5) If a petition alleges abuse by a person described in
9 subsection (4), regardless of whether the court orders the alleged
10 abuser to leave the child's home under subsection (4), the court
11 shall not leave the child in or return the child to the child's
12 home or place the child with a person not licensed under 1973 PA
13 116, MCL 722.111 to 722.128, unless the court finds that the
14 conditions of custody at the placement and with the individual with
15 whom the child is placed are adequate to safeguard the child from
16 the risk of harm to the child's life, physical health, or mental
17 well-being.

18 (6) If a court finds a parent is required by court order to
19 register under the sex offenders registration act, the department
20 of human services may, but is not required to, make reasonable
21 efforts to reunify the child with the parent. The court may order
22 reasonable efforts to be made by the department of human services.

23 (7) In determining whether to enter an order under subsection
24 (4), the court may consider whether the parent who is to remain in
25 the juvenile's home is married to the person to be removed or has a
26 legal right to retain possession of the home.

27 (8) An order entered under subsection (4) may also contain 1

1 or more of the following terms or conditions:

2 (a) The court may require the alleged abusive parent to pay
3 appropriate support to maintain a suitable home environment for the
4 juvenile during the duration of the order.

5 (b) The court may order the alleged abusive person, according
6 to terms the court may set, to surrender to a local law enforcement
7 agency any firearms or other potentially dangerous weapons the
8 alleged abusive person owns, possesses, or uses.

9 (c) The court may include any reasonable term or condition
10 necessary for the juvenile's physical or mental well-being or
11 necessary to protect the juvenile.

12 (9) The court may order placement of the child in foster care
13 if the court finds all of the following conditions:

14 (a) Custody of the child with the parent presents a
15 substantial risk of harm to the child's life, physical health, or
16 mental well-being.

17 (b) No provision of service or other arrangement except
18 removal of the child is reasonably available to adequately
19 safeguard the child from risk as described in subdivision (a).

20 (c) Continuing the child's residence in the home is contrary
21 to the child's welfare.

22 (d) Consistent with the circumstances, reasonable efforts were
23 made to prevent or eliminate the need for removal of the child.

24 (e) Conditions of child custody away from the parent are
25 adequate to safeguard the child's health and welfare.

26 (10) If the court orders placement of the juvenile outside the
27 juvenile's home, the court shall inform the parties of the

1 following:

2 (a) That the agency has the responsibility to prepare an
3 initial services plan within 30 days of the juvenile's placement.

4 (b) The general elements of an initial services plan as
5 required by the rules promulgated under 1973 PA 116, MCL 722.111 to
6 722.128.

7 (c) That participation in the initial services plan is
8 voluntary without a court order.

9 (11) Before or within 7 days after a child is placed in a
10 relative's home, the department of ~~human services~~ shall perform a
11 criminal record check and central registry clearance. If the child
12 is placed in the home of a relative, the court shall order a home
13 study to be performed and a copy of the home study to be submitted
14 to the court not more than 30 days after the placement.

15 (12) In determining placement of a juvenile pending trial, the
16 court shall order the juvenile placed in the most family-like
17 setting available consistent with the juvenile's needs.

18 (13) If a juvenile is removed from his or her home, the court
19 shall permit the juvenile's parent to have frequent parenting time
20 with the juvenile. If parenting time, even if supervised, may be
21 harmful to the juvenile, the court shall order the child to have a
22 psychological evaluation or counseling, or both, to determine the
23 appropriateness and the conditions of parenting time. The court may
24 suspend parenting time while the psychological evaluation or
25 counseling is conducted.

26 **(14) REASONABLE EFFORTS SHALL BE MADE TO DO THE FOLLOWING:**

27 **(A) PLACE SIBLINGS REMOVED FROM THEIR HOME IN THE SAME FOSTER**

1 CARE, KINSHIP GUARDIANSHIP, OR ADOPTIVE PLACEMENT, UNLESS THE STATE
2 DOCUMENTS THAT A JOINT PLACEMENT WOULD BE CONTRARY TO THE SAFETY OR
3 WELL-BEING OF ANY OF THE SIBLINGS.

4 (B) IN THE CASE OF SIBLINGS REMOVED FROM THEIR HOME WHO ARE
5 NOT JOINTLY PLACED, PROVIDE FOR AT LEAST MONTHLY VISITATION OR
6 OTHER ONGOING INTERACTION BETWEEN THE SIBLINGS, UNLESS THE STATE
7 DOCUMENTS THAT AT LEAST MONTHLY VISITATION OR OTHER ONGOING
8 INTERACTION WOULD BE CONTRARY TO THE SAFETY OR WELL-BEING OF ANY OF
9 THE SIBLINGS.

10 (15) IF SIBLINGS CANNOT BE PLACED TOGETHER OR NOT ALL THE
11 SIBLINGS ARE BEING PLACED OUTSIDE OF THE HOME, THE COURT SHALL
12 DETERMINE WHETHER SIBLING VISITATION OR CONTACT WILL BE BENEFICIAL
13 TO THE SIBLINGS. IF SO, THE COURT SHALL ORDER SIBLING VISITATION OR
14 CONTACT TO THE EXTENT REASONABLE.

15 (16) ~~(14)~~ Upon the motion of any party, the court shall review
16 custody and placement orders and initial services plans pending
17 trial and may modify those orders and plans as the court considers
18 under this section are in the juvenile's best interests.

19 (17) ~~(15)~~ The court shall include in an order placing a child
20 in foster care an order directing the release of information
21 concerning the child in accordance with this subsection. If a child
22 is placed in foster care, within 10 days after receipt of a written
23 request, the agency shall provide the person who is providing the
24 foster care with copies of all initial, updated, and revised case
25 service plans and court orders relating to the child and all of the
26 child's medical, mental health, and education reports, including
27 reports compiled before the child was placed with that person.

1 (18) ~~(16)~~—In an order placing a child in foster care, the
2 court shall include both of the following:

3 (a) An order that the child's parent, guardian, or custodian
4 provide the supervising agency with the name and address of each of
5 the child's medical providers.

6 (b) An order that each of the child's medical providers
7 release the child's medical records. The order may specify
8 providers by profession or type of institution.

9 (19) ~~(17)~~—As used in this section, "abuse" means 1 or more of
10 the following:

11 (a) Harm or threatened harm by a person to a juvenile's health
12 or welfare that occurs through nonaccidental physical or mental
13 injury.

14 (b) Engaging in sexual contact or sexual penetration as
15 defined in section 520a of the Michigan penal code, 1931 PA 328,
16 MCL 750.520a, with a juvenile.

17 (c) Sexual exploitation of a juvenile, which includes, but is
18 not limited to, allowing, permitting, or encouraging a juvenile to
19 engage in prostitution or allowing, permitting, encouraging, or
20 engaging in photographing, filming, or depicting a juvenile engaged
21 in a listed sexual act as defined in section 145c of the Michigan
22 penal code, 1931 PA 328, MCL 750.145c.

23 (d) Maltreatment of a juvenile.

24 Sec. 18f. (1) If, in a proceeding under section 2(b) of this
25 chapter, an agency advises the court against placing a child in the
26 custody of the child's parent, guardian, or custodian, the agency
27 shall report in writing to the court what efforts were made to

1 prevent the child's removal from his or her home or the efforts
2 made to rectify the conditions that caused the child's removal from
3 his or her home. The report shall include all of the following:

4 (a) If services were provided to the child and his or her
5 parent, guardian, or custodian, the services, including in-home
6 services, that were provided.

7 (b) If services were not provided to the child and his or her
8 parent, guardian, or custodian, the reasons why services were not
9 provided.

10 (c) Likely harm to the child if the child were to be separated
11 from his or her parent, guardian, or custodian.

12 (d) Likely harm to the child if the child were to be returned
13 to his or her parent, guardian, or custodian.

14 (2) Before the court enters an order of disposition in a
15 proceeding under section 2(b) of this chapter, the agency shall
16 prepare a case service plan that shall be available to the court
17 and all the parties to the proceeding.

18 (3) The case service plan shall provide for placing the child
19 in the most family-like setting available and in as close proximity
20 to the child's parents' home as is consistent with the child's best
21 interests and special needs. The case service plan shall include,
22 but is not limited to, the following:

23 (a) The type of home or institution in which the child is to
24 be placed and the reasons for the selected placement.

25 (b) Efforts to be made by the child's parent to enable the
26 child to return to his or her home.

27 (c) Efforts to be made by the agency to return the child to

1 his or her home.

2 (d) Schedule of services to be provided to the parent, child,
3 and if the child is to be placed in foster care, the foster parent,
4 to facilitate the child's return to his or her home or to
5 facilitate the child's permanent placement.

6 (e) Except as otherwise provided in this subdivision, unless
7 parenting time, even if supervised, would be harmful to the child
8 as determined by the court under section 13a of this chapter or
9 otherwise, a schedule for regular and frequent parenting time
10 between the child and his or her parent, which shall not be less
11 than once every 7 days.

12 **(F) EFFORTS TO BE MADE BY THE AGENCY TO PROVIDE FREQUENT IN-**
13 **PERSON VISITATION OR OTHER ONGOING INTERACTION BETWEEN SIBLINGS**
14 **UNLESS THE COURT DETERMINES UNDER SECTION 13A OF THIS CHAPTER THAT**
15 **SIBLING VISITATION OR CONTACT WILL NOT BE BENEFICIAL TO 1 OR MORE**
16 **OF THE SIBLINGS.**

17 **(G) ~~(f)~~**—Conditions that would limit or preclude placement or
18 parenting time with a parent who is required by court order to
19 register under the sex offenders registration act.

20 (4) Before the court enters an order of disposition, the court
21 shall consider the case service plan; any written or oral
22 information offered concerning the child from the child's parent,
23 guardian, custodian, foster parent, child caring institution,
24 relative with whom the child is placed, lawyer-guardian ad litem,
25 attorney, or guardian ad litem; and any other evidence offered,
26 including the appropriateness of parenting time, which information
27 or evidence bears on the disposition. The order of disposition

1 shall state whether reasonable efforts have been made to prevent
2 the child's removal from his or her home or to rectify the
3 conditions that caused the child's removal from his or her home.
4 The court may order compliance with all or any part of the case
5 service plan as the court considers necessary.

6 (5) If a child continues in placement outside of the child's
7 home, the case service plan shall be updated and revised at 90-day
8 intervals as required by the rules promulgated under 1973 PA 116,
9 MCL 722.111 to 722.128. The agency shall consult with the foster
10 parents when it updates and revises the case service plan, and
11 shall attach a statement summarizing the information received from
12 the foster parents to the updated and revised case service plan.
13 Updated and revised case service plans shall be available to the
14 court and all the parties to the proceeding. Within 10 days after
15 receipt of a written request, the agency shall provide the person
16 who is providing the foster care with the information itemized in
17 section ~~13a(14)~~ **13A(17)** of this chapter.

18 (6) To ensure that the case service plan addresses the child's
19 medical needs in relation to abuse and neglect, the department of
20 human services shall review a child's case with the child's
21 attending physician of record during a hospitalization or with the
22 child's primary care physician, but only if a physician has
23 diagnosed the child's abuse or neglect as involving 1 or more of
24 the following:

25 (a) Failure to thrive.

26 (b) Munchausen syndrome by proxy.

27 (c) Shaken baby syndrome.

1 (d) A bone fracture that is diagnosed as being the result of
2 abuse or neglect.

3 (e) Drug exposure.

4 (7) If a child is placed outside of his or her home and the
5 department of human services is required to review the child's case
6 with a physician under subsection (6), then in a judicial
7 proceeding to determine if the child is to be returned to his or
8 her home, the court must allow the child's attending physician of
9 record during a hospitalization or the child's primary care
10 physician to testify regarding the case service plan. The court
11 shall notify each physician of the hearing's time and place.

12 Enacting section 1. This amendatory act takes effect 90 days
13 after the date it is enacted into law.