

SENATE BILL No. 484

September 10, 2015, Introduced by Senators JONES and SHIRKEY and referred to the Committee on Families, Seniors and Human Services.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
(MCL 710.21 to 712B.41) by adding section 21a to chapter XIIIA.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIIA

SEC. 21A. (1) THE COURT MAY ISSUE AN ORDER REINSTATING
PARENTAL RIGHTS IF THE COURT HAS DETERMINED THAT ADOPTION OR
GUARDIANSHIP IS NO LONGER THE CHILD'S PERMANENCY GOAL, IF 3 YEARS
OR MORE HAVE PASSED FROM THE DATE OF THE TERMINATION OF PARENTAL
RIGHTS, AND IF 1 OF THE FOLLOWING IS TRUE:

(A) THE CHILD IS AT LEAST 14 YEARS OF AGE.

(B) THE CHILD IS THE YOUNGER SIBLING OF A CHILD WHO IS AT
LEAST 14 YEARS OF AGE FOR WHOM REINSTATEMENT OF PARENTAL RIGHTS IS
BEING SOUGHT.

(2) THE DEPARTMENT, THE MCI, OR THE CHILD'S LAWYER-GUARDIAN AD

1 LITEM MAY FILE A PETITION REQUESTING REINSTATEMENT OF PARENTAL
2 RIGHTS.

3 (3) THE COURT MAY REQUEST THAT THE AGENCY INVESTIGATE WHETHER
4 REINSTATEMENT IS IN THE CHILD'S BEST INTERESTS.

5 (4) THE COURT MAY ORDER PARENTING TIME ACCORDING TO SECTION
6 13A OF THIS CHAPTER PENDING A HEARING ON THE PETITION.

7 (5) IF IT APPEARS FROM THE PETITION THAT THE CHILD'S FORMER
8 PARENT MAY BE FIT TO HAVE HIS OR HER PARENTAL RIGHTS REINSTATED AND
9 THE CHILD'S BEST INTERESTS MAY BE PROMOTED BY REINSTATEMENT OF
10 PARENTAL RIGHTS, THE COURT SHALL HOLD A HEARING. THE COURT SHALL
11 CAUSE WRITTEN NOTICE OF THE HEARING AND THE PETITION TO BE SERVED
12 ON ALL OF THE FOLLOWING:

13 (A) THE DEPARTMENT.

14 (B) THE MCI SUPERINTENDENT.

15 (C) THE CHILD.

16 (D) THE CHILD'S LAWYER-GUARDIAN AD LITEM.

17 (E) THE CHILD'S FOSTER PARENT OR RELATIVE CAREGIVER.

18 (F) THE CHILD'S FORMER PARENT WHOSE PARENTAL RIGHTS MAY BE
19 REINSTATED.

20 (G) IF THE CHILD IS AN INDIAN CHILD AS DEFINED IN SECTION 3 OF
21 CHAPTER XIIB, EVERY PERSON REQUIRED TO BE NOTIFIED UNDER CHAPTER
22 XIIB.

23 (H) ANY OTHER PERSON AS THE COURT DIRECTS.

24 (6) BEFORE THE HEARING, THE AGENCY SHALL COMPLETE A CRIMINAL
25 RECORD CHECK AND PERFORM A CENTRAL REGISTRY CLEARANCE. THE
26 INFORMATION OBTAINED THROUGH THE CRIMINAL RECORD CHECK AND THE
27 CENTRAL REGISTRY CLEARANCE SHALL BE SUBMITTED TO THE COURT BEFORE

1 THE HEARING CONCERNING THE ESTABLISHMENT OF A TRIAL PERIOD FOR
2 REINSTATEMENT OF PARENTAL RIGHTS.

3 (7) IF THE CHILD IS COMMITTED TO THE MCI, THE MCI
4 SUPERINTENDENT SHALL PROVIDE A RECOMMENDATION TO THE COURT AS TO
5 WHETHER REINSTATEMENT OF PARENTAL RIGHTS IS IN THE CHILD'S BEST
6 INTERESTS.

7 (8) IN A HEARING ON THE PETITION TO REINSTATE PARENTAL RIGHTS,
8 THE COURT SHALL CONSIDER, AT A MINIMUM, ALL OF THE FOLLOWING:

9 (A) WHETHER THE PARENT IS FIT AND HAS REMEDIED THE GROUNDS
10 THAT SUPPORTED TERMINATION OF HIS OR HER PARENTAL RIGHTS, AS
11 PROVIDED IN THE RECORD OF THE PARENTAL RIGHTS TERMINATION
12 PROCEEDINGS AND THE ORDER TERMINATING PARENTAL RIGHTS.

13 (B) THE AGE AND MATURITY OF THE CHILD AND THE CHILD'S
14 PREFERENCE WITH REGARD TO REINSTATEMENT OF PARENTAL RIGHTS.

15 (C) WHETHER REINSTATEMENT OF PARENTAL RIGHTS WILL PRESENT A
16 RISK TO THE CHILD'S HEALTH, WELFARE, OR SAFETY.

17 (D) INFORMATION FOUND AS A PART OF THE CRIMINAL RECORD CHECK
18 PERFORMED UNDER THIS SECTION.

19 (E) OTHER MATERIAL CHANGES IN CIRCUMSTANCES, IF ANY, THAT MAY
20 HAVE OCCURRED SINCE THE DATE OF THE ORDER TERMINATING PARENTAL
21 RIGHTS.

22 (9) IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT
23 REINSTATEMENT OF PARENTAL RIGHTS IS IN THE CHILD'S BEST INTERESTS,
24 THE COURT SHALL REMOVE THE CHILD FROM THE COMMITMENT OF THE MCI AND
25 REINSTATE THE PARENT'S PARENTAL RIGHTS.

26 (10) IF THE COURT FINDS THAT A TRIAL PERIOD OF REINSTATEMENT
27 OF PARENTAL RIGHTS IS IN THE CHILD'S BEST INTERESTS, THE COURT MAY

1 ORDER A TRIAL PERIOD OF REINSTATEMENT OF PARENTAL RIGHTS THAT DOES
2 NOT EXCEED 180 DAYS.

3 (11) IF THE COURT ISSUES AN ORDER REINSTATING PARENTAL RIGHTS,
4 THE DEPARTMENT SHALL ENSURE THAT TRANSITION SERVICES ARE PROVIDED
5 FOR THE FAMILY AS APPROPRIATE.

6 (12) IF THE COURT ISSUES AN ORDER FOR A TRIAL PERIOD OF
7 REINSTATEMENT OF PARENTAL RIGHTS, BOTH OF THE FOLLOWING APPLY:

8 (A) THE CHILD SHALL BE CONDITIONALLY PLACED IN THE PHYSICAL
9 CARE OF THE PARENT FOR A PERIOD NOT TO EXCEED 180 DAYS.

10 (B) DURING THE TRIAL PERIOD, THE MCI SHALL DO ALL OF THE
11 FOLLOWING:

12 (i) RETAIN LEGAL CUSTODY OF THE CHILD, PERMITTING THE
13 DEPARTMENT TO VISIT THE CHILD IN THE PARENT'S HOME, AT SCHOOL, IN A
14 FACILITY, OR IN ANY OTHER SETTING THE DEPARTMENT CONSIDERS
15 NECESSARY AND APPROPRIATE.

16 (ii) DEVELOP A PERMANENT PLAN FOR REUNIFICATION AND ENSURE
17 THAT TRANSITION SERVICES ARE PROVIDED TO THE FAMILY, AS
18 APPROPRIATE.

19 (iii) AT THE MCI SUPERINTENDENT'S DISCRETION, REMOVE THE CHILD
20 FROM PLACEMENT WITH THE FORMER PARENT AT ANY TIME IF THE MCI
21 SUPERINTENDENT CONSIDERS THAT THE CHILD'S HEALTH, WELFARE, OR
22 SAFETY IS AT RISK OR THAT IT IS NO LONGER IN THE CHILD'S BEST
23 INTERESTS FOR THE CHILD TO REMAIN WITH THE FORMER PARENT.

24 (iv) NOTIFY THE COURT WITHIN 3 DAYS IF THE CHILD HAS BEEN
25 REMOVED FROM PLACEMENT WITH THE PARENT WITHOUT A COURT ORDER. IF
26 THE CHILD HAS BEEN REMOVED FROM PLACEMENT WITH THE PARENT WITHOUT A
27 COURT ORDER, THE COURT SHALL ORDER A HEARING ON THE PHYSICAL

1 CUSTODY OF THE CHILD WITHIN 7 DAYS OF THE REMOVAL.

2 (13) THE COURT SHALL REVIEW THE TRIAL REINSTATEMENT PERIOD NOT
3 LESS THAN 1 TIME EVERY 90 DAYS THROUGHOUT THE TRIAL PERIOD.

4 (14) THE AGENCY SHALL ASSESS THE TRIAL REINSTATEMENT AND
5 SUBMIT A REPORT TO THE COURT AND ALL PARTIES BEFORE EACH REVIEW
6 HEARING.

7 (15) THE COURT MAY TERMINATE THE TRIAL REINSTATEMENT IF THE
8 COURT FINDS DURING THE TRIAL PERIOD THAT PERMANENT REINSTATEMENT IS
9 NOT IN THE CHILD'S BEST INTERESTS.

10 (16) FOLLOWING THE TRIAL REINSTATEMENT PERIOD, IF THE COURT
11 DETERMINES BY CLEAR AND CONVINCING EVIDENCE THAT PERMANENT
12 REINSTATEMENT IS IN THE CHILD'S BEST INTERESTS, THE COURT SHALL
13 REMOVE THE CHILD FROM THE COMMITMENT OF THE MCI AND REINSTATE THE
14 PARENT'S PARENTAL RIGHTS.

15 (17) A FINAL OR TRIAL REINSTATEMENT ORDER ENTERED UNDER THIS
16 SECTION DOES NOT MODIFY, VACATE, OR SET ASIDE THE ORDER TERMINATING
17 PARENTAL RIGHTS. AN ORDER REINSTATING PARENTAL RIGHTS FOLLOWING
18 SUCCESSFUL COMPLETION OF THE TRIAL PERIOD UNDER THIS SECTION
19 RESTORES ALL RIGHTS, POWERS, PRIVILEGES, IMMUNITIES, DUTIES, AND
20 OBLIGATIONS OF THE PARENT REGARDING THE CHILD, INCLUDING THOSE
21 RELATED TO CUSTODY, CONTROL, AND SUPPORT OF THE CHILD.

22 (18) AS USED IN THIS SECTION:

23 (A) "AGENCY" MEANS THAT TERM AS DEFINED IN SECTION 13A OF THIS
24 CHAPTER.

25 (B) "SIBLING" MEANS 1 OF 2 OR MORE INDIVIDUALS HAVING IN
26 COMMON 1 OR BOTH BIOLOGICAL OR ADOPTIVE PARENTS, WHERE A COURT HAS
27 PREVIOUSLY TERMINATED PARENTAL RIGHTS OF 1 OR BOTH OF THOSE

1 PARENTS.