

SENATE BILL No. 646

December 9, 2015, Introduced by Senator WARREN and referred to the Committee on Families, Seniors and Human Services.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 24, 41, and 51 of chapter X (MCL 710.24,
710.41, and 710.51), section 24 as amended by 2014 PA 531, section
41 as amended by 1994 PA 222, and section 51 as amended by 1996 PA
409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 24. (1) Except as otherwise provided in this section, ~~if~~
a person **WHO** 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, if married,~~ shall file a petition with the court. ~~of~~ **IF**

1 THE PETITIONER IS MARRIED, THE PETITIONER'S HUSBAND OR WIFE MUST
2 JOIN IN THE PETITION. TWO UNMARRIED PERSONS MAY PETITION TO ADOPT A
3 CHILD BY FILING A PETITION UNDER THIS SECTION.

4 (2) THE PETITION SHALL BE FILED IN the county in which the
5 petitioner resides, where the adoptee is found or, where the
6 parent's parental rights were terminated or are pending
7 termination. If both parents' parental rights were terminated at
8 different times and in different courts, a petition filed under
9 this section shall be filed in the court of the county where
10 parental rights were first terminated. If there has been a
11 temporary placement of the child, the petition for adoption shall
12 be filed with the court that received the report described in
13 section 23d(2) of this chapter.

14 (3) ~~(2)~~ Notwithstanding any other provision in this section,
15 the court may allow either of the following to occur:

16 (a) A married individual to adopt an adult without his or her
17 spouse joining in the petition if all of the interested parties
18 consent.

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

23 (4) ~~(3)~~ In an adoption proceeding in which there is more than
24 1 applicant, the petition for adoption shall be filed with the
25 court of the county where the parent's parental rights were
26 terminated or are pending termination. If both parents' parental
27 rights were terminated at different times and in different courts,

1 a petition filed under this section shall be filed in the court of
2 the county where parental rights were first terminated.

3 (5) ~~(4)~~—The petition for adoption shall be verified by each
4 petitioner and shall contain the following information:

5 (a) The name, date and place of birth, and place of residence
6 of each petitioner, including the maiden name **OR FORMER NAMES** of
7 the adopting ~~mother~~. **PETITIONER**.

8 (b) Except as otherwise provided in subsection ~~(7)~~, **(8)**, the
9 name, date and place of birth, and place of residence if known of
10 the adoptee.

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

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

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

17 (f) Unless the rights of the parents have been terminated by a
18 court of competent jurisdiction or except as otherwise provided in
19 subsection ~~(7)~~, **(8)**, the names of the parents of the adoptee and
20 the place of residence of each living parent if known.

21 (g) Except as otherwise provided in subsection ~~(7)~~, **(8)**, the
22 name and place of residence of the guardian of the person or estate
23 of the adoptee, if any has been appointed.

24 (6) ~~(5)~~—In a direct placement, the petitioner shall attach to
25 the petition a verified statement certifying that the petitioner
26 has been informed of the availability of counseling services and
27 whether the petitioner has received counseling.

1 (7) ~~(6)~~—Except as otherwise provided in this subsection, in a
2 direct placement, the petitioner shall attach a copy of a
3 preplacement assessment of the petitioner completed or updated
4 within 1 year before the petition is filed with a finding that the
5 petitioner is suitable to be a parent of an adoptee, copies of all
6 other preplacement assessments of the petitioner, if any others
7 have been completed, and a verified statement stating that no
8 preplacement assessments of the petitioner have been completed
9 other than those attached to the petition and explaining any
10 preplacement assessments of the petitioner that have been initiated
11 but not completed. If the petitioner is seeking review of a
12 preplacement assessment under section ~~23f(8)~~—**23F(9)** of this
13 chapter, the petitioner may comply with this subsection by
14 attaching a copy of that preplacement assessment and a copy of the
15 application for review, together with copies of all other
16 preplacement assessments and the verified statement required by
17 this section.

18 (8) ~~(7)~~—In a direct placement in which the parties have
19 elected not to exchange identifying information, the information
20 required by subsection ~~(4)(f)~~—**(5)(F)** and (g) and the surname and
21 place of residence of the adoptee required under subsection ~~(4)(b)~~—
22 **(5)(B)** may be omitted. The attorney or child placing agency
23 assisting in the adoption shall file a verified statement
24 containing the omitted information.

25 Sec. 41. (1) Except as provided in section 23d of this
26 chapter, a child shall not be placed in a home for the purpose of
27 adoption until an order terminating parental rights has been

1 entered ~~pursuant to~~ **UNDER** this chapter or chapter XIIIA and the
2 court has formally approved placement under section 51 of this
3 chapter. After an order terminating parental rights has been
4 entered, the court shall enter any appropriate orders ~~pursuant~~
5 **ACCORDING** to sections 45, 46, and 51 of this chapter. Such orders
6 shall not be withheld because the period specified for a rehearing
7 or an appeal as of right has not expired, or because of the
8 pendency of any rehearing or appeal as of right.

9 (2) If an order terminating parental rights is entered
10 ~~pursuant to~~ **UNDER** this chapter or chapter XIIIA, the child may be
11 placed in a home for the purpose of adoption during the period
12 specified for a rehearing or an appeal as of right and the period
13 during which a rehearing or appeal as of right is pending. When a
14 child placing agency, the court, or the department formally places
15 a child or the court approves placement of a child ~~pursuant~~
16 **ACCORDING** to this subsection, the child placing agency, court, or
17 department shall inform the person or persons in whose home the
18 child is placed that an adoption will not be ordered until 1 of the
19 following occurs:

20 (a) The petition for rehearing is granted, at the rehearing
21 the order terminating parental rights is not modified or set aside,
22 and subsequently the period for appeal as of right to the court of
23 appeals has expired without an appeal being filed.

24 (b) The petition for rehearing is denied and the period for
25 appeal as of right to the court of appeals has expired without an
26 appeal being filed.

27 (c) There is a decision of the court of appeals affirming the

1 order terminating parental rights.

2 (3) This section ~~shall~~**DOES** not ~~be construed to~~ prevent a
3 child residing in a licensed foster home from being adopted by the
4 foster parent or parents.

5 (4) This section does not apply if the petitioner for adoption
6 is married to **OR HAS JOINED IN AN ADOPTION PETITION WITH** a parent
7 having legal custody of the child.

8 Sec. 51. (1) Not later than 14 days after receipt of the
9 report of investigation, except as provided in subsections (2) and
10 (5), the judge shall examine the report and shall enter an order
11 terminating the rights of the child's parent or parents, if there
12 was a parental consent, or the rights of any person in loco
13 parentis, if there was a consent by other than parents, and approve
14 placement of the child with the petitioner if the judge is
15 satisfied as to both of the following:

16 (a) The genuineness of consent to the adoption and the legal
17 authority of the person or persons signing the consent.

18 (b) The best interests of the adoptee will be served by the
19 adoption.

20 (2) If it is necessary to hold a hearing before entering an
21 order terminating the rights of a parent, parents, or a person in
22 loco parentis, or if other good cause is shown, the time specified
23 in subsection (1) shall be extended for an additional 14-day
24 period.

25 (3) Upon entry of an order terminating rights of parents or
26 persons in loco parentis, a child is a ward of the court and a
27 consent to adoption executed ~~pursuant to~~**UNDER** section 43 of this

chapter shall not be withdrawn after the order is entered. Entry of the order terminates the jurisdiction of the same court or another court over the child in a divorce or separate maintenance action.

If the petitioner for adoption is married to ~~the parent having~~

~~legal custody of the child~~ **OR HAS JOINED IN AN ADOPTION PETITION**

WITH THE PARENT HAVING LEGAL CUSTODY OF THE CHILD, the child shall not be made a ward of the court after termination of the rights of the other parent.

(4) Without making the child a ward of the court, the court may approve placement of a child if the child is placed for adoption in this state by a public or licensed private agency of another state or country and if the law of the sending state or country prohibits the giving of consent to adoption at the time of placement. Before placement of the child in that instance, the sending agency shall tender evidence as the court requires to demonstrate that the agency possesses the necessary authority to consent to the adoption at the time of entry of the final order of adoption. After the sending agency has given evidence of its ability to consent, the agency shall not do anything to jeopardize its ability to grant the required consent before entry of the final order of adoption. After the sending agency gives its consent for the adoption, that consent shall not be withdrawn.

(5) If a parent having legal custody of the child is married to ~~the petitioner for adoption~~ **OR HAS JOINED IN AN ADOPTION**

PETITION WITH THE PETITIONER, the judge shall not enter an order terminating the rights of that parent.

(6) If the parents of a child are divorced, or if the parents

1 are unmarried but the father has acknowledged paternity or is a
2 putative father who meets the conditions in section 39(2) of this
3 chapter, and if the parent having legal custody of the child
4 subsequently marries and that ~~parent's~~ **PERSON'S** spouse petitions to
5 adopt the child **OR THE PERSON HAVING LEGAL CUSTODY PETITIONS FOR**
6 **ADOPTION UNDER SECTION 24(1) OF THIS CHAPTER**, the court upon notice
7 and hearing may issue an order terminating the rights of the other
8 parent if both of the following occur:

9 (a) The other parent, having the ability to support, or assist
10 in supporting, the child, has failed or neglected to provide
11 regular and substantial support for the child or if a support order
12 has been entered, has failed to substantially comply with the
13 order, for a period of 2 years or more before the filing of the
14 petition.

15 (b) The other parent, having the ability to visit, contact, or
16 communicate with the child, has regularly and substantially failed
17 or neglected to do so for a period of 2 years or more before the
18 filing of the petition.

19 (7) Unless otherwise ordered by the court, the prospective
20 adoptive parents with whom a child is placed ~~pursuant~~ **ACCORDING** to
21 a court order approving placement under this section may consent to
22 all medical, surgical, psychological, educational, and related
23 services for the child.