

HOUSE BILL No. 5022

September 27, 2017, Introduced by Rep. Kosowski 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, 27a, 27b, and 68 of chapter X (MCL 710.22, 710.27a, 710.27b, and 710.68), section 22 as amended by 2004 PA 487, sections 27a and 68 as amended by 2012 PA 385, and section 27b as added by 1994 PA 208.

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.~~ **AS THAT TERM IS DEFINED IN SECTION 17101**
15 **OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.17101.**

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

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

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

1 fosters the religion, racial identity, and culture of the adoptee.

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

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

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

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

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

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

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

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

27 (xi) Any other factor considered by the court to be relevant

1 to a particular adoption proceeding, or to a putative father's
2 request for child custody.

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

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

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

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

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

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

20 (n) "Department" means the ~~family independence~~
21 ~~agency~~. **DEPARTMENT OF HEALTH AND HUMAN SERVICES.**

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

27 (p) "Formal placement" means a placement that is approved by

1 the court under section 51 of this chapter.

2 **(Q) "FORMER GRANDPARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS**
3 **TO A DECEASED BIOLOGICAL PARENT OF THE ADOPTEE WERE NOT TERMINATED**
4 **UNDER SECTION 51 OF THIS CHAPTER OR SECTION 19B OF CHAPTER XIIA.**

5 **(R)** ~~(q)~~ "Person" means an individual, partnership,
6 corporation, association, governmental entity, or other legal
7 entity.

8 **(S)** ~~(r)~~ "Petitioner", except as used in section 68b of this
9 chapter, means the individual or individuals who file an adoption
10 petition with the court.

11 **(T)** ~~(s)~~ "Placement" or "to place" means selection of an
12 adoptive parent for a child and transfer of physical custody of the
13 child to a prospective adoptive parent according to this chapter.

14 **(U)** ~~(t)~~ "Relative" means an individual who is related to the
15 child within the fifth degree by marriage, blood, or adoption.

16 **(V)** ~~(u)~~ "Release" means a document in which all parental
17 rights over a specific child are voluntarily relinquished to the
18 department or to a child placing agency.

19 **(W)** ~~(v)~~ "Rescission petition" means a petition filed by an
20 adult adoptee and his or her parent whose rights have been
21 terminated to rescind the adoption in which a stepparent acquired
22 parental rights and to restore parental rights of that parent
23 according to section 66 of this chapter.

24 **(X)** ~~(w)~~ "Suitable to be a parent of an adoptee" means a
25 conclusion that there is no specific concern with respect to an
26 individual that would suggest that placement of any child, or a
27 particular child, in the home of the individual would pose a risk

1 of harm to the physical or psychological well-being of the child.

2 (Y) ~~(x)~~—"Temporary placement" means a placement that occurs
3 before court approval under section 51 of this chapter and that
4 meets the requirements of section 23d of this chapter.

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

16 Sec. 27a. (1) A former parent, including a former parent whose
17 parental rights were terminated under chapter XII, ~~of this act,~~ may
18 file with the central adoption registry a statement consenting to
19 or denying the release of the identifying information about that
20 parent specified in section 27(3)(b) and (c) **OF THIS CHAPTER**. The
21 consent or denial may be filed, updated, or revoked at any time.

22 (2) An adult former sibling **OR A FORMER GRANDPARENT** may file a
23 statement with the central adoption registry providing notice that
24 a former parent is deceased. A copy of the former parent's death
25 certificate or other evidence of the former parent's death ~~shall~~
26 **MUST** be attached to the statement.

27 (3) An adult former sibling **OR A FORMER GRANDPARENT** who knows

1 the birth name of an adoptee may file with the central adoption
2 registry a statement consenting to the release of the adult former
3 sibling's **OR FORMER GRANDPARENT'S** name and address to the adult
4 adoptee. The statement may be filed, updated, or revoked at any
5 time.

6 (4) At the time of termination of parental rights under this
7 chapter or chapter XIIA, the court shall inform each parent of the
8 provisions described in this section and sections 27b, 68, 68a, and
9 68b **OF THIS CHAPTER**. The court shall inform each parent that the
10 parent's consent to the release of identifying information about
11 that parent specified in section 27(3)(b) and (c) **OF THIS CHAPTER**
12 shall be presumed unless the parent files a statement with the
13 central adoption registry denying the release of the information
14 about that parent. The court shall explain the parent's right to
15 file, update, or revoke the denial at any time, and shall provide
16 each parent with the forms prescribed under section 27b **OF THIS**
17 **CHAPTER**.

18 Sec. 27b. (1) The department shall establish and maintain a
19 central adoption registry to control the release of identifying
20 information described in section 27(3) **OF THIS CHAPTER**.

21 (2) The central adoption registry shall keep on file the
22 statements of former parents consenting to or denying the release
23 of identifying information and the statements of adult former
24 siblings **OR FORMER GRANDPARENTS** described in section 27a(2) and (3)
25 **OF THIS CHAPTER**.

26 (3) The department shall develop forms for former parents to
27 use to consent to, deny, or revoke a consent to or denial of, the

1 release of identifying information and forms for adult former
2 siblings **OR FORMER GRANDPARENTS** to use to provide notice of the
3 death of a former parent and to consent to the release of the adult
4 former sibling's **OR FORMER GRANDPARENT'S** name and address to an
5 adult adoptee. The department shall make the forms available to
6 child placing agencies and the court. The forms shall include the
7 current name and address of the former parent, ~~or~~ adult former
8 sibling, **OR FORMER GRANDPARENT**. The denial form shall contain a
9 space for the former parent to indicate, if he or she wishes, the
10 reason why he or she does not wish to be identified or contacted.
11 The department shall also develop and distribute clearance request
12 and reply forms to be used by child placing agencies, the
13 department, and the court to request and receive information from
14 the central adoption registry ~~pursuant to~~ **UNDER** section 68(5) and
15 (8) **OF THIS CHAPTER**.

16 (4) Upon receipt of a clearance request form from a child
17 placing agency or the department or court ~~pursuant to~~ **UNDER** section
18 68(5) **OF THIS CHAPTER**, the central adoption registry shall transmit
19 to the requester a clearance reply form indicating whether a
20 particular former parent has filed with the registry a statement
21 either denying or consenting to the release of identifying
22 information or whether a former parent is deceased. The central
23 adoption registry shall attach a copy of the statement consenting
24 to or denying the release of identifying information. Once a
25 request for information has been received by the central adoption
26 registry, a subsequent statement submitted by a former parent
27 consenting to the release of identifying information or revoking a

1 previous denial of release of identifying information shall be
2 transmitted to the person who requested the information.

3 (5) Upon receipt of a clearance request form from a child
4 placing agency or the department or court ~~pursuant to~~**UNDER** section
5 68(8) **OF THIS CHAPTER**, the central adoption registry shall transmit
6 to the requester a statement from an adult former sibling **OR FORMER**
7 **GRANDPARENT** consenting to the release of the adult former sibling's
8 **OR FORMER GRANDPARENT'S** name and address to an adult adoptee. Once
9 a request for information has been received by the central adoption
10 registry, a subsequent statement submitted by an adult former
11 sibling **OR FORMER GRANDPARENT** consenting to the release of the
12 adult former sibling's **OR FORMER GRANDPARENT'S** name and address
13 shall be transmitted to the person who requested the information.

14 Sec. 68. (1) Within 63 days after a request for nonidentifying
15 information is received, a child placing agency, a court, or the
16 department shall provide in writing to the adoptive parent, adult
17 adoptee, former parent, ~~or~~ adult former sibling, **OR FORMER**
18 **GRANDPARENT** requesting the information all of the nonidentifying
19 information described in section 27(1) and (2) of this chapter.

20 (2) Within 63 days after a request for identifying information
21 about an adult adoptee is received, a child placing agency or court
22 or the department shall provide in writing to the former parent, ~~or~~
23 adult former sibling, **OR FORMER GRANDPARENT** requesting the
24 information the adult adoptee's most recent name and address if the
25 adult adoptee has given written consent to release of the
26 information ~~pursuant to~~**UNDER** this chapter. If the adult adoptee
27 has not given written consent to the release of information, the

1 child placing agency, the court, or the department shall, upon
2 presentation of a certified copy of the order of appointment, give
3 the adult adoptee's name and address to a confidential intermediary
4 appointed under section 68b of this chapter, together with any
5 other information in its possession that would help the
6 confidential intermediary locate the adult adoptee. At the option
7 of **THE CHILD PLACING** agency or the department, the information may
8 be released to the court for release to the confidential
9 intermediary.

10 (3) If the department or a child placing agency receives a
11 request for adoption record information in its possession from an
12 adult adoptee, former parent, ~~or~~ adult former sibling, **OR FORMER**
13 **GRANDPARENT**, the department or child placing agency shall provide
14 the individual requesting the information with the identity of the
15 court that confirmed the adoption within 28 days after receipt of
16 the request. If a court receives ~~such~~ a request **DESCRIBED IN THIS**
17 **SUBSECTION**, the court shall provide the individual requesting the
18 information with the identity of the child placing agency that
19 handled the adoption.

20 (4) If the court that terminated parental rights receives from
21 the former parents, ~~or~~ adult former siblings, **OR FORMER**
22 **GRANDPARENTS** of the adult adoptee a request for the identity of the
23 agency, court, or department to which the child was committed, the
24 court shall provide in writing the name of that agency, court, or
25 department, if known, within 28 days after receipt of the request.

26 (5) Upon receipt of a written request for identifying
27 information from an adult adoptee, a child placing agency, a court,

1 or the department, if it maintains the adoption file for that
2 adoptee, shall submit a clearance request form to the central
3 adoption registry. Within 28 days after receipt of a clearance
4 reply form from the central adoption registry, the child placing
5 agency, court, or department shall notify the adoptee in writing of
6 the identifying information to which the adoptee is entitled under
7 subsection (6) or (7), or, if the identifying information cannot be
8 released under those subsections, the reason why the information
9 cannot be released. The child placing agency, court, or department
10 shall retain a copy of the notice sent to the adult adoptee.

11 (6) For adoptions in which the former parents' rights were
12 terminated on or after May 28, 1945 and before September 12, 1980,
13 a child placing agency, a court, or the department shall release to
14 an adult adoptee or to a confidential intermediary appointed under
15 section 68b of this chapter the identifying information described
16 in section 27(3) of this chapter and other identifying information
17 on file with the central adoption registry as specified in section
18 27b of this chapter, in the following manner:

19 (a) All of the identifying information described in section
20 27(3) of this chapter shall be released to the adult adoptee, if
21 both former parents have on file with the central adoption registry
22 a statement consenting to release of the identifying information.

23 (b) The identifying information described in section 27(3)(b)
24 and (c) of this chapter about 1 of the former parents and the
25 identifying information described in section 27(3)(a) and (d) of
26 this chapter shall be released to the adult adoptee if that former
27 parent has on file with the central adoption registry a statement

1 consenting to release of identifying information.

2 (c) The identifying information described in section 27(3)(b)
3 and (c) of this chapter about 1 of the former parents and the
4 identifying information described in section 27(3)(a) and (d) of
5 this chapter shall be released to the adult adoptee if that parent
6 is deceased.

7 (d) All of the identifying information described in section
8 27(3) of this chapter on both former parents shall be released to
9 the adult adoptee, if both former parents are deceased.

10 (e) Upon presentation of a certified copy of the order of
11 appointment, all of the identifying information described in
12 section 27(3) of this chapter shall be released to a confidential
13 intermediary appointed under section 68b of this chapter, together
14 with additional information to assist the confidential intermediary
15 to locate former family members. At the option of the agency or the
16 department, the information may be released to the court for
17 release to the confidential intermediary.

18 (7) For all adoptions in which the former parents' rights were
19 terminated before May 28, 1945 or on or after September 12, 1980, a
20 child placing agency, a court, or the department shall release to
21 an adult adoptee the identifying information described in section
22 27(3) of this chapter and any additional information on file with
23 the central adoption registry as specified in section 27b of this
24 chapter, except that if a former parent has filed a statement
25 currently in effect with the central adoption registry denying
26 consent to have identifying information released, the identifying
27 information specified in section 27(3)(b) and (c) of this chapter

1 shall not be released about that parent. For purposes of this
2 subsection, a denial of consent is not effective after the death of
3 the former parent. This subsection does not apply to adoptions in
4 which the former parents' rights were terminated under chapter XII
5 of this act unless the former parent has filed a statement with the
6 central adoption registry consenting to the release of identifying
7 information.

8 (8) Upon receipt of a written request from an adult adoptee
9 for the name and address of an adult former sibling, a child
10 placing agency, a court, or the department, if it maintains the
11 adoption file for that adoptee, shall submit a clearance request
12 form to the central adoption registry. Within 28 days after receipt
13 of a clearance reply form from the central adoption registry, the
14 child placing agency, court, or department shall notify the adoptee
15 in writing of the name and address of an adult former sibling whose
16 statement was forwarded by the central adoption registry.

17 (9) If a child placing agency or court or the department
18 requests information from the central adoption registry and if the
19 clearance reply form from the central adoption registry indicates
20 that neither of the former parents has on file with the central
21 adoption registry a statement currently in effect denying consent
22 to have identifying information released, the child placing agency,
23 court, or department shall deliver to the adult adoptee a copy of
24 the clearance reply form it received from the central adoption
25 registry. The clearance reply form may be used by the adult adoptee
26 to obtain a copy of his or her original certificate of live birth
27 under section 2882 of the public health code, 1978 PA 368, MCL

1 333.2882. Except for adoptions in which the former parents'
2 parental rights were terminated under chapter XII, ~~of this act,~~
3 this subsection applies to all adoptions in which the parents'
4 rights were terminated before May 28, 1945 or on or after September
5 12, 1980.

6 (10) If a child placing agency, a court, or the department
7 receives written information concerning a physician-verified
8 medical or genetic condition of an individual biologically related
9 to an adoptee and a request that the information be transmitted to
10 the adoptee because of the serious threat it poses to the adoptee's
11 life, the child placing agency, court, or department shall send a
12 written copy of the information by first-class mail within 7 days
13 after the request is received to the adoptee at his or her last
14 known address. If the adoptee is less than 18 years of age, the
15 information shall be sent by first-class mail within 7 days after
16 the request is received to the adoptive parents at their last known
17 address.

18 (11) If the information described in subsection (10) is
19 returned undelivered, the agency, court, or department shall make a
20 reasonable effort to find the most recent address of the adoptee or
21 minor adoptee's parents and shall again send the information by
22 first-class mail within 21 days after receiving the returned
23 letter.

24 (12) If a child placing agency, a court, or the department
25 receives written information concerning a physician-verified
26 medical or genetic condition of a person biologically related to an
27 adoptee, and the condition is not life-threatening to the adoptee,

1 the child placing agency, court, or department shall place the
2 information in its adoption files. If the child placing agency,
3 court, or department receives a written request for the information
4 from the adult adoptee or minor adoptee's adoptive parents, it
5 shall release a written copy of the information to the adult
6 adoptee or to the minor adoptee's adoptive parents within 63 days
7 after the request for the information was made.

8 (13) If a child placing agency, a court, or the department
9 receives written information concerning a physician-verified
10 medical or genetic condition that threatens the life of an adoptee
11 and for which a biologically related person could give life-saving
12 aid, and receives a request from or on behalf of the adoptee that
13 the information be transmitted, the child placing agency, court, or
14 department shall send a written copy of the information by first-
15 class mail within 7 days after the request is received to the
16 biological parents, ~~or~~ adult biological siblings, **OR ADULT**
17 **BIOLOGICAL GRANDPARENTS** of the adoptee at their last known address.

18 (14) If the information described in subsection (13) is
19 returned undelivered, the agency, court, or department shall make a
20 reasonable effort to find the most recent address of the biological
21 parents, ~~or~~ adult biological siblings, **OR BIOLOGICAL GRANDPARENTS**
22 and shall again send the information by first-class mail within 21
23 days after receiving the returned letter.

24 (15) If a child placing agency, a court, or the department
25 provides an adoptee with the name of 1 of the adoptee's former
26 parents, that child placing agency, court, or department shall
27 notify the department ~~of community health~~ of that fact. Upon

1 receipt of notification by the child placing agency ~~OR THE~~ court,
2 or department, **BY INTERDEPARTMENTAL NOTIFICATION**, the department ~~of~~
3 ~~community health shall insure~~ **ENSURE** that the original birth
4 certificate on file for the adoptee has been sealed and that a new
5 birth certificate has been prepared in conformance with section 67
6 of this chapter.

7 (16) An employee or agent of a child placing agency, a court,
8 or the department, who intentionally releases identifying
9 information in violation of this section, is guilty of a
10 misdemeanor.

11 (17) This section also applies to a stepparent adoption and to
12 the adoption of a child related to the petitioner within the fifth
13 degree by marriage, blood, or adoption.

14 (18) As used in this section, "adult adoptee" means an
15 individual who was adopted as a child who is now 18 years of age or
16 older or an individual who was 18 years of age or older at the time
17 of adoption.

18 (19) A child placing agency, a court, and the department may
19 require a fee for supplying information under this section. The fee
20 shall be \$60.00 or the actual cost of supplying the information,
21 whichever is less. The child placing agency, court, or department
22 may waive a part or all of the fee in case of indigency or
23 hardship.

24 (20) A direct descendant of a deceased adult adoptee may
25 request information under this section. All information to which an
26 adult adoptee is entitled under this section shall be released to
27 the adult adoptee's direct descendants if the adult adoptee is

1 deceased.

2 (21) A child placing agency, a court or the department shall
3 permit the children's ombudsman to inspect adoption records in its
4 possession in connection with an investigation authorized under the
5 children's ombudsman act, 1994 PA 204, MCL 722.921 to ~~722.935~~.
6 **722.932**. The ombudsman shall not disclose information obtained by
7 an inspection under this section. If the children's ombudsman
8 requires further information from an individual whose identity is
9 protected in closed adoption records, the ombudsman shall contact
10 the individual discreetly and confidentially. The ombudsman shall
11 inform the individual that his or her participation in the
12 investigation is confidential, is strictly voluntary, and will not
13 alter or constitute a challenge to the adoption. The ombudsman
14 shall honor the individual's request not to be contacted further.
15 As used in this subsection, "children's ombudsman" or "ombudsman"
16 means the ombudsman appointed under section 3 of the children's
17 ombudsman act, 1994 PA 204, MCL 722.923, or his or her designee.

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