

HOUSE BILL No. 5058

October 4, 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,"
(MCL 710.21 to 712B.41) by adding sections 26a and 26b to chapter
X.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

SEC. 26A. (1) A HOSPITAL OR OTHER FACILITY PROVIDING MATERNITY
CARE SHALL PROVIDE A LIST OF COUNSELORS AND COUNSELING SERVICES
COMPILED UNDER SUBSECTION (2) TO ITS MATERNITY PATIENTS WHO ARE
KNOWN TO BE CONSIDERING RELEASING OR TERMINATING PARENTAL RIGHTS
UNDER THIS ACT. THE MATERNITY PATIENT SHALL SIGN AN ACKNOWLEDGMENT
OF RECEIPT OF THE LIST BEFORE BEING DISCHARGED. A COPY OF THE
ACKNOWLEDGMENT OF RECEIPT MUST BE PROVIDED TO THE MATERNITY
PATIENT.

1 (2) THE COURT SHALL COMPILE A LIST OF COUNSELORS AND
2 COUNSELING SERVICES WITHIN THE COUNTY, INCLUDING ALL CHILD PLACING
3 AGENCIES, THAT ARE AVAILABLE TO COUNSEL A PARENT WHO IS
4 CONTEMPLATING RELEASING OR TERMINATING HIS OR HER PARENTAL RIGHTS.
5 THE LIST SHALL BE DISTRIBUTED TO EVERY AGENCY, HOSPITAL, OR OTHER
6 FACILITY PROVIDING MATERNITY CARE WITHIN THE COUNTY AND MUST BE
7 MADE AVAILABLE UPON REQUEST TO ANY HOSPITAL OR ATTENDING
8 PRACTITIONER.

9 (3) BEFORE ENTERING AN ORDER TO TERMINATE PARENTAL RIGHTS
10 UNDER SECTION 51 OF THIS CHAPTER, IF THE PARENT WHOSE RIGHTS ARE TO
11 BE TERMINATED IS PRESENT IN COURT, THE COURT MUST INQUIRE WHETHER
12 HE OR SHE HAS RECEIVED COUNSELING CONCERNING PARENTAL RIGHTS
13 TERMINATION FROM A CHILD PLACING AGENCY OR FROM A COUNSELOR FROM
14 THE LIST PROVIDED BY THE COURT UNDER SUBSECTION (2). IF THE PARENT
15 HAS NOT RECEIVED COUNSELING, THE COURT MAY, WITH THE PARENT'S
16 CONSENT, REFER THE PARENT TO A CHILD PLACING AGENCY OR COUNSELOR ON
17 THE LIST PROVIDED BY THE COURT ACCORDING TO SUBSECTION (2) FOR THE
18 PURPOSE OF RECEIVING COUNSELING. THE COURT SHALL NOT DELAY THE
19 COMPLETION OF ANY HEARING UNDER SECTION 51 OF THIS CHAPTER MORE
20 THAN 15 DAYS IN ORDER TO PROVIDE FOR COUNSELING.

21 (4) A PARENT WHO HAS FILED A PETITION TO RELEASE HIS OR HER
22 PARENTAL RIGHTS, OR HAS EXECUTED A CONSENT TO ADOPTION, AND IS IN
23 NEED OF COUNSELING CONCERNING THAT RELEASE OR CONSENT, MAY APPLY TO
24 THE COURT FOR REFERRAL TO A CHILD PLACING AGENCY OR COUNSELOR ON
25 THE LIST PROVIDED BY THE COURT ACCORDING TO SUBSECTION (2) FOR THE
26 PURPOSE OF RECEIVING COUNSELING. THE COURT, IN ITS DISCRETION, MAY
27 REFER THE PARENT TO COUNSELING IF THE COURT IS SATISFIED THAT

1 COUNSELING WOULD BENEFIT THE PARENT.

2 (5) EXCEPT AS PROVIDED IN THIS SUBSECTION, EACH PETITION FOR
3 ADOPTION FILED UNDER SECTION 24 OF THIS CHAPTER MUST BE ACCOMPANIED
4 BY A FILING FEE IN THE AMOUNT OF \$75.00 THAT SHALL BE PAID INTO A
5 SEGREGATED FUND ESTABLISHED BY THE COUNTY IN ADDITION TO ANY OTHER
6 FILING FEE ESTABLISHED BY THE COURT. THE COUNTY MAY ALSO MAKE
7 SUPPLEMENTAL APPROPRIATIONS TO THE FUND. ALL COSTS OF COUNSELING
8 PROVIDED UNDER SUBSECTION (3) OR (4) TO INDIVIDUALS WHO ARE UNABLE
9 TO PAY FOR THAT COUNSELING SHALL BE PAID FROM THE FUND. A FILING
10 FEE SHALL NOT BE CHARGED UNDER THIS SUBSECTION FOR THE ADOPTION OF
11 A SPECIAL NEEDS CHILD WHO IS ELIGIBLE FOR ADOPTION ASSISTANCE UNDER
12 SECTIONS 115F TO 115M AND 115T OF THE SOCIAL WELFARE ACT, 1939 PA
13 280, MCL 400.115F TO 400.115M AND 400.115T. IN ADDITION, THE COURT
14 MAY REDUCE OR WAIVE THE FEE CHANGED UNDER THIS SUBSECTION IN A CASE
15 OF DEMONSTRATED FINANCIAL HARDSHIP.

16 (6) AS USED IN THIS SECTION AND SECTION 26B OF THIS CHAPTER,
17 "COUNSELOR" MEANS A LICENSED PROFESSIONAL COUNSELOR OR LIMITED
18 LICENSED COUNSELOR AS THOSE TERMS ARE DEFINED IN SECTION 18101 OF
19 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.18101.

20 SEC. 26B. (1) COUNSELING UNDER THIS SECTION SHALL PROVIDE A
21 BIRTH PARENT WITH ASSISTANCE IN UNDERSTANDING THE ADOPTION PROCESS,
22 THE BIRTH PARENT'S RIGHTS AND OBLIGATIONS, THE CONSEQUENCES OF A
23 DECISION TO RELEASE PARENTAL RIGHTS AND ADOPTION.

24 (2) A BIRTH PARENT OR PRESUMPTIVE FATHER, A PUTATIVE FATHER,
25 OR A CHILD PLACING AGENCY OR ATTORNEY APPLYING ON BEHALF OF THE
26 PARENT MAY APPLY FOR COUNSELING FOR THE PARENT UNDER THIS SECTION
27 IF EITHER OF THE FOLLOWING APPLIES:

1 (A) THE PARENT IS CONSIDERING RELEASING PARENTAL RIGHTS WITH
2 RESPECT TO A CHILD OR PLACING A CHILD FOR ADOPTION.

3 (B) THE PARENT HAS RELEASED PARENTAL RIGHTS WITH RESPECT TO A
4 CHILD OR PLACED A CHILD FOR ADOPTION.

5 (3) EACH COURT SHALL COMPILE A LIST OF COUNSELORS AND
6 COUNSELING SERVICE PROVIDERS, INCLUDING AGENCIES, THAT ARE
7 AVAILABLE WITHIN THE COUNTY AND SURROUNDING AREA TO PROVIDE
8 COUNSELING UNDER THIS SECTION.

9 (4) EACH COURT SHALL PROVIDE THE LIST COMPILED UNDER
10 SUBSECTION (3) TO THE FOLLOWING:

11 (A) A HOSPITAL WITHIN THE COUNTY.

12 (B) AN ATTENDING PRACTITIONER WITHIN THE COUNTY.

13 (C) ANY PERSON UPON REQUEST.

14 (5) A HOSPITAL OR ATTENDING PRACTITIONER THAT RECEIVES THE
15 LIST PROVIDED BY THE COURT UNDER SUBSECTION (3) SHALL PROVIDE THAT
16 LIST TO ANY PARENT THE HOSPITAL OR ATTENDING PRACTITIONER KNOWS IS
17 CONSIDERING RELEASING PARENTAL RIGHTS WITH RESPECT TO A CHILD OR
18 PLACING A CHILD FOR ADOPTION.

19 (6) THE DEPARTMENT SHALL PROVIDE NOTICE OF THE AVAILABILITY OF
20 THE LIST PROVIDED BY THE COURT UNDER SUBSECTION (3) TO ANY PERSON
21 FILING EITHER AN ACKNOWLEDGMENT OF PATERNITY OR A CLAIM OF
22 PATERNITY.

23 (7) IF A PARENT DECIDES TO RECEIVE COUNSELING UNDER THIS
24 SECTION, THE PARENT MUST CONTACT THE COURT FOR A REFERRAL
25 AUTHORIZING COUNSELING.

26 (8) THE COURT MUST PROVIDE THE PARENT WITH A REFERRAL
27 AUTHORIZING COUNSELING WITHIN 3 DAYS OF RECEIVING THE REQUEST

1 DESCRIBED UNDER SUBSECTION (7) .

2 (9) THE COURT MUST ADVISE THE PARENT OF THE PROCEDURES TO
3 OBTAIN COUNSELING SERVICES.

4 (10) EACH COUNTY SHALL ESTABLISH A SEPARATE FUND TO PAY FOR
5 ADOPTION-RELATED COUNSELING SERVICES UNDER THIS SECTION. THE SOURCE
6 OF THE COUNSELING FUND SHALL BE THE FEE COLLECTED UNDER SUBSECTION
7 (11) . THE COUNTY MAY MAKE SUPPLEMENTAL APPROPRIATIONS TO THE
8 COUNSELING FUND.

9 (11) EACH REPORT OF INTENTION TO ADOPT FILED UNDER SECTION 24
10 OF THIS CHAPTER MUST BE ACCOMPANIED BY A FILING FEE IN THE AMOUNT
11 OF \$75.00 THAT SHALL BE TRANSFERRED TO THE COUNTY AND DEPOSITED
12 INTO THE COUNSELING FUND ESTABLISHED UNDER SUBSECTION (10) . ALL
13 COSTS OF COUNSELING SERVICES PROVIDED TO INDIVIDUALS WHO, AS
14 DETERMINED BY THE COURT, ARE UNABLE TO PAY FOR THOSE COUNSELING
15 SERVICES SHALL BE PAID FROM THE FUND.

16 (12) A FILING FEE IS NOT REQUIRED UNDER THIS SUBSECTION WITH
17 RESPECT TO ADOPTION OF A SPECIAL NEEDS CHILD WHO IS ELIGIBLE FOR
18 ADOPTION ASSISTANCE UNDER SECTIONS 115F TO 115M AND 115T OF THE
19 SOCIAL WELFARE ACT, 1939 PA 280, MCL 400.115F TO 400.115M AND
20 400.115T.

21 (13) THE COURT MAY REDUCE OR WAIVE THE FILING FEE IN CASES OF
22 DEMONSTRATED FINANCIAL HARDSHIP.

23 (14) EACH COURT MAY DESIGNATE AN AGENCY WITHIN THE COUNTY TO
24 IMPLEMENT THE PROVISIONS OF THIS SECTION.

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