

Act No. 295
Public Acts of 2023
Approved by the Governor
December 12, 2023
Filed with the Secretary of State
December 13, 2023
EFFECTIVE DATE: February 13, 2024

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Reps. Wilson, Hope, Tsernoglou, Paiz, Morse, Miller, Byrnes, Young, Pohutsky, Rheingans, Dievendorf, Hood, Wegela, O'Neal, Breen, Price, Tyrone Carter, Brixie, Morgan, MacDonell, Brenda Carter, Edwards, Brabec, Arbit, Glanville, McKinney, Scott, Conlin, Skaggs and Aiyash

ENROLLED HOUSE BILL No. 4640

AN ACT to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” by amending sections 67 and 68 of chapter X and section 19b of chapter XIIA (MCL 710.67, 710.68, and 712A.19b), section 67 of chapter X as amended by 1994 PA 373, section 68 of chapter X as amended by 2012 PA 385, and section 19b of chapter XIIA as amended by 2018 PA 58.

The People of the State of Michigan enact:

CHAPTER X

Sec. 67. (1) Except as otherwise provided in subsection (4) or in section 68 of this chapter, records of proceedings in adoption cases, including a notice filed under section 33(1) of this chapter, and a petition filed under section 34(1) of this chapter, and the papers and books relating to the proceedings shall be kept in separate locked files and are not open to inspection or copy except upon order of a court of record for good cause shown expressly permitting inspection or copy. Except as otherwise provided in subsection (4) or in section 68 of this chapter, the court, after 21 days following entry of the final order of adoption, shall not permit copy or inspection of the adoption proceedings, except upon a sworn petition setting forth the purpose of the inspection or copy. The court may order notice and a hearing on the petition. The court shall grant or deny the petition in writing within 63 days after the petition is filed, except that for good cause the court may grant or deny the petition after the 63-day period but not later than 182 days after the petition is filed.

(2) A person in charge of adoption records shall not disclose the names of the biological or adoptive parents of an adopted person, unless ordered to do so by a court of record or as provided in subsection (4) or in section 68 of this chapter, except to meet requirements of the director of health and human services for the purpose of creating a new certificate of birth in the adoptive name and sealing the original certificate of birth.

(3) The director of health and human services shall furnish to the adopting parent or parents a certified copy of the new birth certificate that shall not disclose the adoption of the person. A birth certificate issued to an adopted person shall not refer to adoption and shall conform as nearly as possible to the appearance of birth certificates issued in other cases.

(4) After an order of adoption has been entered under section 56 of this chapter, the court shall permit the child advocate to inspect closed adoption records in connection with an investigation authorized under the office of the child advocate act, 1994 PA 204, MCL 722.921 to 722.932. The child advocate shall not disclose information obtained by an inspection under this subsection. If the child advocate requires further information from an individual whose identity is protected in closed adoption records, the child advocate shall contact the individual discreetly and confidentially. The child advocate shall inform the individual that the individual's participation in the child advocate's investigation is confidential, is strictly voluntary, and will not alter or constitute a challenge to the adoption. The child advocate shall honor the individual's request not to be contacted further. As used in this subsection, "child advocate" means the child advocate appointed pursuant to section 3 of the child advocate act, 1994 PA 204, MCL 722.923.

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

(2) Within 63 days after a request for identifying information about an adult adoptee is received, a child placing agency or court or the department shall provide in writing to the former parent or adult former sibling requesting the information the adult adoptee's most recent name and address if the adult adoptee has given written consent to release of the information according to this chapter. If the adult adoptee has not given written consent to the release of information, the child placing agency, the court, or the department shall, upon presentation of a certified copy of the order of appointment, give the adult adoptee's name and address to a confidential intermediary appointed under section 68b of this chapter, together with any other information in its possession that would help the confidential intermediary locate the adult adoptee. At the option of the child placing agency or the department, the information may be released to the court for release to the confidential intermediary.

(3) If the department or a child placing agency receives a request for adoption record information in its possession from an adult adoptee, former parent, or adult former sibling, the department or child placing agency shall provide the individual requesting the information with the identity of the court that confirmed the adoption within 28 days after receipt of the request. If a court receives such a request, the court shall provide the individual requesting the information with the identity of the child placing agency that handled the adoption.

(4) If the court that terminated parental rights receives from the former parents or adult former siblings of the adult adoptee a request for the identity of the child placing agency, court, or department to which the child was committed, the court shall provide in writing the name of that child placing agency, court, or department, if known, within 28 days after receipt of the request.

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

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

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

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

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

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

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

(7) For all adoptions in which the former parents' rights were terminated before May 28, 1945 or on or after September 12, 1980, a child placing agency, a court, or the department shall release to an adult adoptee the identifying information described in section 27(3) of this chapter and any additional information on file with the central adoption registry as specified in section 27b of this chapter, except that if a former parent has filed a statement currently in effect with the central adoption registry denying consent to have identifying information released, the identifying information specified in section 27(3)(b) and (c) of this chapter shall not be released about that parent. For purposes of this subsection, a denial of consent is not effective after the death of the former parent. This subsection does not apply to adoptions in which the former parents' rights were terminated under chapter XII of this act unless the former parent has filed a statement with the central adoption registry consenting to the release of identifying information.

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

(9) If a child placing agency, court, or the department requests information from the central adoption registry and if the clearance reply form from the central adoption registry indicates that neither of the former parents has on file with the central adoption registry a statement currently in effect denying consent to have identifying information released, the child placing agency, court, or department shall deliver to the adult adoptee a copy of the clearance reply form it received from the central adoption registry. The clearance reply form may be used by the adult adoptee to obtain a copy of the adult adoptee's original certificate of live birth under section 2882 of the public health code, 1978 PA 368, MCL 333.2882. Except for adoptions in which the former parents' parental rights were terminated under chapter XII of this act, this subsection applies to all adoptions in which the parents' rights were terminated before May 28, 1945 or on or after September 12, 1980.

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

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

(12) If a child placing agency, a court, or the department receives written information concerning a physician-verified medical or genetic condition of a person biologically related to an adoptee, and the condition is not life-threatening to the adoptee, the child placing agency, court, or department shall place the information in its adoption files. If the child placing agency, court, or department receives a written request for the information from the adult adoptee or minor adoptee's adoptive parents, it shall release a written copy of the information to the adult adoptee or to the minor adoptee's adoptive parents within 63 days after the request for the information was made.

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

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

(15) If a child placing agency, a court, or the department provides an adoptee with the name of 1 of the adoptee's former parents, that child placing agency, court, or department shall notify the department of health and human services of that fact. Upon receipt of notification by the child placing agency, court, or department, the department of health and human services shall ensure that the original birth certificate on file for the adoptee has been sealed and that a new birth certificate has been prepared in conformance with section 67 of this chapter.

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

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

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

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

(20) A child placing agency, a court or the department shall permit the child advocate to inspect adoption records in its possession in connection with an investigation authorized under the child advocate act, 1994 PA 204, MCL 722.921 to 722.932. The child advocate shall not disclose information obtained by an inspection under this section. If the child advocate requires further information from an individual whose identity is protected in closed adoption records, the child advocate shall contact the individual discreetly and confidentially. The child advocate shall inform the individual that the individual's participation in the investigation is confidential, is strictly voluntary, and will not alter or constitute a challenge to the adoption. The child advocate shall honor the individual's request not to be contacted further.

(21) As used in this section:

(a) "Adult adoptee" means an individual who was adopted as a child who is now 18 years of age or older or an individual who was 18 years of age or older at the time of adoption.

(b) "Child advocate" means the child advocate appointed under section 3 of the child advocate act, 1994 PA 204, MCL 722.923, or the child advocate's designee.

CHAPTER XIII

Sec. 19b. (1) Except as provided in subsection (4), if a child remains in foster care in the temporary custody of the court following a review hearing under section 19(3) of this chapter or a permanency planning hearing under section 19a of this chapter or if a child remains in the custody of a guardian or limited guardian, upon petition of the prosecuting attorney, whether or not the prosecuting attorney is representing or acting as legal consultant to the agency or any other party, or petition of the child, guardian, custodian, concerned person, agency, or child advocate as authorized in section 7 of the child advocate act, 1994 PA 204, MCL 722.927, the court shall hold a hearing to determine if the parental rights to a child should be terminated and, if all parental rights to the child are terminated, the child placed in permanent custody of the court. The court shall state on the record or in writing its findings of fact and conclusions of law with respect to whether or not parental rights should be terminated. The court shall issue an opinion or order regarding a petition for termination of parental rights within 70 days after the commencement of the initial hearing on the petition. The court's failure to issue an opinion within 70 days does not dismiss the petition.

(2) Not less than 14 days before a hearing to determine if the parental rights to a child should be terminated, written notice of the hearing shall be served upon all of the following:

(a) The agency. The agency shall advise the child of the hearing if the child is 11 years of age or older.

(b) The child's foster parent or custodian.

(c) The child's parents.

(d) If the child has a guardian, the child's guardian.

(e) If the child has a guardian ad litem, the child's guardian ad litem.

(f) If tribal affiliation has been determined, the Indian tribe's elected leader.

- (g) The child's attorney and each party's attorney.
- (h) If the child is 11 years of age or older, the child.
- (i) The prosecutor.

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

(a) The child has been deserted under either of the following circumstances:

(i) The child's parent is unidentifiable, has deserted the child for 28 or more days, and has not sought custody of the child during that period. For the purposes of this section, a parent is unidentifiable if the parent's identity cannot be ascertained after reasonable efforts have been made to locate and identify the parent.

(ii) The child's parent has deserted the child for 91 or more days and has not sought custody of the child during that period.

(b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

(i) The parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home.

(ii) The parent who had the opportunity to prevent the physical injury or physical or sexual abuse failed to do so and the court finds that there is a reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if placed in the parent's home.

(iii) A nonparent adult's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse by the nonparent adult in the foreseeable future if placed in the parent's home.

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(ii) Other conditions exist that cause the child to come within the court's jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(d) The child's parent has placed the child in a limited guardianship under section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, and has substantially failed, without good cause, to comply with a limited guardianship placement plan described in section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, regarding the child to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.

(e) The child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and the parent has substantially failed, without good cause, to comply with a court-structured plan described in section 5207 or 5209 of the estates and protected individuals code, 1998 PA 386, MCL 700.5207 and 700.5209, regarding the child to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.

(f) The child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and both of the following have occurred:

(i) The parent, having the ability to support or assist in supporting the minor, has failed or neglected, without good cause, to provide regular and substantial support for the minor for a period of 2 years or more before the filing of the petition or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the petition.

(ii) The parent, having the ability to visit, contact, or communicate with the minor, has regularly and substantially failed or neglected, without good cause, to do so for a period of 2 years or more before the filing of the petition.

(g) The parent, although, in the court's discretion, financially able to do so, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(h) The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(i) Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and the parent has failed to rectify the conditions that led to the prior termination of parental rights.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if the child is returned to the home of the parent.

(k) The parent abused the child or a sibling of the child, the abuse included 1 or more of the following, and there is a reasonable likelihood that the child will be harmed if returned to the care of the parent:

(i) Abandonment of a young child.

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

(iii) Battering, torture, or other severe physical abuse.

(iv) Loss or serious impairment of an organ or limb.

(v) Life-threatening injury.

(vi) Murder or attempted murder.

(vii) Voluntary manslaughter.

(viii) Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

(ix) Sexual abuse as that term is defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(l) The parent's rights to another child were voluntarily terminated following the initiation of proceedings under section 2(b) of this chapter or a similar law of another state and the proceeding involved abuse that included 1 or more of the following, and the parent has failed to rectify the conditions that led to the prior termination of parental rights:

(i) Abandonment of a young child.

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

(iii) Battering, torture, or other severe physical abuse.

(iv) Loss or serious impairment of an organ or limb.

(v) Life-threatening injury.

(vi) Murder or attempted murder.

(vii) Voluntary manslaughter.

(viii) Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

(ix) Sexual abuse as that term is defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(m) The parent is convicted of 1 or more of the following, and the court determines that termination is in the child's best interests because continuing the parent-child relationship with the parent would be harmful to the child:

(i) A violation of section 136, 136a, 316, 317, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136, 750.136a, 750.316, 750.317, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(ii) A violation of a criminal statute that includes as an element the use of force or the threat of force and that subjects the parent to sentencing under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

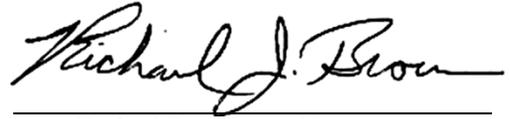
(iii) A federal law or law of another state with provisions substantially similar to a crime or procedure listed or described in subparagraph (i) or (ii).

(4) If a petition to terminate the parental rights to a child is filed, the court may enter an order terminating parental rights under subsection (3) at the initial dispositional hearing. If a petition to terminate parental rights to a child is filed, the court may suspend parenting time for a parent who is a subject of the petition.

(5) If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made.

(6) As used in this section, "concerned person" means a foster parent with whom the child is living or has lived who has specific knowledge of behavior by the parent constituting grounds for termination under subsection (3)(b) or (g) and who has contacted the department, the prosecuting attorney, the child's attorney, and the child's guardian ad litem, if any, and is satisfied that none of these persons intend to file a petition under this section.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 432 or House Bill No. 4638 of the 102nd Legislature is enacted into law.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor