



1 capricious. A motion under this subsection shall contain  
2 information regarding both of the following:

3 (a) The specific steps taken by the petitioner to obtain the  
4 consent required and the results, if any.

5 (b) The specific reasons why the petitioner believes the  
6 decision to withhold consent was arbitrary and capricious.

7 (3) If consent has been given to another petitioner and if  
8 the child has been placed with that other petitioner ~~pursuant~~  
9 **according** to an order under section 51 of this chapter, a motion  
10 under this section shall not be brought after either of the  
11 following:

12 (a) Fifty-six days following the entry of the order placing  
13 the child.

14 (b) Entry of an order of adoption.

15 (4) **The court shall provide notice of a motion brought under**  
16 **this section to all persons with an interest in the proceedings**  
17 **as set forth in section 24a of this chapter, including, but not**  
18 **limited to, all of the following:**

19 (a) **The prospective adoptive parents.**

20 (b) **The child's attorney or guardian ad litem appointed by a**  
21 **court of competent jurisdiction to represent the interests of the**  
22 **adoptee.**

23 (c) **Any other agency, department, or individual with a**  
24 **legitimate interest in the outcome of the motion.**

25 (5) **The court shall provide notice of a motion brought under**  
26 **this section to all interested parties as described in section**  
27 **24a(1) of this chapter.**

1           **(6)** ~~-(4)-~~ Upon the filing of a petition to adopt a child and  
2 the motion described in subsection (2), the court may waive or  
3 modify the full investigation of the petition provided in  
4 section 46 of this chapter. The court shall decide the motion  
5 within 91 days after the filing of the motion unless good cause  
6 is shown.

7           **(7)** ~~-(5)-~~ Unless the petitioner establishes by clear and  
8 convincing evidence that the decision to withhold consent was  
9 arbitrary and capricious, the court shall deny the motion  
10 described in subsection (2) and dismiss the petition to adopt.

11           **(8)** ~~-(6)-~~ If the court finds by clear and convincing evidence  
12 that the decision to withhold consent was arbitrary and  
13 capricious, the court may terminate the rights of the appropriate  
14 court, child placing agency, or department and may enter further  
15 orders in accordance with this chapter or section 18 of  
16 chapter XIIIA as the court considers appropriate. In addition,  
17 the court may grant to the petitioner reimbursement for  
18 petitioner's costs of preparing, filing, and arguing the motion  
19 alleging the withholding of consent was arbitrary and capricious,  
20 including a reasonable allowance for attorney fees.

21           **(9)** ~~-(7)-~~ If the consent at issue is that required of the  
22 court under section 43(1)(c) of this chapter, the motion shall be  
23 heard by a visiting judge assigned ~~pursuant~~ **according** to  
24 section 8212 of the revised judicature act of 1961, ~~Act No. 236~~  
25 ~~of the Public Acts of 1961, being section 600.8212 of the~~  
26 ~~Michigan Compiled Laws~~ **1961 PA 236, MCL 600.8212.**

27           **(10) In making a decision on a motion filed under this**

1 section, the court shall make a written determination regarding  
2 the best interests of the child.

3 (11) For a motion brought under this section, the court shall  
4 provide all interested parties with the opportunity for a fair  
5 hearing. All interested parties shall be allowed to offer  
6 testimony and documentation regarding their position on the  
7 motion or on the adoption of the child.

8 (12) If a motion or petition filed under this section does  
9 not meet all of the filing requirements of this section, the  
10 court shall notify the petitioner of the deficiencies in the  
11 motion or petition and allow 21 days for the petitioner to  
12 correct the motion or petition. If, after 21 days from  
13 notification of the deficiencies by the court, the petitioner has  
14 not corrected the deficiencies in the motion or petition, the  
15 court shall dismiss the motion or petition.

16 (13) In a matter in which a motion has been brought under  
17 this section, the court shall not enter an order of adoption  
18 until 1 of the following occurs:

19 (a) The motion is heard and decided, and the time within  
20 which an appeal as of right has expired without an appeal being  
21 filed.

22 (b) The motion is heard and decided, an appeal as of right  
23 has been filed, the court of appeals has issued an opinion, and  
24 the time within which to file an application for leave to appeal  
25 to the supreme court has expired without an application being  
26 filed.

27 (c) The supreme court has denied an application for leave to

1 appeal or, if an application for leave to appeal is granted, the  
2 supreme court has issued an opinion.