

SUBSTITUTE FOR
HOUSE BILL NO. 6010

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 21a, 22, 23a, 23d, 24, and 24a of chapter X
(MCL 710.21a, 710.22, 710.23a, 710.23d, 710.24, and 710.24a),
section 21a as added by 1982 PA 72, sections 22, 24, and 24a as
amended by 1996 PA 409, section 23a as amended by 1994 PA 373,
and section 23d as amended by 2004 PA 68.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER X

2

Sec. 21a. The general purposes of this chapter are:

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(a) To provide that each adoptee in this state who needs

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adoption services receives those services.

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(b) To provide procedures and services ~~which~~ **that** will

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safeguard and promote the best interests of each adoptee in need

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of adoption and ~~which~~ **that** will protect the rights of all

1 parties concerned. If conflicts arise between the rights of the
2 adoptee and the rights of another, the rights of the adoptee
3 shall be paramount.

4 (c) To provide prompt legal proceedings to assure that the
5 adoptee is free for adoptive placement at the earliest possible
6 time.

7 (d) **To achieve permanency and stability for adoptive children**
8 **as quickly as possible.**

9 (e) **To support the permanency of a finalized adoption by**
10 **allowing all interested parties to participate in proceedings**
11 **regarding the adoptive child.**

12 Sec. 22. As used in this chapter:

13 (a) "Adoptee" means the individual who is to be adopted,
14 regardless of whether the individual is a child or an adult.

15 (b) "Adoption attorney" means an attorney acting as counsel
16 in a direct placement adoption who meets all of the following
17 requirements:

18 (i) Has completed at least 12 hours of continuing education
19 in this state during the past 5 years in courses integrating the
20 legal and social aspects of adoption.

21 (ii) Maintains an up-to-date file of individuals licensed or
22 registered under either the public health code, ~~Act No. 368 of~~
23 ~~the Public Acts of 1978, being sections 333.1101 to 333.25211 of~~
24 ~~the Michigan Compiled Laws 1978 PA 368, MCL 333.1101 to~~
25 ~~333.25211, or the occupational code, Act No. 299 of the Public~~
26 ~~Acts of 1980, being sections 339.101 to 339.2721 of the Michigan~~
27 ~~Compiled Laws 1980 PA 299, MCL 339.101 to 339.2721, and agencies~~

1 to whom referrals may be made for counseling services needed by
2 an adoption client.

3 (iii) Has registered as an adoption attorney with the
4 children's ombudsman as provided in section 5 of the foster care
5 and adoption services act, ~~Act No. 203 of the Public Acts of~~
6 ~~1994, being sections 722.951 to 722.960 of the Michigan Compiled~~
7 ~~Laws~~ **1994 PA 203, MCL 722.951 to 722.960.**

8 (c) "Adult former sibling" means an individual who is 18
9 years of age or older and is related to an adult adoptee either
10 biologically or through adoption by at least 1 common parent,
11 regardless of whether the adult former sibling ever lived in the
12 same household as the adult adoptee.

13 (d) "Agency placement" means a placement in which a child
14 placing agency, the department, or a court selects the adoptive
15 parent for the child and transfers physical custody of the child
16 to the prospective adoptive parent.

17 (e) "Attending practitioner" means a licensed physician or a
18 registered professional nurse certified as a nurse midwife by the
19 Michigan board of nursing.

20 (f) "Best interests of the adoptee" or "best interests of the
21 child" means the sum total of the following factors to be
22 considered, evaluated, and determined by the court to be applied
23 to give the adoptee permanence at the earliest possible date:

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

1 (ii) The capacity and disposition of the adopting individual
2 or individuals or, in the case of a hearing under section 39 of
3 this chapter, the putative father to give the adoptee love,
4 affection, and guidance, and to educate and create a milieu that
5 fosters the religion, racial identity, and culture of the
6 adoptee.

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

13 (iv) The length of time the adoptee has lived in a stable,
14 satisfactory environment, and the desirability of maintaining
15 continuity.

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

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

22 (vii) The mental and physical health of the adopting
23 individual or individuals or, in the case of a hearing under
24 section 39 of this chapter, of the putative father, and of the
25 adoptee.

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

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

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

6 (xi) Any other factor considered by the court to be relevant
7 to a particular adoption proceeding, or to a putative father's
8 request for child custody.

9 (g) "Born out of wedlock" means a child conceived and born to
10 a woman who was not married from the conception to the date of
11 birth of the child, or a child whom the court has determined to
12 be a child born during a marriage but not the issue of that
13 marriage.

14 (h) "Central adoption registry" means the registry
15 established by the department ~~pursuant to~~ **under** section 27b of
16 this chapter to control the release of identifying adoption
17 information.

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

19 (j) "Child placing agency" means a private organization
20 licensed under ~~Act No. 116 of the Public Acts of 1973, being~~
21 ~~sections 722.111 to 722.128 of the Michigan Compiled Laws 1973~~
22 **PA 116, MCL 722.111 to 722.128**, to place children for adoption.

23 (k) "Consent" means a document in which all parental rights
24 over a specific child are voluntarily relinquished to the court
25 for placement with a specific adoptive parent.

26 (l) "Court" means the family division of circuit court of
27 this state, or ~~when~~ **if** the context requires, the court having

1 jurisdiction over adoption in another state or country.

2 (m) "Department" means the family independence agency.

3 (n) "Direct placement" means a placement in which a parent or
4 guardian selects an adoptive parent for a child, other than a
5 stepparent or an individual related to the child within the fifth
6 degree by marriage, blood, or adoption, and transfers physical
7 custody of the child to the prospective adoptive parent.

8 (o) "Formal placement" means a placement that is approved by
9 the court under section 51 of this chapter.

10 (p) "Person" means an individual, partnership, corporation,
11 association, governmental entity, or other legal entity.

12 (q) "Petitioner", except as used in section 68b of this
13 chapter, means the individual or individuals who file an adoption
14 petition with the court.

15 (r) "Placement" or "to place" means selection of an adoptive
16 parent for a child and transfer of physical custody of the child
17 to a prospective adoptive parent ~~pursuant~~ **according** to this
18 chapter.

19 (s) **"Prospective adoptive parent" means an individual who has**
20 **filed a petition for adoption that has not yet been adjudicated.**

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

23 (u) ~~(s)~~ "Release" means a document in which all parental
24 rights over a specific child are voluntarily relinquished to the
25 department or to a child placing agency.

26 (v) ~~(t)~~ "Rescission petition" means a petition filed by an
27 adult adoptee and his or her parent whose rights have been

1 terminated to rescind the adoption in which a stepparent acquired
 2 parental rights and to restore parental rights of that parent
 3 ~~pursuant~~ **according** to section 66 of this chapter.

4 **(w)** ~~-(u)-~~ "Suitable to be a parent of an adoptee" means a
 5 conclusion that there is no specific concern with respect to an
 6 individual that would suggest that placement of any child, or a
 7 particular child, in the home of the individual would pose a risk
 8 of harm to the physical or psychological well-being of the
 9 child.

10 **(x)** ~~-(v)-~~ "Temporary placement" means a placement that occurs
 11 before court approval under section 51 of this chapter and that
 12 meets the requirements of section 23d of this chapter.

13 **(y)** ~~-(w)-~~ "Within the fifth degree by marriage, blood, or
 14 adoption" means any of the following relationships: parent,
 15 step-parent, grandparent, step-grandparent, brother,
 16 step-brother, sister, step-sister, uncle, step-uncle, aunt,
 17 step-aunt, first cousin, step-first cousin, great aunt,
 18 step-great aunt, great uncle, step-great uncle, great
 19 grandparent, step-great grandparent, first cousin once removed,
 20 step-first cousin once removed, great great grandparent,
 21 step-great great grandparent, great great uncle, step-great great
 22 uncle, great great aunt, step-great great aunt, great great great
 23 grandparent, or step-great great great grandparent.

24 Sec. 23a. (1) A parent or guardian having legal and
 25 physical custody of a child may make a direct placement of the
 26 child for adoption by making a temporary placement under
 27 section 23d of this chapter or a formal placement under

1 section 51 of this chapter. A temporary placement becomes a
2 formal placement when the court orders the termination of the
3 rights of the parent or parents or the guardian and approves
4 placement ~~pursuant to~~ **under** section 51 of this chapter. A
5 formal placement under section 51 of this chapter ~~does~~ **is** not
6 ~~have~~ **required** to be preceded by a temporary placement.

7 (2) A parent or guardian shall personally select a
8 prospective adoptive parent in a direct placement. The selection
9 shall not be delegated.

10 (3) In a direct placement the prospective adoptive parent, an
11 adoption attorney, or a child placing agency shall provide
12 information about a prospective adoptive parent to the parent or
13 guardian before placement. This information shall include the
14 specific information contained in a preplacement assessment as
15 described in section 23f of this chapter, and may include
16 additional information requested by the parent or guardian. The
17 information does not have to include identifying information
18 described in section 27(3) of this chapter. The parent or
19 guardian and the prospective adoptive parent shall determine
20 whether to exchange identifying information and whether to meet
21 each other.

22 (4) A parent or guardian having legal and physical custody of
23 a child may make a formal placement of the child for adoption
24 under section 51 of this chapter with a stepparent or ~~an~~
25 ~~individual who is related to the child within the fifth degree by~~
26 ~~marriage, blood, or adoption~~ **a relative.**

27 (5) **The court may allow the child to attend his or her**

1 adoption hearing held under this act.

2 Sec. 23d. (1) In a direct placement, a parent or guardian
3 with legal and physical custody of a child may make a temporary
4 placement of the child as prescribed by this section. In an
5 agency placement, a child placing agency with written
6 authorization from the parent or guardian as prescribed by
7 section 23b of this chapter may make a temporary placement of the
8 child as prescribed by this section. A temporary placement shall
9 meet all of the following requirements:

10 (a) The prospective adoptive parent with whom a child is
11 temporarily placed has had a preplacement assessment completed
12 within 1 year before the date of the transfer with a finding that
13 the prospective adoptive parent is suitable to be a parent of an
14 adoptee.

15 (b) In a direct placement, the parent or guardian is assisted
16 by an adoption attorney or a child placing agency.

17 (c) In the presence of a witness who also signs the document,
18 the parent, guardian, or representative of the child placing
19 agency signs a statement evidencing the transfer of physical
20 custody of the child. If the parent making the temporary
21 placement is an unemancipated minor, the statement is not valid
22 unless it is also signed in the presence of the witness by a
23 parent or guardian of that minor parent. The statement shall
24 contain all of the following:

25 (i) The date of the transfer of physical custody.

26 (ii) Language providing that the transfer is for the purpose
27 of adoption by the prospective adoptive parent.

1 (iii) Language indicating that unless the parent or guardian
2 and the prospective adoptive parent agree otherwise, the
3 prospective adoptive parent has the authority to consent to all
4 medical, surgical, psychological, educational, and related
5 services for the child and language indicating that the parent or
6 guardian otherwise retains full parental rights to the child
7 being temporarily placed and that the temporary placement may be
8 revoked by the filing of a petition under subsection (5).

9 (iv) Language providing that the person making the transfer
10 has read a preplacement assessment of the prospective adoptive
11 parent completed or updated within 1 year before the date of the
12 transfer with a finding that the prospective adoptive parent is
13 suitable to be a parent of an adoptee. If a child placing agency
14 makes the transfer of physical custody, the statement shall
15 include a verification that the child placing agency has given
16 the parent or guardian who authorized the temporary placement an
17 opportunity to review the preplacement assessment.

18 (v) Even if only 1 parent is making the temporary placement,
19 the name and address of both parents of the child, including in
20 the case of a child born out of wedlock, the name and the address
21 of each putative father of the child, if known.

22 (d) In the presence of a witness who also signs the document,
23 the prospective adoptive parent signs a statement setting forth
24 the date of the transfer of physical custody and the name and
25 address of the prospective adoptive parent and attesting to all
26 of the following:

27 (i) That the prospective adoptive parent understands that the

1 temporary placement will not become a formal placement until the
2 parents consent or release their parental rights and the court
3 orders the termination of parental rights and approves the
4 placement and that the prospective adoptive parent must
5 relinquish custody of the child within 24 hours after being
6 served with an order under section 23e(2) of this chapter.

7 (ii) That, if the prospective adoptive parent is a Michigan
8 resident, the prospective adoptive parent agrees to reside with
9 the child in Michigan until formal placement occurs.

10 (iii) That the prospective adoptive parent agrees to obtain
11 approval in compliance with the interstate compact on the
12 placement of children, 1984 PA 114, MCL 3.711 to 3.717, before
13 the child is sent, brought, or caused to be sent or brought into
14 a receiving state as that term is defined in section 1 of the
15 interstate compact on the placement of children, 1984 PA 114, MCL
16 3.711.

17 (iv) That the prospective adoptive parent submits to this
18 state's jurisdiction.

19 (2) Not later than 2 days, excluding weekends and holidays,
20 after a transfer of physical custody of a child in accordance
21 with subsection (1), the adoption attorney or child placing
22 agency who assists with the temporary placement or the child
23 placing agency that makes the temporary placement shall submit to
24 the court in the county in which the child's parent or guardian
25 or the prospective adoptive parent resides, or in which the child
26 is found, a report that contains all of the following:

27 (a) The date of the transfer of physical custody.

1 (b) The name and address of the parent or guardian or the
2 child placing agency who made the temporary placement.

3 (c) The name and address of the prospective adoptive parent
4 with whom the temporary placement was made.

5 (d) Even if only 1 parent is making the temporary placement,
6 the name and address of both parents of the child, including, in
7 the case of a child born out of wedlock, the name of each
8 putative father, if known.

9 (e) The documents required under subsection (1)(c) and (d)
10 and, if applicable, the authorization required under section 23b
11 of this chapter.

12 (3) Not later than 30 days after the transfer of physical
13 custody of a child under this section, the adoption attorney or
14 child placing agency who assists with the temporary placement or
15 the child placing agency that makes the temporary placement shall
16 submit to the court that received the report described in
17 subsection (2) a report indicating whether or not 1 of the
18 following dispositions has occurred:

19 (a) A petition for adoption of the child has been filed.

20 (b) The child has been returned to the agency or to a parent
21 or other person having legal custody.

22 (4) If the court has not received the report required under
23 subsection (3) within 45 days after the transfer of physical
24 custody of a child, the court shall immediately investigate and
25 determine whether an adoption petition has been filed or the
26 child has been returned to a parent or other person having legal
27 custody. If the report required under subsection (3) or the

1 court's investigation reveals that neither disposition has
2 occurred, the court shall immediately report to the prosecutor,
3 who shall immediately file a petition in the court that received
4 the report described in subsection (2) for disposition of the
5 child as required by section 23e of this chapter. If a petition
6 has been filed under subsection (5), (6), or (7), the prosecutor
7 is not required to file a petition.

8 (5) A parent or guardian who wishes to regain custody of a
9 child who has been placed temporarily shall file a petition in
10 the court that received the report described in subsection (2)
11 requesting that the temporary placement be revoked and that the
12 child be returned to the parent or guardian. Upon request of the
13 parent or guardian, the adoption attorney or child placing agency
14 who assisted in making the temporary placement shall assist the
15 parent or guardian in filing the petition to revoke the temporary
16 placement. If the temporary placement was made by a child
17 placing agency under section 23b(3) of this chapter, the child
18 placing agency shall file the petition on behalf of a parent or
19 guardian who wishes to regain custody of the child.

20 (6) If a prospective adoptive parent with whom a child has
21 been temporarily placed is either unwilling or unable to proceed
22 with the adoption, the prospective adoptive parent may file a
23 petition in the court that received the report described in
24 subsection (2) for disposition of the child as required by
25 section 23e of this chapter.

26 (7) If a child placing agency that temporarily placed a child
27 is unable to proceed with an adoption because of the

1 unavailability of a parent or guardian to execute a release, or
2 if a child placing agency with legal custody of a child decides
3 not to proceed with the adoption by a prospective adoptive parent
4 with whom the child has been temporarily placed and the
5 prospective adoptive parent refuses upon the agency's request to
6 return the child to the agency, the child placing agency shall
7 file a petition in the court that received the report described
8 in subsection (2) for disposition of the child as required by
9 section 23e of this chapter.

10 (8) Except as otherwise agreed to by the parties, the
11 prospective adoptive parent with whom a child is temporarily
12 placed under this section may consent to all medical, surgical,
13 psychological, educational, and related services for the child.

14 (9) A hospital or attending practitioner shall not release a
15 child to an individual or agency not otherwise legally entitled
16 to the physical custody of the child unless all of the
17 requirements of subsection (1) are met.

18 (10) **A petition filed under this section shall be filed with**
19 **the court of the county where the parent's parental rights were**
20 **terminated or are pending termination. If both parents' parental**
21 **rights were terminated at different times and in different**
22 **courts, a petition filed under this section shall be filed in the**
23 **court of the county where parental rights were first terminated.**
24 **That court may transfer jurisdiction to another court in another**
25 **county at the court's discretion.**

26 Sec. 24. (1) If a person desires to adopt a child or an
27 adult and to bestow upon the adoptee his or her family name, or

1 to adopt a child or an adult without a change of name, with the
2 intent to make the adoptee his or her heir, that person, together
3 with his wife or her husband, if married, shall file a petition
4 with the court of the county ~~in which the petitioner resides or~~
5 ~~where the adoptee is found~~ **where the parent's parental rights**
6 **were terminated or are pending termination. If both parents'**
7 **parental rights were terminated at different times and in**
8 **different courts, a petition filed under this section shall be**
9 **filed in the court of the county where parental rights were first**
10 **terminated. That court may transfer jurisdiction to another**
11 **court in another county at the court's discretion.** If there has
12 been a temporary placement of the child, the petition for
13 adoption shall be filed with the court that received the report
14 described in section 23d(2) of this chapter.

15 (2) The petition for adoption shall be verified by each
16 petitioner and shall contain the following information:

17 (a) The name, date and place of birth, and place of residence
18 of each petitioner, including the maiden name of the adopting
19 mother.

20 (b) Except as otherwise provided in subsection (5), the name,
21 date and place of birth, and place of residence if known of the
22 adoptee.

23 (c) The relationship, if any, of the adoptee to the
24 petitioner.

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

27 (e) The full description of the property, if any, of the

1 adoptee.

2 (f) Unless the rights of the parents have been terminated by
3 a court of competent jurisdiction or except as otherwise provided
4 in subsection (5), the names of the parents of the adoptee and
5 the place of residence of each living parent if known.

6 (g) Except as otherwise provided in subsection (5), the name
7 and place of residence of the guardian of the person or estate of
8 the adoptee, if any has been appointed.

9 (3) In a direct placement, the petitioner shall attach to the
10 petition a verified statement certifying that the petitioner has
11 been informed of the availability of counseling services and
12 whether the petitioner has received counseling.

13 (4) Except as otherwise provided in this subsection, in a
14 direct placement, the petitioner shall attach a copy of a
15 preplacement assessment of the petitioner completed or updated
16 within 1 year before the petition is filed with a finding that
17 the petitioner is suitable to be a parent of an adoptee, copies
18 of all other preplacement assessments of the petitioner, if any
19 others have been completed, and a verified statement stating that
20 no preplacement assessments of the petitioner have been completed
21 other than those attached to the petition and explaining any
22 preplacement assessments of the petitioner that have been
23 initiated but not completed. If the petitioner is seeking review
24 of a preplacement assessment under section 23f(8) of this
25 chapter, the petitioner may comply with this subsection by
26 attaching a copy of that preplacement assessment and a copy of
27 the application for review, together with copies of all other

1 preplacement assessments and the verified statement required by
2 this section.

3 (5) In a direct placement in which the parties have elected
4 not to exchange identifying information, the information required
5 by subsection (2)(f) and (g) and the surname and place of
6 residence of the adoptee required under subsection (2)(b) may be
7 omitted. The attorney or child placing agency assisting in the
8 adoption shall file a verified statement containing the omitted
9 information.

10 Sec. 24a. (1) Interested parties in a petition for adoption
11 are all of the following:

12 (a) The petitioner.

13 (b) The adoptee, if over 14 years of age.

14 (c) A minor parent, adult parent, or surviving parent of an
15 adoptee, unless 1 or more of the following apply:

16 (i) The rights of the parent have been terminated by a court
17 of competent jurisdiction.

18 (ii) A guardian of the adoptee, with specific authority to
19 consent to adoption, has been appointed.

20 (iii) A guardian of the parent, with specific authority to
21 consent to adoption, has been appointed.

22 (iv) The rights of the parent have been released.

23 (v) The parent has consented to the granting of the
24 petition.

25 (d) The department or a child placing agency to which the
26 adoptee has been, or for purposes of subsection (3) is proposed
27 to be, released or committed by an order of the court.

1 (e) A parent, guardian, or guardian ad litem of an
2 unemancipated minor parent of the adoptee.

3 (f) The court with permanent custody of the adoptee.

4 (g) A court with continuing jurisdiction over the adoptee.

5 (h) A child placing agency of another state or country that
6 has authority to consent to adoption.

7 (i) The guardian or guardian ad litem of an interested
8 party.

9 **(j) The prospective adoptive parents.**

10 (2) Interested parties in a petition for a hearing to
11 identify the father of an adoptee and to determine or terminate
12 his rights are all of the following:

13 (a) The persons set forth in subsection (1).

14 (b) A putative father of the adoptee.

15 (3) Interested parties in a proceeding relating to the
16 execution of a voluntary release are all of the following:

17 (a) The adoptee, if over 5 years of age.

18 (b) The department or a child placing agency to which the
19 adoptee is proposed to be released.

20 (c) The person executing the release of parental rights.

21 **(d) Guardian or guardian ad litem of an interested person if**
22 **a guardian or guardian ad litem has been appointed.**

23 (4) Interested parties in a rescission petition are all of
24 the following:

25 (a) The petitioners.

26 (b) The stepparent who adopted the adult adoptee.

27 (c) The spouse of the parent whose rights were terminated.

1 (5) Interested parties in a hearing related to temporary
2 placement are all of the following:

3 (a) The parent or guardian who made or authorized the
4 temporary placement.

5 (b) The parent or guardian of an unemancipated minor parent
6 of the adoptee.

7 (c) A child placing agency that was authorized under
8 section 23b of this chapter to make the temporary placement.

9 (d) If only 1 parent made or authorized the temporary
10 placement, the other parent and each putative father of the
11 adoptee.

12 (e) The prospective adoptive parent with whom temporary
13 placement was made.

14 (f) The prosecutor who filed a petition under section 23d of
15 this chapter.

16 (g) The guardian ad litem **of any interested party**, if a
17 guardian ad litem has been appointed.

18 (6) In the interest of justice, the court may require
19 additional parties to be served.

20 (7) The court shall not appoint a guardian of the adoptee or
21 of a parent solely for the purpose of defeating that parent's
22 status as an interested party under this section.