

SENATE BILL No. 702

September 17, 2003, Introduced by Senator HAMMERSTROM and referred to the Committee on Families and Human Services.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 23d of chapter X (MCL 710.23d), as amended by 1996 PA 409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

1
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 ~~pursuant to~~ **as**
7 **prescribed by** section 23b of this chapter may make a temporary
8 placement of the child as prescribed by this section. A
9 temporary placement shall meet all of the following
10 requirements:

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1 (a) The prospective adoptive parent with whom a child is
2 temporarily placed ~~is a Michigan resident~~ **has had a**
3 **preplacement assessment completed within 1 year before the date**
4 **of the transfer with a finding that the prospective adoptive**
5 **parent is suitable to be a parent of an adoptee.**

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

8 (c) In the presence of a witness who also signs the
9 document, the parent, guardian, or representative of the child
10 placing agency signs a statement evidencing the transfer of
11 physical custody of the child. If the parent making the
12 temporary placement is an unemancipated minor, the statement is
13 not valid unless it is also signed in the presence of the witness
14 by a parent or guardian of that minor parent. The statement
15 shall contain all of the following:

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

17 (ii) Language providing that the transfer is for the purpose
18 of adoption by the prospective adoptive parent. ~~who is a~~
19 ~~Michigan resident.~~

20 (iii) Language indicating that unless the parent or guardian
21 and the prospective adoptive parent agree otherwise, the
22 prospective adoptive parent has the authority to consent to all
23 medical, surgical, psychological, educational, and related
24 services for the child and language indicating that the parent or
25 guardian otherwise retains full parental rights to the child
26 being temporarily placed and that the temporary placement may be
27 revoked by the filing of a petition under subsection (5).

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1 (iv) Language providing that the person making the transfer
2 has read a preplacement assessment of the prospective adoptive
3 parent completed or updated within 1 year before the date of the
4 transfer with a finding that the prospective adoptive parent is
5 suitable to be a parent of an adoptee. If a child placing agency
6 makes the transfer of physical custody, the statement shall
7 include a verification that the child placing agency has given
8 the parent or guardian who authorized the temporary placement an
9 opportunity to review the preplacement assessment.

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

14 (d) In the presence of a witness who also signs the
15 document, the prospective adoptive parent signs a statement
16 setting forth the date of the transfer of physical custody and
17 the name and address of the prospective adoptive parent and
18 attesting to ~~both~~ **all** of the following:

19 (i) That the prospective adoptive parent understands that
20 the temporary placement will not become a formal placement until
21 the parents consent or release their parental rights and the
22 court orders the termination of parental rights and approves the
23 placement and that the prospective adoptive parent must
24 relinquish custody of the child within 24 hours after being
25 served with an order ~~pursuant to~~ **under** section 23e(2) of this
26 chapter.

27 ~~<<(ii) That the prospective adoptive parent agrees to reside~~

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~~with the child in Michigan until a change of residence is approved by the court after formal placement occurs.~~

~~(ii) That, if the prospective adoptive parent is a Michigan resident, the prospective adoptive parent agrees to reside with the child in Michigan until a change of residence within the state of Michigan is approved by the court after formal placement occurs.~~

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

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

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

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

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

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

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

(e) The documents required under subsection (1)(c) and (d)

1 and, if applicable, the authorization required under section 23b
2 of this chapter.

3 (3) Not later than 30 days after the transfer of physical
4 custody of a child under this section, the adoption attorney or
5 child placing agency who assists with the temporary placement or
6 the child placing agency that makes the temporary placement shall
7 submit to the court that received the report described in
8 subsection (2) a report indicating whether or not 1 of the
9 following dispositions has occurred:

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

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

13 (4) If the court has not received the report required under
14 subsection (3) within 45 days after the transfer of physical
15 custody of a child, the court shall immediately investigate and
16 determine whether an adoption petition has been filed or the
17 child has been returned to a parent or other person having legal
18 custody. If the report required under subsection (3) or the
19 court's investigation reveals that neither disposition has
20 occurred, the court shall immediately report to the prosecutor,
21 who shall immediately file a petition in the court that received
22 the report described in subsection (2) for disposition of the
23 child ~~pursuant to~~ **as required by** section 23e of this chapter.
24 If a petition has been filed under subsection (5), (6), or (7),
25 the prosecutor is not required to file a petition.

26 (5) A parent or guardian who wishes to regain custody of a
27 child who has been placed temporarily shall file a petition in

1 the court that received the report described in subsection (2)
2 requesting that the temporary placement be revoked and that the
3 child be returned to the parent or guardian. Upon request of the
4 parent or guardian, the adoption attorney or child placing agency
5 who assisted in making the temporary placement shall assist the
6 parent or guardian in filing the petition to revoke the temporary
7 placement. If the temporary placement was made by a child
8 placing agency ~~pursuant to~~ **under** section 23b(3) of this
9 chapter, the child placing agency shall file the petition on
10 behalf of a parent or guardian who wishes to regain custody of
11 the child.

12 (6) If a prospective adoptive parent with whom a child has
13 been temporarily placed is either unwilling or unable to proceed
14 with the adoption, the prospective adoptive parent may file a
15 petition in the court that received the report described in
16 subsection (2) for disposition of the child ~~pursuant to~~ **as**
17 **required by** section 23e of this chapter.

18 (7) If a child placing agency that temporarily placed a child
19 is unable to proceed with an adoption because of the
20 unavailability of a parent or guardian to execute a release, or
21 if a child placing agency with legal custody of a child decides
22 not to proceed with the adoption by a prospective adoptive parent
23 with whom the child has been temporarily placed and the
24 prospective adoptive parent refuses upon the agency's request to
25 return the child to the agency, the child placing agency shall
26 file a petition in the court that received the report described
27 in subsection (2) for disposition of the child ~~pursuant to~~ **as**

1 **required by** section 23e of this chapter.

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

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