

Act No. 408  
Public Acts of 1996  
Approved by the Governor  
October 30, 1996  
Filed with the Secretary of State  
October 31, 1996

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1996**

**Introduced by Senator Gougeon**

**ENROLLED SENATE BILL No. 1036**

AN ACT to amend section 424c of Act No. 642 of the Public Acts of 1978, entitled as amended "An act to revise and consolidate the laws relative to the probate of decedents' estates, guardianships, conservatorships, protective proceedings, trusts, and powers of attorney; to prescribe penalties and liabilities; and to repeal certain acts and parts of acts," as amended by Act No. 8 of the Public Acts of 1996, being section 700.424c of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Section 424c of Act No. 642 of the Public Acts of 1978, as amended by Act No. 8 of the Public Acts of 1996, being section 700.424c of the Michigan Compiled Laws, is amended to read as follows:

Sec. 424c. (1) The parent or parents of a minor may petition the court to terminate a guardianship for the minor, as follows:

- (a) If the guardianship is a limited guardianship, the parents or the sole parent with a right to custody of the minor.
- (b) If the guardianship was established under section 424, the parent or parents of the minor.
- (2) If a petition has been filed to terminate a guardianship under this section, the court may do 1 or more of the following:
  - (a) Order the family independence agency or an employee or agent of the court to conduct an investigation and file a written report of the investigation regarding the best interests of the minor or give testimony concerning the investigation.
  - (b) Utilize the community resources in behavioral sciences and other professions in the investigation and study of the best interests of the minor and consider their recommendations for the disposition of the petition.
  - (c) Appoint a guardian ad litem or attorney to represent the minor.
  - (d) Take any other action considered necessary in a particular case.
- (3) After notice and hearing on a petition to terminate a limited guardianship, the court shall terminate the limited guardianship if it determines that the parent or parents of the minor have substantially complied with the limited

guardianship placement plan. The court may enter orders to facilitate the reintegration of the minor into the home of the parent or parents for a period of up to 6 months prior to the termination.

(4) For all petitions to terminate a guardianship in which subsection (3) does not apply, the court, after notice and hearing, may do any of the following:

(a) Terminate the guardianship if the court determines that it is in the best interests of the minor, and may do any of the following:

(i) Enter orders to facilitate the reintegration of the minor into the home of the parent for a period of up to 6 months prior to the termination.

(ii) Order the family independence agency to supervise the transition period when the minor is being reintegrated into the home of his or her parent.

(iii) Order the family independence agency to provide services to facilitate the reintegration of the minor into the home of his or her parent.

(b) Continue the guardianship for not more than 1 year from the date of the hearing if the court determines that it is in the best interests of the minor, and do any of the following:

(i) If the guardianship is a limited guardianship, order the parent or parents to comply with 1 of the following:

(A) The limited guardianship placement plan.

(B) A court-modified limited guardianship placement plan.

(C) If the limited guardianship was established before December 20, 1990, a court-structured plan that enables the child to return to the home of his or her parent or parents.

(ii) If the guardianship was ordered under section 424, order the parent or parents to follow a court-structured plan that enables the child to return to the home of his or her parent or parents.

(iii) If a guardianship is continued pursuant to subparagraph (i) or (ii), schedule and conduct a hearing to review the guardianship before the expiration of the period of time that the guardianship is continued and either terminate the guardianship or limited guardianship, or proceed under subdivision (c) or (d).

(c) If the minor has resided with the guardian or limited guardian for not less than 1 year and if the court finds that the parent or parents of the minor have failed to provide the minor with parental care, love, guidance, and attention appropriate to the child's age and individual needs resulting in a substantial disruption of the parent-child relationship, continue the guardianship if it is established by clear and convincing evidence that the continuation would serve the best interests of the minor.

(d) Appoint an attorney to represent the minor or refer the matter to the family independence agency. The attorney or the family independence agency may file a complaint on behalf of the minor requesting the family division of circuit court to take jurisdiction of the minor under section 2(b) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws.

(5) As used in this section, "best interests of the minor" means the sum total of the following factors to be considered, evaluated, and determined by the court:

(a) The love, affection, and other emotional ties existing between the parties involved and the child.

(b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and continuation of the educating and raising of the child in its religion or creed, if any.

(c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.

(d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(e) The permanence, as a family unit, of the existing or proposed custodial home.

(f) The moral fitness of the parties involved.

(g) The mental and physical health of the parties involved.

(h) The home, school, and community record of the child.

(i) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.

(j) The willingness and ability of the guardian to facilitate and encourage a close and continuing parent-child relationship between the child and his or her parent or parents.

(k) Any other factor considered by the court to be relevant to a particular dispute regarding termination of a guardianship, removal of a guardian, or parenting time.

(6) This section applies to all guardianships established before, on, or after the effective date of this section.

Section 2. This amendatory act shall take effect January 1, 1998.

Section 3. This amendatory act shall not take effect unless Senate Bill No. 1052 of the 88th Legislature is enacted into law.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved -----

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Governor.