



SENATE BILL No. 485

May 2, 1995, Introduced by Senators SHUGARS, GEAKE, NORTH, ROGERS, GOUGEON, STILLE and PETERS and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend section 22 of chapter X and sections 13a, 18f, and 19b of chapter XIIIA of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

section 22 of chapter X as amended by Act No. 373 of the Public Acts of 1994, section 13a of chapter XIIIA as amended by Act

No. 114 of the Public Acts of 1993, and sections 18f and 19b of chapter XIIA as amended by Act No. 264 of the Public Acts of 1994, being sections 710.22, 712A.13a, 712A.18f, and 712A.19b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 22 of chapter X and sections 13a, 18f,
2 and 19b of chapter XIIA of Act No. 288 of the Public Acts of
3 1939, section 22 of chapter X as amended by Act No. 373 of the
4 Public Acts of 1994, section 13a of chapter XIIA as amended by
5 Act No. 114 of the Public Acts of 1993, and sections 18f and 19b
6 of chapter XIIA as amended by Act No. 264 of the Public Acts of
7 1994, being sections 710.22, 712A.13a, 712A.18f, and 712A.19b of
8 the Michigan Compiled Laws, are amended to read as follows:

9 CHAPTER X

10 Sec. 22. As used in this chapter:

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

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

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

19 (ii) Maintains an up-to-date file of individuals licensed or
20 registered under either the public health code, Act No. 368 of
21 the Public Acts of 1978, being sections 333.1101 to 333.25211 of
22 the Michigan Compiled Laws, or the occupational code, Act No. 299

1 of the Public Acts of 1980, being sections 339.101 to 339.2721 of
2 the Michigan Compiled Laws, and agencies to whom referrals may be
3 made for counseling services needed by an adoption client.

4 (iii) Has registered as an adoption attorney with the
5 children's ombudsman as provided in section 5 of the foster care
6 and adoption services act, Act No. 203 of the Public Acts of
7 1994, being ~~sections 722.951 to 722.960~~ SECTION 722.955 of the
8 Michigan Compiled Laws.

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

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

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

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

25 (i) The love, affection, and other emotional ties existing
26 between the adopting individual or individuals and the adoptee

1 or, in the case of a hearing under section 39 of this chapter,
2 the putative father and the adoptee.

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

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

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

18 (v) The permanence as a family unit of the proposed adoptive
19 home, or, in the case of a hearing under section 39 of this chap-
20 ter, the home of the putative father.

21 (vi) The moral fitness of the adopting individual or indi-
22 viduals or, in the case of a hearing under section 39 of this
23 chapter, of the putative father, INCLUDING, BUT NOT LIMITED TO,
24 EVIDENCE OF A CRIMINAL CONVICTION, ALCOHOL ABUSE, OR CONTROLLED
25 SUBSTANCE ABUSE. AS USED IN THIS SUBPARAGRAPH:

26 (A) "ALCOHOL ABUSE" MEANS THE FREQUENT AND ROUTINE
27 CONSUMPTION OF ALCOHOLIC BEVERAGES TO THE POINT OF INTOXICATION.

1 (B) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN
2 SECTION 7104 OF THE PUBLIC HEALTH CODE, ACT NO. 268 OF THE PUBLIC
3 ACTS OF 1978, BEING SECTION 333.7104 OF THE MICHIGAN COMPILED
4 LAWS.

5 (C) "CONTROLLED SUBSTANCE ABUSE" MEANS EITHER THE FREQUENT
6 AND ROUTINE CONSUMPTION OF A CONTROLLED SUBSTANCE IN AN AMOUNT
7 EXCEEDING THE DOSAGE RECOMMENDED BY THE PRESCRIBER OR THE RECENT
8 CONSUMPTION OF A CONTROLLED SUBSTANCE FOR WHICH THE USER HAD NO
9 PRESCRIPTION OR FOR WHICH NO PRESCRIPTION IS AVAILABLE.

10 (vii) The mental and physical health of the adopting indi-
11 vidual or individuals or, in the case of a hearing under section
12 39 of this chapter, of the putative father, and of the adoptee.

13 (viii) The home, school, and community record of the
14 adoptee.

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

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

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

23 (g) "Born out of wedlock" means a child conceived and born
24 to a woman who was not married from the conception to the date of
25 birth of the child, or a child whom the court has determined to
26 be a child born during a marriage but not the issue of that
27 marriage.

1 (h) "Central adoption registry" means the registry
2 established by the department ~~pursuant to~~ AS REQUIRED BY
3 section 27b of this chapter to control the release of identifying
4 adoption information.

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

6 (j) "Child placing agency" means a private organization
7 licensed under Act No. 116 of the Public Acts of 1973, being sec-
8 tions 722.111 to 722.128 of the Michigan Compiled Laws, to place
9 children for adoption.

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

13 (l) "Court" means the probate court of this state, and when
14 the context requires, the court having jurisdiction over adoption
15 in another state or country.

16 (m) "Department" means the state department of social
17 services.

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

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

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

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

4 (r) "Placement" or "to place" means selection of an adoptive
5 parent for a child and transfer of physical custody of the child
6 to a prospective adoptive parent ~~pursuant to~~ AS PROVIDED IN
7 this chapter.

8 (s) "Release" means a document in which all parental rights
9 over a specific child are voluntarily relinquished to the depart-
10 ment or to a child placing agency.

11 (t) "Rescission petition" means a petition filed by an adult
12 adoptee and his or her parent whose rights have been terminated
13 to rescind the adoption in which a stepparent acquired parental
14 rights and to restore parental rights of that parent ~~pursuant~~
15 ~~to~~ AS PROVIDED IN section 66 of this chapter.

16 (u) "Suitable to be a parent of an adoptee" means a conclu-
17 sion that there is no specific concern with respect to an indi-
18 vidual that would suggest that placement of any child, or a par-
19 ticular child, in the home of the individual would pose a risk of
20 harm to the physical or psychological well-being of the child.

21 (v) "Temporary placement" means a placement that occurs
22 before court approval under section 51 of this chapter and that
23 meets the requirements of section 23d of this chapter.

24 (w) "Within the fifth degree by marriage, blood, or
25 adoption" means any of the following relationships: parent,
26 step-parent, grandparent, step-grandparent, brother,
27 step-brother, sister, step-sister, uncle, step-uncle, aunt,

1 step-aunt, first cousin, step-first cousin, great aunt,
 2 step-great aunt, great uncle, step-great uncle, great grandpar-
 3 ent, step-great grandparent, first cousin once removed,
 4 step-first cousin once removed, great great grandparent,
 5 step-great great grandparent, great great uncle, step-great great
 6 uncle, great great aunt, step-great great aunt, great great great
 7 grandparent, or step-great great great grandparent.

8 CHAPTER XIIA

9 Sec. 13a. (1) As used in this section and sections 18f, 19,
 10 19a, 19b, and 19c of this chapter:

11 (a) "Agency" means a public or private organization, insti-
 12 tution, or facility responsible pursuant to court order or con-
 13 tractual arrangement for the care and supervision of a child.

14 (B) "ALCOHOL ABUSE" MEANS THE FREQUENT AND ROUTINE CONSUMP-
 15 TION OF ALCOHOLIC BEVERAGES TO THE POINT OF INTOXICATION.

16 (C) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN
 17 SECTION 7104 OF THE PUBLIC HEALTH CODE, ACT NO. 268 OF THE PUBLIC
 18 ACTS OF 1978, BEING SECTION 333.7104 OF THE MICHIGAN COMPILED
 19 LAWS.

20 (D) "CONTROLLED SUBSTANCE ABUSE" MEANS EITHER THE FREQUENT
 21 AND ROUTINE CONSUMPTION OF A CONTROLLED SUBSTANCE IN AN AMOUNT
 22 EXCEEDING THE DOSAGE RECOMMENDED BY THE PRESCRIBER OR THE RECENT
 23 CONSUMPTION OF A CONTROLLED SUBSTANCE FOR WHICH THE USER HAD NO
 24 PRESCRIPTION OR FOR WHICH NO PRESCRIPTION IS AVAILABLE.

25 (E) ~~(b)~~ "Foster care" means care provided to a child in a
 26 foster family home, foster family group home, or child caring
 27 institution licensed or approved under Act No. 116 of the Public

1 Acts of 1973, being sections 722.111 to 722.128 of the Michigan
2 Compiled Laws, or care provided to a child in a relative's home
3 ~~pursuant to~~ UNDER an order by the juvenile division of the pro-
4 bate court.

5 (2) If a child is alleged to come within the provisions of
6 section 2(b) of this chapter, the court may authorize a petition
7 to be filed at the conclusion of the preliminary hearing or
8 inquiry. The petition may be authorized upon a showing of proba-
9 ble cause that 1 or more of the allegations in the petition are
10 true and fall within the provisions of section 2(b) of this
11 chapter.

12 (3) If a petition under subsection (2) is authorized, the
13 court may release the child in the custody of either of the
14 child's parents, guardian, or custodian under ~~such~~ THE reason-
15 able terms and conditions ~~as are~~ necessary for either the phys-
16 ical health or mental well-being of the child.

17 (4) If a petition alleging abuse by a parent, guardian, cus-
18 todian, or other person residing in the child's home is autho-
19 rized under subsection (2) and the court after a hearing finds
20 probable cause to believe the parent, guardian, custodian, or
21 other person committed the abuse, the court may order that
22 parent, guardian, custodian, or other person to leave the home
23 and not subsequently return to it, except as the court orders,
24 and may release the child to the other parent or to another
25 guardian or custodian. The court shall not enter an order under
26 this subsection unless the court determines all of the
27 following:

1 (a) The presence in the home of the person who is alleged to
2 have committed the abuse presents a substantial risk of harm to
3 the child's life, physical health, or mental well-being.

4 (b) Removing the person who is alleged to have committed the
5 abuse is necessary to adequately safeguard the child from the
6 risk of harm to the child's life, physical health, or mental
7 well-being.

8 (c) The conditions of custody with the other parent or
9 another guardian or custodian are adequate to safeguard the child
10 from the risk of harm to the child's life, physical health, or
11 mental well-being.

12 (d) It is in the best interests of the child for the child
13 to remain in the home.

14 (5) In determining whether to enter an order under
15 subsection (4), the court may consider whether the parent who is
16 to remain in the child's home is married to the person to be
17 removed or has a legal right to retain possession of the home.

18 (6) An order entered under subsection (4) may also contain 1
19 or more of the following terms or conditions:

20 (a) The court may require the alleged abusive parent to pay
21 appropriate support to maintain a suitable home environment for
22 the child during the duration of the order.

23 (b) The court may order the alleged abusive person, accord-
24 ing to terms the court may set, to surrender to a local law
25 enforcement agency any firearms or other potentially dangerous
26 weapons the alleged abusive person owns, possesses, or uses.

1 (c) The court may include any reasonable term or condition
2 necessary for the child's physical or mental well-being or
3 necessary to protect the child.

4 (7) If a petition under subsection (2) is authorized, the
5 court may order placement of the child with someone other than a
6 parent if the court after hearing determines that both of the
7 following conditions exist:

8 (a) Custody of the child with a parent, guardian, or custo-
9 dian presents a substantial risk of harm to the child's life,
10 physical health, or mental well-being and no provision of service
11 or other arrangement except removal of the child is reasonably
12 available to adequately safeguard the child from ~~such~~ THAT
13 risk.

14 (b) Conditions of custody of the child away from a parent,
15 guardian, or custodian are adequate to safeguard the child's
16 health and welfare.

17 (8) If the court orders placement of the child outside the
18 child's home, the court shall inform the parties of the
19 following:

20 (a) The agency has the responsibility to prepare an initial
21 services plan within 30 days of the child's placement.

22 (b) The general elements of an initial services plan as
23 required by the rules promulgated ~~pursuant to~~ UNDER Act No. 116
24 of the Public Acts of 1973.

25 (c) Without a court order, participation in an initial serv-
26 ices plan is voluntary.

1 (9) In determining placement of a child pending trial, the
2 court shall order the child placed in the most family-like
3 setting available consistent with the needs of the child.

4 (10) Unless visitation, even if supervised, would be harmful
5 to the child, the child's parent shall be permitted to visit fre-
6 quently with the child.

7 (11) Upon the motion of any party, the court shall review
8 custody and placement orders and initial services plans pending
9 trial and may modify those orders and plans as the court consid-
10 ers ~~pursuant to~~ UNDER this section are in the best interests of
11 the child.

12 (12) IN DETERMINING CUSTODY OF A CHILD UNDER THIS SECTION,
13 THE COURT SHALL CONSIDER, ALONG WITH OTHER EVIDENCE, EVIDENCE OF
14 A CRIMINAL CONVICTION, ALCOHOL ABUSE, OR CONTROLLED SUBSTANCE
15 ABUSE.

16 (13) ~~(+2)~~ As used in subsection (4), "abuse" means any of
17 the following:

18 (a) Harm or threatened harm by a person to a child's health
19 or welfare that occurs through nonaccidental physical or mental
20 injury.

21 (b) Engaging in sexual contact or penetration with a child
22 as defined in section 520a of the Michigan penal code, Act
23 No. 328 of the Public Acts of 1931, being section 750.520a of the
24 Michigan Compiled Laws.

25 (c) Sexual exploitation of a child, which includes, but is
26 not limited to, allowing, permitting, or encouraging a child to
27 engage in prostitution ~~—~~ or allowing, permitting, encouraging,

1 or engaging in the photographing, filming, or depicting of a
2 child engaged in a listed sexual act as defined in section 145c
3 of Act No. 328 of the Public Acts of 1931, being section 750.145c
4 of the Michigan Compiled Laws.

5 (d) Maltreatment of a child.

6 Sec. 18f. (1) If, in a proceeding under section 2(b) of
7 this chapter, an agency advises the court against placing a child
8 in the custody of the child's parent, guardian, or custodian, the
9 agency shall report in writing to the court what efforts were
10 made to prevent the child's removal from his or her home or the
11 efforts made to rectify the conditions that caused the child's
12 removal from his or her home. The report shall include all of
13 the following:

14 (a) If services were provided to the child and his or her
15 parent, guardian, or custodian, the services, including in-home
16 services, that were provided.

17 (b) If services were not provided to the child and his or
18 her parent, guardian, or custodian, the reasons why services were
19 not provided.

20 (c) Likely harm to the child if the child were to be sepa-
21 rated from his or her parent, guardian, or custodian.

22 (d) Likely harm to the child if the child were to be
23 returned to his or her parent, guardian, or custodian.

24 (2) Before the court enters an order of disposition in a
25 proceeding under section 2(b) of this chapter, the agency shall
26 prepare a case service plan that shall be available to the court
27 and all the parties to the proceeding.

1 (3) The case service plan shall provide for placing the
2 child in the most family-like setting available and in as close
3 proximity to the child's parents' home as is consistent with the
4 best interests and special needs of the child. The case service
5 plan shall include, but not be limited to, the following:

6 (a) The type of home or institution in which the child is to
7 be placed and the reasons for the selected placement.

8 (b) Efforts to be made by the child's parent to enable the
9 child to return to his or her home.

10 (c) Efforts to be made by the agency to return the child to
11 his or her home.

12 (d) Schedule of services to be provided to the parent,
13 child, and if the child is to be placed in foster care, the
14 foster parent, to facilitate the child's return to his or her
15 home or to facilitate the permanent placement of the child.

16 (e) Unless visitation, even if supervised, would be harmful
17 to the child, a schedule for regular and frequent visitation
18 between the child and his or her parent ~~which~~ THAT shall not be
19 less than once every 7 days.

20 (4) The court shall consider the case service plan, any
21 written or oral information concerning the child from the child's
22 parent, guardian, custodian, foster parent, child caring institu-
23 tion, or relative with whom the child is placed, and any other
24 evidence offered, INCLUDING, BUT NOT LIMITED TO, EVIDENCE OF A
25 CRIMINAL CONVICTION, ALCOHOL ABUSE, OR CONTROLLED SUBSTANCE
26 ABUSE, bearing on disposition before the court enters an order of
27 disposition. The order of disposition shall state whether

1 reasonable efforts have been made to prevent the child's removal
2 from his or her home or to rectify the conditions that caused the
3 child's removal from his or her home. The court may order com-
4 pliance with all or any part of the case service plan as the
5 court considers necessary.

6 (5) If a child continues in placement outside of the child's
7 home, the case service plan shall be updated and revised at
8 90-day intervals as required by the rules promulgated ~~pursuant~~
9 ~~to~~ UNDER Act No. 116 of the Public Acts of 1973, being sections
10 722.111 to 722.128 of the Michigan Compiled Laws. The agency
11 shall consult with the foster parents when it updates and revises
12 the case service plan, and shall attach a statement summarizing
13 the information received from the foster parents to the updated
14 and revised case service plan. Updated and revised case service
15 plans shall be available to the court and all the parties to the
16 proceeding. Written reports, other than those portions made con-
17 fidential by law, case service plans, and court orders, including
18 all updates and revisions, shall be available to the foster
19 parent, child caring institution, or relative with whom the child
20 is placed.

21 Sec. 19b. (1) Except as provided in subsection ~~(4)~~ (5),
22 if a child remains in foster care in the temporary custody of the
23 court following a review hearing under section 19(3) of this
24 chapter or a permanency planning hearing under section 19a of
25 this chapter or if a child remains in the custody of a guardian
26 or limited guardian, upon petition of the prosecuting attorney,
27 whether or not the prosecuting attorney is representing or acting

1 as legal consultant to the agency or any other party, or of the
2 child, A guardian, A custodian, A concerned person as defined in
3 subsection ~~(6)~~ (7), AN agency, or the children's ombudsman
4 ~~pursuant to~~ AS PROVIDED IN section 7 of the children's ombuds-
5 man act, ACT NO. 204 OF THE PUBLIC ACTS OF 1994, BEING SECTION
6 722.927 OF THE MICHIGAN COMPILED LAWS, the court shall hold a
7 hearing to determine if the parental rights to a child should be
8 terminated and, if all parental rights to the child are termi-
9 nated, the child placed in permanent custody of the court. The
10 court shall state on the record or in writing its findings of
11 fact and conclusions of law with respect to whether or not paren-
12 tal rights should be terminated.

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

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

18 (b) The foster parent or custodian of the child.

19 (c) The child's parents.

20 (d) If the child has a guardian, the guardian for the
21 child.

22 (e) If the child has a guardian ad litem, the guardian ad
23 litem for the child.

24 (f) If tribal affiliation has been determined, the elected
25 leader of the Indian tribe.

26 (g) The attorney for the child and the attorneys for all
27 parties.

1 (h) If the child is 11 years of age or older, the child.

2 (i) The prosecutor.

3 (3) The court may terminate the parental rights of a parent
4 to a child if the court finds, by clear and convincing evidence,
5 1 or more of the following:

6 (a) The child has been deserted under either of the follow-
7 ing circumstances:

8 (i) ~~If the~~ THE parent of a child is unidentifiable and has
9 deserted the child for 28 or more days and has not sought custody
10 of the child during that period. For the purposes of this sec-
11 tion, a parent is unidentifiable if the parent's identity cannot
12 be ascertained after reasonable efforts have been made to locate
13 and identify the parent.

14 (ii) The parent of a child has deserted the child for 91 or
15 more days and has not sought custody of the child during that
16 period.

17 (b) The child or a sibling of the child has suffered physi-
18 cal injury or physical or sexual abuse under either of the fol-
19 lowing circumstances:

20 (i) ~~A~~ THE parent's act caused the physical injury or phys-
21 ical or sexual abuse and the court finds that there is a reason-
22 able likelihood that the child will suffer from injury or abuse
23 in the foreseeable future if placed in the parent's home.

24 (ii) ~~A~~ THE parent ~~who~~ had the opportunity to prevent the
25 physical injury or physical or sexual abuse AND failed to do so,
26 and the court finds that there is a reasonable likelihood that

1 the child will suffer injury or abuse in the foreseeable future
2 if placed in the parent's home.

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

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

11 (ii) Other conditions exist that cause the child to come
12 within the jurisdiction of the court, the parent has received
13 recommendations to rectify those conditions, the conditions have
14 not been rectified by the parent after the parent has received
15 notice, RECEIVED a hearing, and been given a reasonable opportu-
16 nity to rectify the conditions, and there is no reasonable like-
17 lihood that the conditions will be rectified within a reasonable
18 time considering the age of the child.

19 (d) The parent of a child has placed the child in a limited
20 guardianship under section 424a of the revised probate code, Act
21 No. 642 of the Public Acts of 1978, being section 700.424a of the
22 Michigan Compiled Laws, and has substantially failed, without
23 good cause, to comply with a limited guardianship placement plan
24 described in section 424a of Act No. 642 of the Public Acts of
25 1978 regarding the child to the extent that ~~such~~ THE noncompli-
26 ance has resulted in a disruption of the parent-child
27 relationship.

1 (e) The parent of a child who has a guardian under the
2 revised probate code, Act No. 642 of the Public Acts of 1978,
3 being sections 700.1 to 700.993 of the Michigan Compiled Laws,
4 has substantially failed, without good cause, to comply with a
5 court-structured plan described in section 424b or 424c of Act
6 No. 642 of the Public Acts of 1978, being sections 700.424b and
7 700.424c of the Michigan Compiled Laws, regarding the child to
8 the extent that ~~such~~ THE noncompliance has resulted in a dis-
9 ruption of the parent-child relationship.

10 (f) The child has a guardian under the revised probate code,
11 Act No. 642 of the Public Acts of 1978, and both of the following
12 have occurred:

13 (i) The parent, having the ability to support or assist in
14 supporting the minor, has failed or neglected, without good
15 cause, to provide regular and substantial support for the minor
16 for a period of 2 years or more before the filing of the petition
17 or, if a support order has been entered, has failed to substan-
18 tially comply with the order for a period of 2 years or more
19 before the filing of the petition.

20 (ii) The parent, having the ability to visit, contact, or
21 communicate with the minor, has regularly and substantially
22 failed or neglected, without good cause, to do so for a period of
23 2 years or more before the filing of the petition.

24 (g) The parent, without regard to intent, fails to provide
25 proper care or custody for the child and there is no reasonable
26 expectation that the parent will be able to provide proper care

1 and custody within a reasonable time considering the age of the
2 child.

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

9 (i) Parental rights to 1 or more siblings of the child have
10 been terminated due to serious and chronic neglect or physical or
11 sexual abuse, and prior attempts to rehabilitate the parents have
12 been unsuccessful.

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

16 (4) IN MAKING A FINDING UNDER SUBSECTION (3), THE COURT
17 SHALL CONSIDER, ALONG WITH OTHER EVIDENCE, EVIDENCE OF A CRIMINAL
18 CONVICTION, ALCOHOL ABUSE, OR CONTROLLED SUBSTANCE ABUSE.

19 (5) ~~(4)~~ If a petition to terminate the parental rights to
20 a child is filed, the court may enter an order terminating paren-
21 tal rights under subsection (3) at the initial dispositional
22 hearing.

23 (6) ~~(5)~~ If the court finds that there are grounds for ter-
24 mination of parental rights, the court shall order termination of
25 parental rights and order that additional efforts for reunifica-
26 tion of the child with the parent shall not be made, unless the

1 court finds that termination of parental rights to the child is
2 clearly not in the child's best interests.

3 (7) ~~(6)~~ As used in this section, "concerned person" means
4 a foster parent with whom the child is living or has lived who
5 has specific knowledge of behavior by the parent constituting
6 grounds for termination under subsection (3)(b) or (g) and who
7 has contacted the department of social services, the prosecuting
8 attorney, the child's attorney, and the child's guardian ad
9 litem, if any, and is satisfied that none of these persons intend
10 to file a petition under this section.

11 Section 2. This amendatory act shall take effect September
12 1, 1995.