

SUBSTITUTE FOR
SENATE BILL NO. 1440

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 19 of chapter XIIIA (MCL 712A.19), as amended
by 1998 PA 530.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XIIIA
2 Sec. 19. (1) Subject to section 20 of this chapter, if a
3 child remains under the jurisdiction of the court, a cause may be
4 terminated or an order may be amended or supplemented, within the
5 authority granted to the court in section 18 of this chapter, at
6 any time as the court considers necessary and proper. An amended
7 or supplemented order shall be referred to as a "supplemental
8 order of disposition". If the ~~family independence~~ agency
9 becomes aware of additional abuse or neglect of a child who is
10 under the jurisdiction of the court and if that abuse or neglect

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1 is substantiated as provided in the child protection law, 1975 PA
2 238, MCL 722.621 to 722.638, the ~~department~~ **agency** shall file a
3 supplemental petition with the court.

4 (2) ~~Except as otherwise provided in this section, if a child~~
5 ~~is placed in foster care, the cause shall be reheard not more~~
6 ~~than 182 days after entry of the order of disposition. The~~
7 ~~showing shall be recorded stenographically at a hearing held by~~
8 ~~the judge or referee. If the child remains in foster care in the~~
9 ~~temporary custody of the court following the hearing, the cause~~
10 ~~shall be further reheard not more than 182 days after the~~
11 ~~hearing. In conducting the review hearing, the court shall~~
12 ~~review the performance of the child, the child's parent,~~
13 ~~guardian, or custodian, the juvenile worker, and other persons~~
14 ~~providing assistance to the child and his or her family. Except~~
15 ~~as provided in subsections (3) and (4), if a child subject to the~~
16 ~~jurisdiction of the court remains in his or her home, a review~~
17 ~~hearing shall be held not more than 182 days from the date a~~
18 ~~petition is filed to give the court jurisdiction over the child~~
19 ~~and no later than every 91 days after that for the first year~~
20 ~~that the child is subject to the jurisdiction of the court.~~
21 ~~After the first year that the child is subject to the~~
22 ~~jurisdiction of the court << >>, a~~
23 ~~review hearing shall be held no later than 182 days from the~~
24 ~~immediately preceding review hearing before the end of that first~~
25 ~~year and no later than every 182 days <<from>> each preceding review~~
26 ~~hearing <<thereafter until the case is dismissed>>. A review hearing~~
27 ~~under this subsection shall not be~~
~~canceled or delayed beyond the number of days required in this~~

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as amended December 9, 2004

1 subsection, regardless of whether a petition to terminate
2 parental rights or another matter is pending. Upon motion by any
3 party or in the court's discretion, a review hearing may be
4 accelerated to review any element of the case service plan
5 prepared according to section 18f of this chapter.

6 (3) Except as otherwise provided in subsection (4), if, in a
7 proceeding under section 2(b) of this chapter, a child is ~~placed~~
8 ~~and remains in foster care~~ subject to the jurisdiction of the
9 court and removed from his or her home, a review hearing shall be
10 held not more than ~~91~~ 182 days after ~~entry of the order of~~
11 ~~disposition~~ the child's removal from his or her home and no
12 later than every 91 days after that [as long as for the first year that]
the child is
13 subject to the jurisdiction ~~, control, or supervision~~ of the
14 court. ~~, or of the Michigan children's institute or other~~
15 ~~agency.~~ After the first year that the child has been removed
16 from his or her home and is subject to the jurisdiction of the
17 court, a review hearing shall be held not more than 182 days from
18 the immediately preceding review hearing before the end of that
19 first year and no later than every 182 days <<from>> each preceding
20 review hearing <<thereafter until the case is dismissed>>. A review
21 hearing under this subsection shall not
22 be canceled or delayed beyond the number of days required in this
23 subsection, regardless of whether a petition to terminate
24 parental rights or another matter is pending. Upon motion by any
25 party or in the court's discretion, a review hearing may be
26 accelerated to review any element of the case service plan
27 prepared ~~pursuant~~ according to section 18f of this chapter.

(4) If a child is ~~in a permanent foster family agreement or~~

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1 ~~if a child is~~ **under the care and supervision of the agency and**
2 **is either** placed with a relative and the placement is intended to
3 be permanent **or [is] in a permanent foster family agreement,** the court
4 shall hold a review hearing not more than 182 days after ~~a~~
5 ~~permanency planning hearing held pursuant to section 19a of this~~
6 ~~chapter and~~ **the child has been removed from his or her home and**
7 **no later than** every 182 days after that so long as the child is
8 subject to the jurisdiction ~~—, control, or supervision—~~ of the
9 court, ~~or of~~ the Michigan children's institute, or other
10 agency. **A review hearing under this subsection shall not be**
11 **canceled or delayed beyond the number of days required in this**
12 **subsection, regardless of whether a petition to terminate**
13 **parental rights or another matter is pending.** Upon the motion of
14 any party or at the court's discretion, a review hearing may be
15 accelerated to review any element of the case service plan.

16 (5) Written notice of a review hearing under subsection (2),
17 (3), or (4) shall be served upon all of the following:

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

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

21 (c) If the parental rights to the child have not been
22 terminated, the child's parents.

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

24 (e) If the child has a guardian ad litem, the guardian ad
25 litem for the child.

26 (f) A nonparent adult if the nonparent adult is required to
27 comply with the case service plan.

1 (g) If tribal affiliation has been determined, the elected
2 leader of the Indian tribe.

3 (h) The attorney for the child, the attorneys for each party,
4 and the prosecuting attorney if the prosecuting attorney has
5 appeared in the case.

6 (i) If the child is 11 years of age or older, the child.

7 (j) Other persons as the court may direct.

8 (6) At a review hearing under subsection (2), (3), or (4),
9 the court shall review on the record all of the following:

10 (a) Compliance with the case service plan with respect to
11 services provided or offered to the child and the child's parent,
12 guardian, custodian, or nonparent adult if the nonparent adult is
13 required to comply with the case service plan and whether the
14 parent, guardian, custodian, or nonparent adult if the nonparent
15 adult is required to comply with the case service plan has
16 complied with and benefited from those services.

17 (b) Compliance with the case service plan with respect to
18 parenting time with the child. If parenting time did not occur
19 or was infrequent, the court shall determine why parenting time
20 did not occur or was infrequent.

21 (c) The extent to which the parent complied with each
22 provision of the case service plan, prior court orders, and an
23 agreement between the parent and the agency.

24 (d) Likely harm to the child if the child continues to be
25 separated from the child's parent, guardian, or custodian.

26 (e) Likely harm to the child if the child is returned to the
27 child's parent, guardian, or custodian.

1 (7) After review of the case service plan, the court shall
2 determine the extent of progress made toward alleviating or
3 mitigating the conditions that caused the child to be placed in
4 foster care or that caused the child to remain in foster care.
5 The court may modify any part of the case service plan including,
6 but not limited to, the following:

7 (a) Prescribing additional services that are necessary to
8 rectify the conditions that caused the child to be placed in
9 foster care or to remain in foster care.

10 (b) Prescribing additional actions to be taken by the parent,
11 guardian, nonparent adult, or custodian, to rectify the
12 conditions that caused the child to be placed in foster care or
13 to remain in foster care.

14 (8) At a review hearing under subsection (2), (3), or (4),
15 the court shall determine the continuing necessity and
16 appropriateness of the child's placement and shall order the
17 return of the child to the custody of the parent, continue the
18 dispositional order, modify the dispositional order, or enter a
19 new dispositional order.

20 (9) If in a proceeding under section 2(b) of this chapter a
21 child is placed in foster care, the court shall determine at the
22 dispositional hearing and each review hearing whether the cause
23 should be reviewed before the next review hearing required by
24 subsection (2), (3), or (4). In making this determination, the
25 court shall consider at least all of the following:

26 (a) The parent's ability and motivation to make necessary
27 changes to provide a suitable environment for the child.

1 (b) Whether there is a reasonable likelihood that the child
2 may be returned to his or her home prior to the next review
3 hearing required by subsection (2), (3), or (4).

4 (10) Unless waived, if not less than 7 days' notice is given
5 to all parties prior to the return of a child to the child's
6 home, and no party requests a hearing within the 7 days, the
7 court may issue an order without a hearing permitting the agency
8 to return the child to the child's home.

9 (11) An agency report filed with the court shall be
10 accessible to all parties to the action and shall be offered into
11 evidence. The court shall consider any written or oral
12 information concerning the child from the child's parent,
13 guardian, custodian, foster parent, child caring institution,
14 relative with whom a child is placed, attorney, lawyer-guardian
15 ad litem, or guardian ad litem, in addition to any other
16 evidence, including the appropriateness of parenting time,
17 offered at the hearing.