

HOUSE BILL No. 6214

September 22, 2004, Introduced by Reps. Howell and Lipsey and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 22, 23a, 23b, 23d, 23f, 27, 31, 34, 36, 37, 39, 41, 43, 51, and 60 of chapter X, section 1 of chapter XI, and sections 2, 14, and 15 of chapter XII (MCL 710.22, 710.23a, 710.23b, 710.23d, 710.23f, 710.27, 710.31, 710.34, 710.36, 710.37, 710.39, 710.41, 710.43, 710.51, 710.60, 711.1, 712.2, 712.14, and 712.15), sections 22, 34, 36, 43, 51, and 60 of chapter X as amended by 1996 PA 409, sections 23a, 23f, and 31 of chapter X as amended by 1994 PA 373, section 23b of chapter X as added and section 41 of chapter X as amended by 1994 PA 222, section 23d of chapter X as amended by 2004 PA 68, section 27 of chapter X as amended by 1994 PA 208, section 39 of chapter X as amended by 1998 PA 94, section 1 of chapter XI as amended by 2000 PA 111, and sections 2, 14, and 15 of chapter XII as added by

1 years of age or older and is related to an adult adoptee either
2 biologically or through adoption by at least 1 common parent,
3 regardless of whether the adult former sibling ever lived in the
4 same household as the adult adoptee.

5 (d) "Agency placement" means a placement in which a child
6 placing agency, the department, or a court selects the adoptive
7 parent for the child and transfers physical custody of the child
8 to the prospective adoptive parent.

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

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

16 (i) The love, affection, and other emotional ties existing
17 between the adopting individual or individuals and the adoptee
18 or, ~~in the case of~~ **for** a hearing under section 39 of this
19 chapter, the putative father and the adoptee.

20 (ii) The capacity and disposition of the adopting individual
21 or individuals or, ~~in the case of~~ **for** a hearing under section
22 39 of this chapter, the putative father to give the adoptee love,
23 affection, and guidance, and to educate and create a milieu that
24 fosters the religion, racial identity, and culture of the
25 adoptee.

26 (iii) The capacity and disposition of the adopting individual
27 or individuals or, ~~in the case of~~ **for** a hearing under section

1 39 of this chapter, the putative father, to provide the adoptee
2 with food, clothing, education, permanence, medical care or other
3 remedial care recognized and permitted under the laws of this
4 state in place of medical care, and other material needs.

5 (iv) The length of time the adoptee has lived in a stable,
6 satisfactory environment, and the desirability of maintaining
7 continuity.

8 (v) The permanence as a family unit of the proposed adoptive
9 home, or, ~~in the case of~~ **for** a hearing under section 39 of this
10 chapter, the home of the putative father.

11 (vi) The moral fitness of the adopting individual or
12 individuals or, ~~in the case of~~ **for** a hearing under section 39
13 of this chapter, of the putative father.

14 (vii) The mental and physical health of the adopting
15 individual or individuals or, ~~in the case of~~ **for** a hearing
16 under section 39 of this chapter, of the putative father, and of
17 the adoptee.

18 (viii) The home, school, and community record of the
19 adoptee.

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

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

25 (xi) Any other factor considered by the court to be relevant
26 to a particular adoption proceeding, or to a putative father's
27 request for child custody **or parenting time**.

1 (g) "Born out of wedlock" means a child conceived and born to
2 a woman who was not married from the conception to the date of
3 birth of the child, or a child whom the court has determined to
4 be a child born during a marriage but not the issue of that
5 marriage.

6 (h) "Central adoption registry" means the registry
7 established by the department ~~pursuant to~~ **under** section 27b of
8 this chapter to control the release of identifying adoption
9 information.

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

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

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

18 (l) "Court" means the family division of circuit court of
19 this state, or when the context requires, the court having
20 jurisdiction over adoption in another state or country.

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

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

27 (o) "Formal placement" means a placement that is approved by

1 the court under section 51 of this chapter.

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

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

7 (r) "Placement" or "to place" means selection of an adoptive
8 parent for a child and transfer of physical custody of the child
9 to a prospective adoptive parent ~~pursuant to~~ **under** this
10 chapter.

11 (s) "Release" means a document in which all parental rights
12 over a specific child are voluntarily relinquished to the
13 department or to a child placing agency.

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

19 (u) "Suitable to be a parent of an adoptee" means a
20 conclusion that there is no specific concern with respect to an
21 individual that would suggest that placement of any child, or a
22 particular child, in the home of the individual would pose a risk
23 of harm to the physical or psychological well-being of the
24 child.

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

1 (w) "Within the fifth degree by marriage, blood, or adoption"
2 means any of the following relationships: parent, step-parent,
3 grandparent, step-grandparent, brother, step-brother, sister,
4 step-sister, uncle, step-uncle, aunt, step-aunt, first cousin,
5 step-first cousin, great aunt, step-great aunt, great uncle,
6 step-great uncle, great grandparent, step-great grandparent,
7 first cousin once removed, step-first cousin once removed, great
8 great grandparent, step-great great grandparent, great great
9 uncle, step-great great uncle, great great aunt, step-great great
10 aunt, great great great grandparent, or step-great great great
11 grandparent.

12 Sec. 23a. (1) A parent ~~or guardian~~ having ~~legal and~~
13 ~~physical~~ custody of **or sole parenting time with** a child **or the**
14 **guardian of a child** may make a direct placement of the child for
15 adoption by making a temporary placement under section 23d of
16 this chapter or a formal placement under section 51 of this
17 chapter. A temporary placement becomes a formal placement when
18 the court orders the termination of the rights of the parent or
19 parents or the guardian and approves placement ~~pursuant to~~
20 **under** section 51 of this chapter. A formal placement under
21 section 51 of this chapter does not have to be preceded by a
22 temporary placement.

23 (2) A parent or guardian shall personally select a
24 prospective adoptive parent in a direct placement. The selection
25 shall not be delegated.

26 (3) In a direct placement the prospective adoptive parent,
27 an adoption attorney, or a child placing agency shall provide

1 information about a prospective adoptive parent to the parent or
2 guardian before placement. This information shall include the
3 specific information contained in a preplacement assessment as
4 described in section 23f of this chapter, and may include
5 additional information requested by the parent or guardian. The
6 information does not have to include identifying information
7 described in section 27(3) of this chapter. The parent or
8 guardian and the prospective adoptive parent shall determine
9 whether to exchange identifying information and whether to meet
10 each other.

11 (4) A parent ~~or guardian~~ having ~~legal and physical~~
12 custody of **or sole parenting time with** a child **or the guardian or**
13 **a child** may make a formal placement of the child for adoption
14 under section 51 of this chapter with a stepparent or an
15 individual who is related to the child within the fifth degree by
16 marriage, blood, or adoption.

17 Sec. 23b. (1) A child placing agency or the department that
18 acquires legal and physical custody of a child ~~pursuant to~~
19 **under** section 29 of this chapter or chapter XIIIA may formally
20 place a child for adoption under section 51 of this chapter. A
21 child placing agency that acquires written authorization
22 ~~pursuant to~~ **under** subsection (3) from the parent ~~or guardian~~
23 having ~~legal~~ custody of **or sole parenting time with** a child **or**
24 **the guardian of a child** may make a temporary placement of the
25 child under section 23d of this chapter. A child placing agency
26 may assist a parent or guardian to make a direct placement under
27 section 23a of this chapter.

1 (2) In an agency placement, a child placing agency or the
2 department may involve the parent or guardian of a child in the
3 selection of an adoptive parent and may facilitate the exchange
4 of identifying information or meetings between a biological
5 parent and an adoptive parent.

6 (3) In a written document signed by a witness and by the
7 parent or guardian in the presence of the witness, a parent ~~or~~
8 ~~guardian~~ having ~~legal and physical~~ custody of **or sole**
9 **parenting time with a child or the guardian of the child** may
10 authorize a child placing agency to make a temporary placement of
11 the child under section 23d of this chapter. If the parent of
12 the child being temporarily placed is an unemancipated minor, the
13 authorization is not valid unless it is also signed in the
14 presence of the witness by a parent or guardian of that minor
15 parent.

16 Sec. 23d. (1) In a direct placement, a parent ~~or guardian~~
17 with ~~legal and physical~~ custody of **or sole parenting time with**
18 **a child or the guardian of a child** may make a temporary placement
19 of the child as prescribed by this section. In an agency
20 placement, a child placing agency with written authorization from
21 the parent or guardian as prescribed by section 23b of this
22 chapter may make a temporary placement of the child as prescribed
23 by this section. A temporary placement shall meet all of the
24 following requirements:

25 (a) The prospective adoptive parent with whom a child is
26 temporarily placed has had a preplacement assessment completed
27 within 1 year before the date of the transfer with a finding that

1 the prospective adoptive parent is suitable to be a parent of an
2 adoptee.

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

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

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

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

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

24 (iv) Language providing that the person making the transfer
25 has read a preplacement assessment of the prospective adoptive
26 parent completed or updated within 1 year before the date of the
27 transfer with a finding that the prospective adoptive parent is

1 suitable to be a parent of an adoptee. If a child placing agency
2 makes the transfer of physical custody, the statement shall
3 include a verification that the child placing agency has given
4 the parent or guardian who authorized the temporary placement an
5 opportunity to review the preplacement assessment.

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

10 (d) In the presence of a witness who also signs the document,
11 the prospective adoptive parent signs a statement setting forth
12 the date of the transfer of physical custody and the name and
13 address of the prospective adoptive parent and attesting to all
14 of the following:

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

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

25 (iii) That the prospective adoptive parent agrees to obtain
26 approval in compliance with the interstate compact on the
27 placement of children, 1984 PA 114, MCL 3.711 to 3.717, before

1 the child is sent, brought, or caused to be sent or brought into
2 a receiving state as that term is defined in section 1 of the
3 interstate compact on the placement of children, 1984 PA 114, MCL
4 3.711.

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

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

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

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

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

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

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

27 (3) Not later than 30 days after the transfer of physical

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

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

8 (b) The child has been returned to the agency or to a parent
9 or other person having legal custody **or parenting time**.

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

23 (5) A parent or guardian who wishes to regain custody of a
24 child who has been placed temporarily shall file a petition in
25 the court that received the report described in subsection (2)
26 requesting that the temporary placement be revoked and that the
27 child be returned to the parent or guardian. Upon request of the

1 parent or guardian, the adoption attorney or child placing agency
2 who assisted in making the temporary placement shall assist the
3 parent or guardian in filing the petition to revoke the temporary
4 placement. If the temporary placement was made by a child
5 placing agency under section 23b(3) of this chapter, the child
6 placing agency shall file the petition on behalf of a parent or
7 guardian who wishes to regain custody of the child.

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

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

25 (8) Except as otherwise agreed to by the parties, the
26 prospective adoptive parent with whom a child is temporarily
27 placed under this section may consent to all medical, surgical,

1 psychological, educational, and related services for the child.

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

6 Sec. 23f. (1) In a direct placement, an individual seeking
7 to adopt may request at any time that a preplacement assessment
8 be prepared by a child placing agency.

9 (2) An individual requesting a preplacement assessment need
10 not have located a prospective adoptee when the request is made
11 or when the assessment is completed.

12 (3) An individual may have more than 1 preplacement
13 assessment or may request that an assessment, once initiated, not
14 be completed.

15 (4) If an individual is seeking to adopt a child from a
16 particular child placing agency, the agency may require the
17 individual to be assessed by its own employee, even if the
18 individual has already had a favorable preplacement assessment
19 completed by another child placing agency.

20 (5) A preplacement assessment shall be based upon personal
21 interviews and visits at the residence of the individual being
22 assessed, interviews of others who know the individual, and
23 reports received under this subsection. The assessment shall
24 contain all of the following information about the individual
25 being assessed:

26 (a) Age, nationality, race or ethnicity, and any religious
27 preference.

1 (b) Marital and family status and history, including the
2 presence of other children or adults in the household and the
3 relationship of those individuals to the adoptive parent.

4 (c) Physical and mental health, including any history of
5 substance abuse.

6 (d) Educational and employment history and any special skills
7 and interests.

8 (e) Property and income, including outstanding financial
9 obligations as indicated in a current financial report provided
10 by the individual.

11 (f) Reason for wanting to adopt.

12 (g) Any previous request for an assessment or involvement in
13 an adoptive placement and the outcome of the assessment or
14 placement.

15 (h) Whether the individual has ever been the respondent in a
16 domestic violence proceeding or a proceeding concerning a child
17 who was allegedly abused, dependent, deprived, neglected,
18 abandoned, or delinquent, and the outcome of the proceeding.

19 (i) Whether the individual has ever been convicted of a
20 crime.

21 (j) Whether the individual has located a parent interested in
22 placing a child with the individual for adoption and a brief
23 description of the parent and the child.

24 (k) Any fact or circumstance that raises a specific concern
25 about the suitability of the individual as an adoptive parent,
26 including the quality of the environment in the home, the
27 functioning of other children in the household, and any aspect of

1 the individual's familial, social, psychological, or financial
2 circumstances that may be relevant to a determination that the
3 individual is not suitable. A specific concern is one that
4 suggests that placement of any child, or a particular child, in
5 the home of the individual would pose a risk of harm to the
6 physical or psychological well-being of the child.

7 (6) A child placing agency shall request an individual
8 seeking a preplacement assessment to provide a document from the
9 Michigan state police and the federal bureau of investigation
10 describing all of the individual's criminal convictions as shown
11 by that agency's records, or stating that the agency's records
12 indicate that the individual has not been convicted of a crime.
13 Upon request of the individual and receipt of a signed
14 authorization, the child placing agency shall obtain the criminal
15 record from the law enforcement agency on the individual's
16 behalf.

17 (7) A preplacement assessment shall contain a list of the
18 sources of information on which it is based. If the child
19 placing agency determines that the information assessed does not
20 raise a specific concern, the child placing agency shall find
21 that the individual is suited to be an adoptive parent. If the
22 child placing agency determines that the information assessed
23 does raise a specific concern, the child placing agency shall
24 find that the individual is not suitable to be an adoptive
25 parent. The conclusion shall be supported by a written account
26 of how 1 or more specific concerns pose a risk to the physical or
27 psychological well-being of any child or a particular child. If

1 the conclusion of a preplacement assessment regarding the
2 suitability of the individual differs from the conclusion in a
3 prior assessment, the child placing agency shall explain and
4 justify the difference.

5 (8) An individual who receives a preplacement assessment with
6 a conclusion of unsuitability may seek a review of the assessment
7 by the court after filing an adoption petition. The court may
8 order an agent or employee of the court to make an investigation
9 and report to the court before the hearing. If, at the hearing,
10 the court finds by clear and convincing evidence that the
11 conclusion of unsuitability is not justified, the person with
12 legal custody of **or sole parenting time with** the child may place
13 the child with that individual. If the court determines that the
14 conclusion of unsuitability is justified, it shall order that the
15 child shall not be placed with the individual.

16 Sec. 27. (1) Before placement of a child for adoption, a
17 parent or guardian, a child placing agency, the department, or
18 the court that places the child shall compile and provide to the
19 prospective adoptive parent a written document containing all of
20 the following nonidentifying information that is not made
21 confidential by state or federal law and that is reasonably
22 obtainable from the parents, relatives, or guardian of the child;
23 from any person who has had ~~physical~~ custody of **or parenting**
24 **time with** the child for 30 days or more; or from any person who
25 has provided health, psychological, educational, or other
26 services to the child:

27 (a) Date, time, and place of birth of the child including the

1 hospital, city, county, and state.

2 (b) An account of the health and genetic history of the
3 child, including an account of the child's prenatal care; medical
4 condition at birth; any drug or medication taken by the child's
5 mother during pregnancy; any subsequent medical, psychological,
6 psychiatric, or dental examination and diagnosis; any
7 psychological evaluation done when the child was under the
8 jurisdiction of the court; any neglect or physical, sexual, or
9 emotional abuse suffered by the child; and a record of any
10 immunizations and health care the child received while in foster
11 or other care.

12 (c) An account of the health and genetic history of the
13 child's biological parents and other members of the child's
14 family, including any known hereditary condition or disease; the
15 health of each parent at the child's birth; a summary of the
16 findings of any medical, psychological, or psychiatric evaluation
17 of each parent at the time of placement; and, if a parent is
18 deceased, the cause of and the age at death.

19 (d) A description of the child and the child's family of
20 origin, including all of the following:

21 (i) Given first name of the child at birth.

22 (ii) The age and sex of siblings of the child.

23 (iii) The child's enrollment and performance in school,
24 results of educational testing, and any special educational
25 needs.

26 (iv) The child's racial, ethnic, and religious background,
27 and a general description of the child's parents, including the

1 age of the child's parents at the time of termination of parental
2 rights, and the length of time the parents had been married at
3 the time of placement.

4 (v) An account of the child's past and existing relationship
5 with any relative, foster parent, or other individual or facility
6 with whom the child has lived or visited on a regular basis. The
7 account shall not include names and addresses of individuals.

8 (vi) The levels of educational, occupational, professional,
9 athletic, or artistic achievement of the child's family.

10 (vii) Hobbies, special interests, and school activities of
11 the child's family.

12 (viii) The circumstances of any judicial order terminating
13 the parental rights of a parent for abuse, neglect, abandonment,
14 or other mistreatment of the child.

15 (ix) Length of time between the termination of parental
16 rights and adoptive placement and whether the termination was
17 voluntary or court-ordered.

18 (x) Any information necessary to determine the child's
19 eligibility for state or federal benefits, including financial,
20 medical, or other assistance.

21 (2) Information required by subsection (1) that is
22 unobtainable before temporary placement shall be submitted by the
23 time of formal placement if reasonably obtainable. The
24 information required by subsection (1) shall be supplemented by
25 other nonidentifying background information that the parent or
26 guardian, child placing agency, department, or court considers
27 appropriate.

1 (3) A parent or guardian, the department, a child placing
2 agency, or a court that places an adoptee under this chapter
3 shall compile all of the following identifying information if
4 reasonably obtainable:

5 (a) Name of the child before placement in adoption.

6 (b) Name of each biological parent at the time of termination
7 of parental rights.

8 (c) The most recent name and address of each biological
9 parent.

10 (d) Names of the biological siblings at the time of
11 termination.

12 (4) The information required by subsections (1) to (3) shall
13 be maintained by the child placing agency, department, or court
14 that places the child or, in the case of a direct placement by a
15 parent or guardian, by the court that approves the placement. In
16 a direct placement, the parent or guardian shall transmit the
17 information required under subsections (1) to (3) to the court
18 before the termination of parental rights. An employee or agent
19 of a child placing agency, the court, or the department who
20 intentionally destroys information required to be maintained
21 under this section is guilty of a misdemeanor.

22 (5) If a child placing agency ceases to operate, the agency's
23 adoption records shall be forwarded to the department. A branch
24 or associate agency of a child placing agency that ceases to
25 operate shall forward its records to the central agency of the
26 branch or associate agency.

27 (6) This section does not apply to a stepparent adoption or

1 to the adoption of a child related to the petitioner within the
2 fifth degree by marriage, blood, or adoption.

3 (7) This section does not prevent a parent or guardian and
4 prospective adoptive parent from exchanging identifying
5 information or meeting ~~pursuant to~~ **as provided in** sections 23a
6 and 23b.

7 Sec. 31. (1) Except as provided in section 23d of this
8 chapter, if a child is born out of wedlock and the release or
9 consent of the biological father cannot be obtained, the child
10 shall not be placed for adoption until the parental rights of the
11 father are terminated by the court as provided in section 37 or
12 39 of this chapter, by the court ~~pursuant~~ **according** to chapter
13 XIIIA, or by a court of competent jurisdiction in another state or
14 country.

15 (2) Pending the termination or other disposition of the
16 rights of the father of a child born out of wedlock, the mother
17 may execute a release terminating her rights to the child. If
18 the mother releases the child, the child placing agency or
19 department to which the child is released may file a petition of
20 dependency or neglect ~~pursuant~~ **according** to chapter XIIIA.
21 Pending disposition of the dependency or neglect petition, the
22 court may enter an order authorizing temporary care of the
23 child.

24 (3) At the request of the mother, her formal execution of a
25 release or consent shall be delayed until after court
26 determination of the status of the putative father's request for
27 custody of **or parenting time with** the child.

1 Sec. 34. (1) In order to provide due notice at the earliest
 2 possible time to a putative father who may have an interest in
 3 the custody of **or parenting time with** an expected child or in the
 4 mother's intended release of an expected child for adoption or
 5 consent to adoption of the expected child, and in order to
 6 facilitate early placement of a child for adoption, a woman
 7 pregnant out of wedlock may file with the court an ex parte
 8 petition ~~which evidences~~ **that does all of the following:**

9 **(a) Evidences** her intent to release her expected child for
 10 adoption or to consent to the child's adoption. ~~—, which~~
 11 ~~indicates~~

12 **(b) Indicates** the approximate date and location of conception
 13 and the expected date of her confinement. ~~—, which alleges~~

14 **(c) Alleges** that a particular person is the putative father
 15 of her expected child. ~~—, and which requests~~

16 **(d) Requests** the court to notify the putative father about
 17 his rights to file a notice of intent to claim paternity
 18 ~~pursuant to~~ **under** section 33.

19 **(2)** The petition may allege more than 1 putative father where
 20 circumstances warrant. The petition shall be verified. Upon the
 21 filing of the petition, the court shall issue a notice of intent
 22 to release or consent, ~~which~~ **and the** notice shall be served
 23 upon the putative father by ~~any~~ **an** officer or person authorized
 24 to serve process of the court. Proof of service shall be filed
 25 with the court.

26 **(3)** ~~(2)~~ A notice of intent to release or consent shall:

27 (a) Indicate the approximate date and location of conception

1 of the child and the expected date of confinement of the mother.

2 (b) Inform the putative father of his right under section
3 33(1) to file a notice of intent to claim paternity before the
4 birth of the child.

5 (c) Inform the putative father of the rights to which his
6 filing of a notice of intent to claim paternity will entitle him
7 under section 33(3).

8 (d) Inform the putative father that his failure to file a
9 notice of intent to claim paternity before the expected date of
10 confinement or before the birth of the child, whichever is later,
11 ~~shall constitute~~ **constitutes** a waiver of his right to receive
12 the notice to which he would otherwise be entitled under section
13 33(3) and ~~shall constitute~~ **constitutes** a denial of his interest
14 in custody of **or parenting time with** the child, ~~which~~ **and the**
15 denial shall result in the court's termination of his rights to
16 the child.

17 (3) The form of the notice of intent to release or consent
18 shall be approved by the supreme court administrator and shall be
19 consistent with this section.

20 Sec. 36. (1) If a child is claimed to be born out of
21 wedlock and the mother executes or proposes to execute a release
22 or consent relinquishing her rights to the child or joins in a
23 petition for adoption filed by her husband, and the release or
24 consent of the natural father cannot be obtained, the judge shall
25 hold a hearing as soon as practical to determine whether the
26 child was born out of wedlock, to determine the identity of the
27 father, and to determine or terminate the rights of the father as

1 provided in this section and sections 37 and 39 of this chapter.

2 (2) Proof of service of a notice of intent to release or
3 consent or the putative father's verified acknowledgment of
4 notice of intent to release or consent shall be filed with the
5 court, if the notice was given to the putative father. The court
6 shall request the vital records division of the department of
7 ~~public~~ **community** health to send to the court a copy of any
8 notice of intent to claim paternity of the particular child which
9 the division has received.

10 (3) Notice of the hearing shall be served upon the
11 following:

12 (a) A putative father who has timely filed a notice of intent
13 to claim paternity as provided in section 33 or 34 of this
14 chapter.

15 (b) A putative father who was not served a notice of intent
16 to release or consent at least 30 days before the expected date
17 of confinement specified in the notice of intent to release or
18 consent.

19 (c) Any other male who was not served ~~pursuant to~~ **as**
20 **provided in** section 34(1) of this chapter with a notice of intent
21 to release or consent and who the court has reason to believe may
22 be the father of the child.

23 (4) The notice of hearing shall inform the putative father
24 that his failure to appear at the hearing ~~shall constitute~~
25 **constitutes** a denial of his interest in custody of **or parenting**
26 **time with** the child, ~~which~~ **and the** denial shall result in the
27 court's termination of his rights to the child.

1 (5) Proof of service of the notice of hearing required by
2 subsection (3) shall be filed with the court. A verified
3 acknowledgment of service by the party to be served is proof of
4 personal service. Notice of the hearing ~~shall not be~~ **is not**
5 required if the putative father is present at the hearing. A
6 waiver of notice of hearing by a person entitled to receive it is
7 sufficient.

8 (6) The court shall receive evidence as to the identity of
9 the father of the child. Based upon the evidence received, the
10 court shall enter a finding identifying the father or declaring
11 that the identity of the father cannot be determined.

12 (7) If the court finds that the father of the child is a
13 person who did not receive either a timely notice of intent to
14 release or consent ~~pursuant to~~ **as provided in** section 34(1) of
15 this chapter or a notice required ~~pursuant to~~ **under** subsection
16 (3), and who has neither waived his right to notice of hearing
17 nor is present at the hearing, the court shall adjourn further
18 proceedings until that person is served with a notice of
19 hearing.

20 Sec. 37. (1) If the court has proof that the person whom it
21 determines ~~pursuant to~~ **under** section 36 to be the father of the
22 child was timely served with a notice of intent to release or
23 consent ~~pursuant to~~ **as provided in** section 34(1) or was served
24 with or waived the notice of hearing required by section 36(3),
25 the court may permanently terminate the rights of the putative
26 father under any of the following circumstances:

27 (a) The putative father submits a verified affirmation of his

1 paternity and a denial of his interest in custody of **or parenting**
2 **time with** the child.

3 (b) The putative father files a disclaimer of paternity. For
4 purposes of this section the filing of the disclaimer of
5 paternity ~~shall constitute~~ **constitutes** a waiver of notice of
6 hearing and ~~shall constitute~~ **constitutes** a denial of his
7 interest in custody of **or parenting time with** the child.

8 (c) The putative father was served with a notice of intent to
9 release or consent in accordance with section 34(1), at least 30
10 days before the expected date of confinement specified in that
11 notice but failed to file an intent to claim paternity either
12 before the expected date of confinement or before the birth of
13 the child.

14 (d) The putative father is given proper notice of hearing in
15 accordance with section 36(3) or 36(5) but either fails to appear
16 at the hearing or appears and denies his interest in custody of
17 **or parenting time with** the child.

18 (2) If the identity of the father cannot be determined, or if
19 the identity of the father is known but his whereabouts cannot be
20 determined, the court shall take evidence to determine the facts
21 in the matter. The court may terminate the rights of the
22 putative father if the court finds from the evidence that
23 reasonable effort has been made to identify and locate the father
24 and that any of the following circumstances exist:

25 (a) The putative father, whose identity is not known, has not
26 made provision for the child's care and did not provide support
27 for the mother during her pregnancy or during her confinement.

1 (b) The putative father, whose identity is known but whose
2 whereabouts are unknown, has not provided support for the mother,
3 has not shown any interest in the child, and has not made
4 provision for the child's care, for at least 90 days preceding
5 the hearing required under section 36.

6 Sec. 39. (1) If the putative father does not come within
7 the provisions of subsection (2), and if the putative father
8 appears at the hearing and requests custody of **or parenting time**
9 **with** the child, the court shall inquire into his fitness and his
10 ability to properly care for the child and shall determine
11 whether the best interests of the child will be served by
12 granting custody **or parenting time** to him. If the court finds
13 that it would not be in the best interests of the child to grant
14 custody **or parenting time** to the putative father, the court shall
15 terminate his rights to the child.

16 (2) If the putative father has established a ~~custodial~~
17 **parenting** relationship with the child or has provided substantial
18 and regular support or care in accordance with the putative
19 father's ability to provide ~~such~~ **that** support or care for the
20 mother during pregnancy or for either mother or child after the
21 child's birth during the 90 days before notice of the hearing was
22 served upon him, the rights of the putative father shall not be
23 terminated except by proceedings in accordance with section 51(6)
24 of this chapter or section 2 of chapter XIIA.

25 (3) If the parental rights of the mother are terminated
26 ~~pursuant to~~ **under** this chapter or other law and if the court
27 awards custody of a child born out of wedlock to the putative

1 father, the court shall enter an order granting custody to the
2 putative father and legitimating the child for all purposes.
3 Upon entry of an order granting custody and legitimating the
4 child, the clerk of the court shall collect a fee of \$35.00 from
5 the putative father. The clerk shall retain \$9.00 of the fee and
6 remit the \$26.00 balance, along with a written report of the
7 order granting custody and legitimating the child, to the
8 director of the department of community health. The report shall
9 be on a form prescribed by or in a manner approved by the
10 director of the department of community health. Regardless of
11 whether the fee required by this section is collected, the clerk
12 shall transmit and the department of community health shall
13 receive the report of the order granting custody and legitimating
14 the child.

15 Sec. 41. (1) Except as provided in section 23d of this
16 chapter, a child shall not be placed in a home for the purpose of
17 adoption until an order terminating parental rights has been
18 entered ~~pursuant to~~ **under** this chapter or chapter XIIIA and the
19 court has formally approved placement under section 51 of this
20 chapter. After an order terminating parental rights has been
21 entered, the court shall enter any appropriate orders ~~pursuant~~
22 ~~to~~ **under** sections 45, 46, and 51 of this chapter. ~~Such~~ **Those**
23 orders shall not be withheld because the period specified for a
24 rehearing or an appeal as of right has not expired, or because of
25 the pendency of ~~any~~ **a** rehearing or appeal as of right.

26 (2) If an order terminating parental rights is entered
27 ~~pursuant to~~ **under** this chapter or chapter XIIIA, the child may

1 be placed in a home for the purpose of adoption during the period
2 specified for a rehearing or an appeal as of right and the period
3 during which a rehearing or appeal as of right is pending.

4 ~~When~~ **If** a child placing agency, the court, or the department
5 formally places a child or the court approves placement of a
6 child ~~pursuant to~~ **under** this subsection, the child placing
7 agency, court, or department shall inform the person or persons
8 in whose home the child is placed that an adoption will not be
9 ordered until 1 of the following occurs:

10 (a) The petition for rehearing is granted, at the rehearing
11 the order terminating parental rights is not modified or set
12 aside, and subsequently the period for appeal as of right to the
13 court of appeals has expired without an appeal being filed.

14 (b) The petition for rehearing is denied and the period for
15 appeal as of right to the court of appeals has expired without an
16 appeal being filed.

17 (c) There is a decision of the court of appeals affirming the
18 order terminating parental rights.

19 (3) This section ~~shall~~ **does** not ~~be construed to~~ prevent a
20 child residing in a licensed foster home from being adopted by
21 the foster parent or parents.

22 (4) This section does not apply if the petitioner for
23 adoption is married to a parent having legal custody of **or sole**
24 **parenting time with** the child.

25 Sec. 43. (1) Subject to this section and sections 44 and 51
26 of this chapter, consent to adoption of a child shall be
27 executed:

1 (a) By each parent of a child to be adopted or the surviving
2 parent, except under the following circumstances:

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

5 (ii) The child has been released for the purpose of adoption
6 to a child placing agency or to the department.

7 (iii) A guardian of the child has been appointed.

8 (iv) A guardian of a parent has been appointed.

9 (v) A parent having legal custody of **or sole parenting time**
10 **with** the child is married to the petitioner.

11 (b) By the authorized representative of the department or of
12 a child placing agency to whom the child has been permanently
13 committed by an order of the court.

14 (c) By the court or by a tribal court having permanent
15 custody of the child.

16 (d) By the authorized representative of the department or of
17 a child placing agency to whom the child has been released.

18 (e) By the guardian of the child, subject to subsection (5),
19 if a guardian has been appointed.

20 (f) By the guardian of a parent, subject to subsection (6),
21 if a guardian has been appointed.

22 (g) By the authorized representative of a court or child
23 placing agency of another state or country that has authority to
24 consent to adoption.

25 (2) If the child to be adopted is over 14 years of age, that
26 child's consent is necessary before the court may enter an order
27 of adoption.

1 (3) If the individual to be adopted is an adult, the
2 individual's consent is necessary before the court may enter an
3 order of adoption, but consent by any other individual is not
4 required.

5 (4) If the parent of the child to be adopted is an
6 unemancipated minor, that parent's consent is not valid unless a
7 parent, guardian, or guardian ad litem of that minor parent has
8 also executed the consent.

9 (5) The guardian of the child to be adopted shall not execute
10 a consent to that child's adoption ~~pursuant to~~ **under** subsection
11 (1) unless the guardian has first obtained authority to execute
12 the consent from the court that appointed the guardian.

13 (6) The guardian of a parent shall not execute a consent to
14 the adoption of the parent's child ~~pursuant to~~ **under** subsection
15 (1) unless the guardian has first obtained authority to execute
16 the consent from the court that appointed the guardian. The
17 consent shall have the same effect as if the consent were
18 executed by the parent.

19 (7) If the petitioner for adoption is married to the parent
20 having legal custody of **or sole parenting time with** the child and
21 that parent has joined the petitioner in filing the petition for
22 adoption, that parent shall not execute a consent to the
23 adoption. The consent of the parent who does not have legal
24 custody of **or sole parenting time with** the child and whose
25 parental rights have not been terminated shall be executed before
26 the court may enter an order of adoption under section 56 of this
27 chapter.

1 Sec. 51. (1) Not later than 14 days after receipt of the
2 report of investigation, except as provided in subsections (2)
3 and (5), the judge shall examine the report and shall enter an
4 order terminating the rights of the child's parent or parents, if
5 there was a parental consent, or the rights of any person in loco
6 parentis, if there was a consent by other than parents, and
7 approve placement of the child with the petitioner if the judge
8 is satisfied as to both of the following:

9 (a) The genuineness of consent to the adoption and the legal
10 authority of the person or persons signing the consent.

11 (b) The best interests of the adoptee will be served by the
12 adoption.

13 (2) If it is necessary to hold a hearing before entering an
14 order terminating the rights of a parent, parents, or a person in
15 loco parentis, or if other good cause is shown, the time
16 specified in subsection (1) shall be extended for an additional
17 14-day period.

18 (3) Upon entry of an order terminating rights of parents or
19 persons in loco parentis, a child is a ward of the court and a
20 consent to adoption executed ~~pursuant to~~ **under** section 43 of
21 this chapter shall not be withdrawn after the order is entered.
22 Entry of the order terminates the jurisdiction of the same court
23 or another court over the child in a divorce or separate
24 maintenance action. If the petitioner for adoption is married to
25 the parent having legal custody of **or sole parenting time with**
26 the child, the child shall not be made a ward of the court after
27 termination of the rights of the other parent.

1 (4) Without making the child a ward of the court, the court
2 may approve placement of a child if the child is placed for
3 adoption in this state by a public or licensed private agency of
4 another state or country and if the law of the sending state or
5 country prohibits the giving of consent to adoption at the time
6 of placement. Before placement of the child in that instance,
7 the sending agency shall tender evidence as the court requires to
8 demonstrate that the agency possesses the necessary authority to
9 consent to the adoption at the time of entry of the final order
10 of adoption. After the sending agency has given evidence of its
11 ability to consent, the agency shall not do anything to
12 jeopardize its ability to grant the required consent before entry
13 of the final order of adoption. After the sending agency gives
14 its consent for the adoption, that consent shall not be
15 withdrawn.

16 (5) If a parent having legal custody of **or sole parenting**
17 **time with** the child is married to the petitioner for adoption,
18 the judge shall not enter an order terminating the rights of that
19 parent.

20 (6) If the parents of a child are divorced, or if the parents
21 are unmarried but the father has acknowledged paternity or is a
22 putative father who meets the conditions in section 39(2) of this
23 chapter, and if the parent having legal custody of **or sole**
24 **parenting time with** the child subsequently marries and that
25 parent's spouse petitions to adopt the child, the court upon
26 notice and hearing may issue an order terminating the rights of
27 the other parent if both of the following occur:

1 (a) The other parent, having the ability to support, or
2 assist in supporting, the child, has failed or neglected to
3 provide regular and substantial support for the child or if a
4 support order has been entered, has failed to substantially
5 comply with the order, for a period of 2 years or more before the
6 filing of the petition.

7 (b) The other parent, having the ability to visit, contact,
8 or communicate with the child, has regularly and substantially
9 failed or neglected to do so for a period of 2 years or more
10 before the filing of the petition.

11 (7) Unless otherwise ordered by the court, the prospective
12 adoptive parents with whom a child is placed ~~pursuant to~~ **under**
13 a court order approving placement under this section may consent
14 to all medical, surgical, psychological, educational, and related
15 services for the child.

16 Sec. 60. (1) After the entry of the order of adoption, the
17 adoptee shall, in case of a change of name, be known and called
18 by the new name. The person or persons adopting the adoptee then
19 stand in the place of a parent or parents to the adoptee in law
20 in all respects as though the adopted person had been born to the
21 adopting parents and are liable for all the duties and entitled
22 to all the rights of parents.

23 (2) After entry of the order of adoption, there is no
24 distinction between the rights and duties of natural progeny and
25 adopted persons, and the adopted person becomes an heir at law of
26 the adopting parent or parents, and an heir at law of the lineal
27 and collateral kindred of the adopting parent or parents. After

1 entry of the order of adoption, an adopted child is no longer an
 2 heir at law of a parent whose rights have been terminated under
 3 this chapter or chapter XIIIA or the lineal or collateral kindred
 4 of that parent, nor is an adopted adult an heir at law of a
 5 person who was his or her parent at the time the order of
 6 adoption was entered or the lineal or collateral kindred of that
 7 person, except that a right, title, or interest vesting before
 8 entry of the final order of adoption is not divested by that
 9 order.

10 (3) This section does not prohibit the entry of an order for
 11 grandparenting time under section 7b of the child ~~custody act of~~
 12 ~~1970, Act No. 91 of the Public Acts of 1970, being section~~
 13 ~~722.27b of the Michigan Compiled Laws~~ **parenting time act, 1970**
 14 **PA 91, MCL 722.27b.** During the pendency of a stepparent adoption
 15 proceeding, a parent of a natural parent may seek an order for
 16 grandparenting time of the adoptee in the same manner as set
 17 forth in section 7b of ~~Act No. 91 of the Public Acts of 1970~~
 18 **the child parenting time act, 1970 PA 91, MCL 722.27b,** and the
 19 judge shall proceed in the same manner as is provided in section
 20 7b of ~~Act No. 91 of the Public Acts of 1970~~ **the child parenting**
 21 **time act, 1970 PA 91, MCL 722.27b.**

22

CHAPTER XI

23 Sec. 1. (1) The family division of the circuit court for a
 24 county may enter an order to change the name of an individual who
 25 has been a resident of the county for not less than 1 year and
 26 who in accordance with subsection (2) petitions in writing to the
 27 court for that purpose showing a sufficient reason for the

1 proposed change and that the change is not sought with a
2 fraudulent intent. If the individual who petitions for a name
3 change has a criminal record, the individual is presumed to be
4 seeking a name change with a fraudulent intent. The burden of
5 proof is on a petitioner who has a criminal record to rebut the
6 presumption. The court shall set a time and place for hearing
7 and, except as provided in section 3 of this chapter, order
8 publication as provided by supreme court rule.

9 (2) An individual who is 22 years of age or older and who
10 petitions to have his or her name changed shall have 2 complete
11 sets of his or her fingerprints taken at a local police agency.
12 The fingerprints, along with a copy of the petition and the
13 required processing fees, shall be forwarded to the department of
14 state police. The department of state police shall compare those
15 fingerprints with its records and shall forward a complete set of
16 fingerprints to the federal bureau of investigation for a
17 comparison with the records available to that agency. The
18 department of state police shall report to the court in which the
19 petition is filed the information contained in the department's
20 records with respect to any pending charges against the
21 petitioner or a record of conviction of the petitioner and shall
22 report to the court similar information obtained from the federal
23 bureau of investigation. If there are no pending charges or
24 record of conviction against the petitioner, the department of
25 state police shall destroy its copy of the petitioner's
26 fingerprints. The court shall not act upon the petition for a
27 name change until the department of state police reports the

1 information required by this subsection to the court.

2 (3) If the court enters an order to change the name of an
3 individual who has a criminal record, the court shall forward the
4 order to the central records division of the Michigan state
5 police and to 1 or more of the following:

6 (a) The department of corrections if the individual named in
7 the order is in prison or on parole or has been imprisoned or
8 released from parole in the immediately preceding 2 years.

9 (b) The sheriff of the county in which the individual named
10 in the order was last convicted if the individual was
11 incarcerated in a county jail or released from a county jail
12 within the immediately preceding 2 years.

13 (c) The court that has jurisdiction over the individual named
14 in the order if the individual named in the order is under the
15 jurisdiction of the family division of the circuit court or has
16 been discharged from the jurisdiction of that court within the
17 immediately preceding 2 years.

18 (4) The court may permit an individual having the same name,
19 or a similar name to that which the petitioner proposes to
20 assume, to intervene in the proceeding for the purpose of showing
21 fraudulent intent.

22 (5) Except as provided in subsection (7), if the petitioner
23 is a minor, the petition shall be signed by the mother and father
24 jointly; by the surviving parent if 1 is deceased; if both
25 parents are deceased, by the guardian of the minor; or by 1 of
26 the minor's parents if there is only 1 legal parent available to
27 give consent. If either parent has been declared mentally

1 incompetent, the petition may be signed by the guardian for that
2 parent. The written consent to the change of name of a minor 14
3 years of age or older, signed by the minor in the presence of the
4 court, shall be filed with the court before an order changing the
5 name of the minor is entered. If the court considers the child
6 to be of sufficient age to express a preference, the court shall
7 consult a minor under 14 years of age as to a change in his or
8 her name, and the court shall consider the minor's wishes.

9 (6) If the petitioner is married, the court, in its order
10 changing the name of the petitioner, may include the name of the
11 spouse, if the spouse consents, and may include the names of
12 minor children of the petitioner of whom the petitioner has legal
13 custody **or with whom the petitioner has sole parenting time.** The
14 written consent to the change of name of a child 14 years of age
15 or older, signed by the child in the presence of the court, shall
16 be filed with the court before the court includes that child in
17 its order. Except as provided in subsection (7), the name of a
18 minor under 14 years of age may not be changed unless he or she
19 is the natural or adopted child of the petitioner and unless
20 consent is obtained from the mother and father jointly, from the
21 surviving parent if 1 is deceased, or from 1 of the minor's
22 parents if there is only 1 legal parent available to give
23 consent. If the court considers the child to be of sufficient
24 age to express a preference, the court shall consult a minor
25 under 14 years of age as to a change in his or her name, and the
26 court shall consider the minor's wishes.

27 (7) The name of a minor may be changed ~~pursuant to~~ **under**

1 subsection (5) or (6) with the consent or signature of the
2 ~~custodial~~ parent **with sole parenting time** upon notice to the
3 ~~noncustodial~~ **other** parent as provided in supreme court rule and
4 after a hearing in either of the following circumstances:

5 (a) If both of the following occur:

6 (i) The other parent, having the ability to support or assist
7 in supporting the child, has failed or neglected to provide
8 regular and substantial support for the child or, if a support
9 order has been entered, has failed to substantially comply with
10 the order, for 2 years or more before the filing of the
11 petition.

12 (ii) The other parent, having the ability to visit, contact,
13 or communicate with the child, has regularly and substantially
14 failed or neglected to do so for 2 years or more before the
15 filing of the petition.

16 (b) The other parent has been convicted of a violation of
17 section 136b, 520b, 520c, 520d, 520e, or 520g of the Michigan
18 penal code, 1931 PA 328, MCL 750.136b, 750.520b to 750.520e, and
19 750.520g, and the child or a sibling of the child is a victim of
20 the crime.

21 (8) A false statement that is intentionally included within a
22 petition for a name change constitutes perjury under section 422
23 of the Michigan penal code, 1931 PA 328, MCL 750.422.

24 CHAPTER XII

25 Sec. 2. (1) The court has jurisdiction over a newborn who
26 is surrendered to an emergency service provider as provided in
27 section 3 of this chapter. The court may appoint a

1 lawyer-guardian ad litem to represent a newborn in proceedings
2 under this chapter.

3 (2) Except as provided in section 5 of this chapter, the
4 reporting requirement of section 3 of the child protection law,
5 1975 PA 238, MCL 722.623, does not apply regarding a child
6 surrendered to an emergency service provider as provided in
7 section 3 of this chapter.

8 (3) Unless this chapter specifically provides otherwise, a
9 provision in another chapter of this act does not apply to a
10 proceeding under this chapter. Unless this chapter specifically
11 provides otherwise, the child ~~custody act of 1970~~ **parenting**
12 **time act**, 1970 PA 91, MCL 722.21 to 722.30, does not apply to a
13 proceeding under this chapter.

14 (4) A hospital and a child placing agency, and their agents
15 and employees, are immune in a civil action for damages for an
16 act or omission in accepting or transferring a newborn under this
17 chapter, except for an act or omission constituting gross
18 negligence or willful or wanton misconduct. To the extent not
19 protected by the immunity conferred by 1964 PA 170, MCL 691.1401
20 to 691.1415, an employee or contractor of a fire department or
21 police station has the same immunity that this subsection
22 provides to a hospital's or child placing agency's agent or
23 employee.

24 Sec. 14. (1) In ~~a custody~~ **an** action under this chapter,
25 the court shall determine custody of **or parenting time with** the
26 newborn based on the newborn's best interest. The court shall
27 consider, evaluate, and make findings on each factor of the

1 newborn's best interest with the goal of achieving permanence for
2 the newborn at the earliest possible date.

3 (2) A newborn's best interest in ~~a custody~~ **an** action under
4 this chapter is all of the following factors regarding a parent
5 claiming parenthood of the newborn:

6 (a) The love, affection, and other emotional ties existing
7 between the newborn and the parent.

8 (b) The parent's capacity to give the newborn love,
9 affection, and guidance.

10 (c) The parent's capacity and disposition to provide the
11 newborn with food, clothing, medical care, or other remedial care
12 recognized and permitted under the laws of this state in place of
13 medical care, and other material needs.

14 (d) The permanence, as a family unit, of the existing or
15 proposed ~~custodial~~ home **for the child**.

16 (e) The parent's moral fitness.

17 (f) The parent's mental and physical health.

18 (g) Whether the parent has a history of domestic violence.

19 (h) If the parent is not the parent who surrendered the
20 newborn, the opportunity the parent had to provide appropriate
21 care and ~~custody of~~ **parenting time with** the newborn before the
22 newborn's birth or surrender.

23 (i) Any other factor considered by the court to be relevant
24 to the determination of the newborn's best interest.

25 Sec. 15. Based on the court's finding of the newborn's best
26 interest under section 14 of this chapter, the court may issue an
27 order that does 1 of the following:

1 (a) Grants ~~legal or physical~~ custody ~~, or both,~~ of **or**
2 **parenting time with** the newborn to the parent ~~,~~ and either
3 retains or relinquishes jurisdiction.

4 (b) Terminates the parent's parental rights and gives a child
5 placing agency custody and care of the newborn.

6 Enacting section 1. This amendatory act takes effect
7 January 1, 2005.

8 Enacting section 2. This amendatory act does not take
9 effect unless House Bill No. 5949 of the 92nd Legislature is
10 enacted into law.