

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

***** 712B.13.amended THIS AMENDED SECTION IS EFFECTIVE MAY 30, 2016 *****

712B.13.amended Guardianship; adoptive placement; termination of parental rights; consent.

Sec. 13. (1) If both parents or Indian custodian voluntarily consent to a petition for guardianship under section 5204 or 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204 and 700.5205, or if a parent consents to adoptive placement or the termination of his or her parental rights for the express purpose of adoption by executing a release under sections 28 and 29 of chapter X, or consent under sections 43 and 44 of chapter X, the following requirements must be met:

(a) To be valid, consent under this section must be executed on a form approved by the state court administrative office, in writing, recorded before a judge of a court of competent jurisdiction, and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given before, or within 10 days after, birth of the Indian child is not valid.

(b) Notice of the pending proceeding must be given as prescribed by Michigan supreme court rule, the Indian child welfare act, and section 9 of this chapter.

(c) The voluntary custody proceeding shall be conducted in accordance with Michigan supreme court rules and the following statutes:

(i) In a guardianship proceeding under section 5204 or 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204 and 700.5205, section 25 of this chapter also applies.

(ii) In an adoption proceeding, section 27 of this chapter also applies.

(2) Consent described under subsection (1) must contain the following information:

(a) The Indian child's name and date of birth.

(b) The name of the Indian child's tribe and any identifying number or other indication of the child's membership in the tribe, if any.

(c) The name and address of the consenting parent or Indian custodian.

(d) A sworn statement from the translator, if any, attesting to the accuracy of the translation.

(e) The signature of the consenting parent, parents, or Indian custodian recorded before the judge, verifying an oath of understanding of the significance of the voluntary placement and the parent's right to file a written demand to terminate the voluntary placement or consent at any time.

(f) For consent for voluntary placement of the Indian child in foster care, the name and address of the person or entity who will arrange the foster care placement as well as the name and address of the prospective foster care parents if known at the time.

(g) For consent to termination of parental rights or adoption of an Indian child, in addition to the information in subdivisions (a) to (f), the name and address of the person or entity that will arrange the preadoptive or adoptive placement.

(3) If the placement is for purposes of adoption, a consent under subsection (1) of the Indian child's parent must be executed in conjunction with either a consent to adopt, as required by sections 43 and 44 of chapter X, or a release, as required by sections 28 and 29 of chapter X. A parent who executes a consent under this section may withdraw his or her consent at any time before entry of a final order of adoption by filing a written demand requesting the return of the Indian child. Once a demand is filed with the court, the court shall order the return of the Indian child. Withdrawal of consent under this section constitutes a withdrawal of a release executed under sections 28 and 29 of chapter X or a consent to adopt executed under sections 43 and 44 of chapter X.

(4) A parent or Indian custodian who executes a consent under this section for the purpose of guardianship may withdraw his or her consent at any time by sending written notice to the court substantially in compliance on a form approved by the state court administrative office that the parent or Indian custodian revokes consent and wants his or her Indian child returned.

(5) A release executed under sections 28 and 29 of chapter X during a pendency of a proceeding under section 2(b) of chapter XIIA is subject to section 15 of this chapter. If the release follows the initiation of a proceeding under section 2(b) of chapter XIIA, the court shall make a finding that culturally appropriate services were offered.

(6) A parent who executes a consent to adoption under sections 43 and 44 of chapter X may withdraw that

consent at any time before entry of a final order for adoption by filing notification of the withdrawal of consent with the court. In a direct placement, as defined in section 22(o) of chapter X, a consent by a parent or guardian shall be accompanied by a verified statement signed by the parent or guardian that contains all of the following:

(a) That the parent or guardian has received a list of community and federal resource supports and a copy of the written document described in section 6(1)(c) of the foster care and adoption services act, 1994 PA 204, MCL 722.956.

(b) As required by sections 29 and 44 of chapter X, that the parent or guardian has received counseling related to the adoption of his or her Indian child or waives the counseling with the signing of the verified statement.

(c) That the parent or guardian has not received or been promised any money or anything of value for the consent to adoption of the Indian child, except for lawful payments that are itemized on a schedule filed with the consent.

(d) That the validity and finality of the consent are not affected by any collateral or separate agreement between the parent or guardian and the adoptive parent.

(e) That the parent or guardian understands that it serves the welfare of the Indian child for the parent to keep the child placing agency, court, or department informed of any health problems that the parent develops that could affect the Indian child.

(f) That the parent or guardian understands that it serves the welfare of the Indian child for the parent or guardian to keep his or her address current with the child placing agency, court, or department in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years or older.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013;—Am. 2016, Act 26, Eff. May 30, 2016.

Popular name: Probate Code