

HOUSE BILL No. 6229

June 12, 2018, Introduced by Reps. Moss, Hoadley, Singh, LaGrand, Sowerby, Sneller, Greig, Wittenberg, Pagan, Chang, Geiss, Sabo and Zemke and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 24, 41, and 51 of chapter X (MCL 710.24, 710.41, and 710.51), section 24 as amended by 2016 PA 191, section 41 as amended by 1994 PA 222, and section 51 as amended by 2016 PA 143.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 24. (1) Except as otherwise provided in this section, ~~if~~ a person **WHO** desires to adopt a child or an adult and to bestow upon the adoptee his or her family name, or to adopt a child or an adult without a name change, with the intent to make the adoptee his or her heir, ~~that person, together with his or her spouse, if married,~~ shall file a petition with the court. ~~of~~ **IF THE PETITIONER IS MARRIED, THE PETITIONER'S HUSBAND OR WIFE MUST JOIN IN THE**

1 **PETITION. TWO UNMARRIED PERSONS MAY PETITION TO ADOPT A CHILD BY**
2 **FILING A PETITION UNDER THIS SECTION.**

3 **(2) THE PETITION MUST BE FILED IN** the county in which the
4 petitioner resides, where the adoptee is found or, where the
5 parent's parental rights were terminated or are pending
6 termination. If both parents' parental rights were terminated at
7 different times and in different courts, a petition filed under
8 this section ~~shall~~ **MUST** be filed in the court of the county where
9 parental rights were first terminated. If there has been a
10 temporary placement of the child, the petition for adoption ~~shall~~
11 **MUST** be filed with the court that received the report described in
12 section 23d(2) of this chapter.

13 **(3) ~~(2)~~** Notwithstanding any other provision in this section,
14 the court may allow either of the following to occur:

15 (a) A married individual to adopt an adult without his or her
16 spouse joining in the petition if all of the interested parties
17 consent.

18 (b) A married individual to adopt without his or her spouse
19 joining in the petition if the failure of the other spouse to join
20 in the petition or to consent to the adoption is excused by the
21 court for good cause shown or in the best interest of the child.

22 **(4) ~~(3)~~** In an adoption proceeding in which there is more than
23 1 applicant, the petition for adoption shall be filed with the
24 court of the county where the parent's parental rights were
25 terminated or are pending termination. If both parents' parental
26 rights were terminated at different times and in different courts,
27 a petition filed under this section shall be filed in the court of

1 the county where parental rights were first terminated.

2 (5) ~~(4)~~—The petition for adoption shall be verified by each
3 petitioner and shall contain the following information:

4 (a) The name, date and place of birth, and place of residence
5 of each petitioner, including the maiden name of the adopting
6 mother. **PETITIONER.**

7 (b) Except as otherwise provided in subsection ~~(7)~~, **(8)**, the
8 name, date and place of birth, and place of residence if known of
9 the adoptee.

10 (c) The relationship, if any, of the adoptee to the
11 petitioner.

12 (d) The full name by which the adoptee shall be known after
13 adoption.

14 (e) The full description of the property, if any, of the
15 adoptee.

16 (f) Unless the rights of the parents have been terminated by a
17 court of competent jurisdiction or except as otherwise provided in
18 subsection ~~(7)~~, **(8)**, the names of the parents of the adoptee and
19 the place of residence of each living parent if known.

20 (g) Except as otherwise provided in subsection ~~(7)~~, **(8)**, the
21 name and place of residence of the guardian of the person or estate
22 of the adoptee, if any has been appointed.

23 (6) ~~(5)~~—In a direct placement, the petitioner shall attach to
24 the petition a verified statement certifying that the petitioner
25 has been informed of the availability of counseling services and
26 whether the petitioner has received counseling.

27 (7) ~~(6)~~—Except as otherwise provided in this subsection, in a

1 direct placement, the petitioner shall attach a copy of a
 2 preplacement assessment of the petitioner completed or updated
 3 within 1 year before the petition is filed with a finding that the
 4 petitioner is suitable to be a parent of an adoptee, copies of all
 5 other preplacement assessments of the petitioner, if any others
 6 have been completed, and a verified statement stating that no
 7 preplacement assessments of the petitioner have been completed
 8 other than those attached to the petition and explaining any
 9 preplacement assessments of the petitioner that have been initiated
 10 but not completed. If the petitioner is seeking review of a
 11 preplacement assessment under section ~~23f(8)~~ **23F(9)** of this
 12 chapter, the petitioner may comply with this subsection by
 13 attaching a copy of that preplacement assessment and a copy of the
 14 application for review, together with copies of all other
 15 preplacement assessments and the verified statement required by
 16 this section.

17 **(8)** ~~(7)~~—In a direct placement in which the parties have
 18 elected not to exchange identifying information, the information
 19 required by subsection ~~(4)(f)~~ **(5) (F)** and (g) and the surname and
 20 place of residence of the adoptee required under subsection ~~(4)(b)~~
 21 **(5) (B)** may be omitted. The attorney or child placing agency
 22 assisting in the adoption shall file a verified statement
 23 containing the omitted information.

24 Sec. 41. (1) Except as provided in section 23d of this
 25 chapter, a child shall not be placed in a home for the purpose of
 26 adoption until an order terminating parental rights has been
 27 entered ~~pursuant to~~ **UNDER** this chapter, **CHAPTER XII**, or chapter

1 XIIA and the court has formally approved placement under section 51
2 of this chapter. After an order terminating parental rights has
3 been entered, the court shall enter any appropriate orders ~~pursuant~~
4 **ACCORDING** to sections 45, 46, and 51 of this chapter. Such orders
5 shall not be withheld because the period specified for a rehearing
6 or an appeal as of right has not expired, or because of the
7 pendency of any rehearing or appeal as of right.

8 (2) If an order terminating parental rights is entered
9 ~~pursuant to~~ **UNDER** this chapter, **CHAPTER XII**, or chapter XIIA, the
10 child may be placed in a home for the purpose of adoption during
11 the period specified for a rehearing or an appeal as of right and
12 the period during which a rehearing or appeal as of right is
13 pending. When a child placing agency, the court, or the department
14 formally places a child or the court approves placement of a child
15 ~~pursuant~~ **ACCORDING** to this subsection, the child placing agency,
16 court, or department shall inform the person or persons in whose
17 home the child is placed that an adoption will not be ordered until
18 1 of the following occurs:

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

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

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

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

4 (4) This section does not apply if the petitioner for adoption
5 is married to **OR HAS JOINED IN AN ADOPTION PETITION WITH** a parent
6 having legal custody of the child.

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

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

17 (b) The best interests of the adoptee will be served by the
18 adoption.

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

24 (3) Upon entry of an order terminating rights of parents or
25 persons in loco parentis, a child is a ward of the court and a
26 consent to adoption executed under section 43 of this chapter shall
27 not be withdrawn after the order is entered. Entry of the order

1 terminates the jurisdiction of the same court or another court over
2 the child in a divorce or separate maintenance action. If the
3 petitioner for adoption is married to **OR HAS JOINED IN AN ADOPTION**
4 **PETITION WITH** the parent having legal custody of the child, the
5 child shall not be made a ward of the court after termination of
6 the rights of the other parent.

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

21 (5) If a parent having legal custody of the child is married
22 to **OR HAS JOINED IN AN ADOPTION PETITION WITH** the petitioner, ~~for~~
23 ~~adoption,~~ the judge shall not enter an order terminating the rights
24 of that parent.

25 (6) If the parents of a child are divorced, or if the parents
26 are unmarried but the father has acknowledged paternity or is a
27 putative father who meets the conditions in section 39(2) of this

chapter, and if a parent having custody of the child according to a court order subsequently marries and that ~~parent's~~ **PERSON'S** spouse petitions to adopt the child **OR THE PERSON HAVING CUSTODY OF THE CHILD ACCORDING TO A COURT ORDER PETITIONS FOR ADOPTION UNDER SECTION 24(1) OF THIS CHAPTER**, the court upon notice and hearing may issue an order terminating the rights of the other parent if both of the following occur:

(a) The other parent, having the ability to support, or assist in supporting, the child, has failed or neglected to provide regular and substantial support for the child or if a support order has been entered, has failed to substantially comply with the order, for a period of 2 years or more before the filing of the petition. A child support order stating that support is \$0.00 or that support is reserved shall be treated in the same manner as if no support order has been entered.

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

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

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.