

[No. 232]

(SB 1052)

AN ACT to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties,” by amending the title and section 19b of chapter XIIA (MCL 712A.19b), the title as amended by 1997 PA 163 and section 19b of chapter XIIA as amended by 2000 PA 46, and by adding chapter XII.

The People of the State of Michigan enact:

TITLE

An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties.

CHAPTER XII

SAFE DELIVERY OF NEWBORNS

712.1 Short title of chapter; definitions. [M.S.A. 27.3178(571)]

Sec. 1. (1) This chapter shall be known and may be cited as the “safe delivery of newborns law”.

(2) As used in this chapter:

(a) “Child placing agency” means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(b) “Court” means the family division of circuit court.

(c) “Department” means the family independence agency.

(d) “Domestic violence” means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(e) “Emergency service provider” means a uniformed or otherwise identified employee or contractor of a fire department, hospital, or police station when such an individual is inside the premises and on duty.

2000 PUBLIC AND LOCAL ACTS

(f) “Fire department” means an organized fire department as that term is defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(g) “Gross negligence” means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(h) “Hospital” means a hospital that is licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(i) “Lawyer-guardian ad litem” means an attorney appointed under section 2 of this chapter. A lawyer-guardian ad litem represents the newborn, and has the powers and duties, as set forth in section 17d of chapter XIII.

(j) “Newborn” means a child who a physician reasonably believes to be not more than 72 hours old.

(k) “Police station” means that term as defined in section 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

(l) “Preplacement assessment” means an assessment of a prospective adoptive parent as described in section 23f of chapter X.

(m) “Surrender” means to leave a newborn with an emergency service provider without expressing an intent to return for the newborn.

712.2 Newborn surrendered to emergency service provider; court jurisdiction; effect of other provisions of law; immunity from civil action. [M.S.A. 27.3178(572)]

Sec. 2. (1) The court has jurisdiction over a newborn who is surrendered to an emergency service provider as provided in section 3 of this chapter. The court may appoint a lawyer-guardian ad litem to represent a newborn in proceedings under this chapter.

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

(3) Unless this chapter specifically provides otherwise, a provision in another chapter of this act does not apply to a proceeding under this chapter. Unless this chapter specifically provides otherwise, the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.30, does not apply to a proceeding under this chapter.

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

712.3 Conduct of emergency service provider. [M.S.A. 27.3178(573)]

Sec. 3. (1) If a parent surrenders a child who may be a newborn to an emergency service provider, the emergency service provider shall comply with the requirements of this section under the assumption that the child is a newborn. The emergency service provider shall, without a court order, immediately accept the newborn, taking the newborn into temporary protective custody. The emergency service provider shall make a reasonable effort to do all of the following:

(a) Take action necessary to protect the physical health and safety of the newborn.

2000 PUBLIC AND LOCAL ACTS

(b) Inform the parent that by surrendering the newborn, the parent is releasing the newborn to a child placing agency to be placed for adoption.

(c) Inform the parent that the parent has 28 days to petition the court to regain custody of the newborn.

(d) Provide the parent with written material approved by or produced by the family independence agency that includes, but is not limited to, all of the following statements:

(i) By surrendering the newborn, the parent is releasing the newborn to a child placing agency to be placed for adoption.

(ii) The parent has 28 days after surrendering the newborn to petition the court to regain custody of the newborn.

(iii) After the 28-day period to petition for custody elapses, there will be a hearing to terminate parental rights.

(iv) There will be public notice of this hearing, and the notice will not contain the parent's name.

(v) The parent will not receive personal notice of this hearing.

(vi) Information the parent provides to an emergency service provider will not be made public.

(vii) A parent can contact the safe delivery line established under section 20 of this chapter for more information.

(2) After providing a parent with the information described in subsection (1), an emergency service provider shall make a reasonable attempt to do all of the following:

(a) Encourage the parent to provide any relevant family or medical information.

(b) Provide the parent with the pamphlet produced under section 20 of this chapter and inform the parent that he or she can receive counseling or medical attention.

(c) Inform the parent that information that he or she provides will not be made public.

(d) Ask the parent to identify himself or herself.

(e) Inform the parent that in order to place the newborn for adoption the state is required to make a reasonable attempt to identify the other parent, and then ask the parent to identify the other parent.

(f) Inform the parent that the child placing agency that takes temporary protective custody of the newborn can provide confidential services to the parent.

(g) Inform the parent that the parent may sign a release for the newborn to be used at the parental rights termination hearing.

712.5 Transfer of newborn to hospital; physician report of abuse, neglect, or child not a newborn; notice to child placing agency. [M.S.A. 27.3178(575)]

Sec. 5. (1) An emergency service provider that is not a hospital and that takes a newborn into temporary protective custody under section 3 of this chapter shall transfer the newborn to a hospital. The hospital shall accept a newborn who an emergency service provider transfers to the hospital in compliance with this chapter, taking the newborn into temporary protective custody.

(2) A hospital that takes a newborn into temporary protective custody under this chapter shall have the newborn examined by a physician. If a physician who examines the newborn either determines that there is reason to suspect the newborn has experienced child abuse or child neglect, other than being surrendered to an emergency service provider under section 3 of this chapter, or comes to a reasonable belief that the child is not a newborn, the physician shall immediately report to the department as required by section 3 of the child protection law, 1975 PA 238, MCL 722.623.

(3) If a physician is not required to report to the department as provided in subsection (2), the hospital shall notify a child placing agency that the hospital has taken a newborn into temporary protective custody under this chapter.

712.7 Duties of child placing agency. [M.S.A. 27.3178(577)]

Sec. 7. Upon receipt of notice from a hospital under section 5 of this chapter, the child placing agency shall do all of the following:

(a) Immediately assume the care, control, and temporary protective custody of the newborn.

(b) If a parent is known and willing, immediately meet with the parent.

(c) Make a temporary placement of the newborn with a prospective adoptive parent who has an approved preplacement assessment and resides within the state.

(d) Immediately request assistance from law enforcement officials to investigate and determine, through the missing children information clearinghouse, the national center for missing and exploited children, and any other national and state resources, whether the newborn is a missing child.

(e) Not later than 48 hours after a transfer of physical custody to a prospective adoptive parent, petition the court in the county in which the prospective adoptive parent resides to provide authority to place the newborn and provide care for the newborn. The petition shall include all of the following:

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

(ii) The name and address of the emergency service provider to whom the newborn was surrendered.

(iii) Any information, either written or verbal, that was provided by and to the parent who surrendered the newborn. The emergency service provider that originally accepted the newborn as required by section 3 of this chapter shall provide this information to the child placing agency.

(f) Within 28 days, make reasonable efforts to identify and locate a parent who did not surrender the newborn. If the identity and address of that parent are unknown, the child placing agency shall provide notice by publication in a newspaper of general circulation in the county where the newborn was surrendered.

712.10 Custody action by biological parent; filing; hearing. [M.S.A. 27.3178(580)]

Sec. 10. (1) If a biological parent wants custody of a newborn who was surrendered under section 3 of this chapter, the parent must, within 28 days after the newborn was surrendered, file an action with the court for custody. The parent shall file the custody action in 1 of the following counties:

(a) If the parent has located the newborn, the county where the newborn is located.

(b) If subdivision (a) does not apply and the parent knows the location of the emergency service provider to whom the newborn was surrendered, the county where the emergency service provider is located.

(c) If neither subdivision (a) nor (b) apply, the county where the parent is located.

(2) Before holding a custody hearing in an action filed under this section, the court shall determine whether the individual filing the custody action is the newborn's biological parent.

712.11 Blood or tissue typing or DNA identification profiling; court order in custody hearing; compensation of expert. [M.S.A. 27.3178(581)]

Sec. 11. (1) In a custody action filed under this chapter, the court shall order that each party claiming paternity or maternity and the child submit to blood or tissue typing determinations, which may include, but are not limited to, determinations of red cell antigens, red cell isoenzymes, human leukocyte antigens, serum proteins, or DNA identification profiling, to determine whether each party is likely to be, or is not, a biological parent of the child. If the court orders a blood or tissue typing or DNA identification profiling to be conducted and a party refuses to submit to the typing or DNA identification profiling, in addition to any other remedies available, the court may do either of the following:

(a) Dismiss the custody action in regard to the party who refuses.

(b) If a hearing is held, allow the disclosure of the fact of the refusal unless good cause is shown for not disclosing the fact of refusal.

(2) A blood or tissue typing or DNA identification profiling shall be conducted by a person accredited for paternity or maternity determinations by a nationally recognized scientific organization, including, but not limited to, the American association of blood banks.

(3) The court shall fix the compensation of an expert at a reasonable amount. Except for an individual who the court determines is indigent, the court shall direct each party claiming paternity or maternity to pay the compensation for his or her own testing plus a portion of the compensation for testing the child equal to the total amount divided by the number of parties claiming paternity and maternity. Before blood or tissue typing or DNA identification profiling is conducted, the court may order a part or all of the compensation paid in advance. Documentation of the genetic testing expenses is admissible as evidence of the amount, which evidence constitutes prima facie evidence of the amount of those expenses without third party foundation testimony.

712.12 Blood or tissue typing or DNA identification profile; summary report of result; objection; admissibility; presumption of paternity or maternity. [M.S.A. 27.3178(582)]

Sec. 12. (1) Subject to subsection (2), the result of blood or tissue typing or a DNA identification profile made under this chapter and the summary report shall be served on the party who was the test subject. The summary report shall be filed with the court. Objection to the DNA identification profile or summary report is waived unless made in writing, setting forth the specific basis for the objection, within 14 calendar days after service on the party. The court shall not schedule a hearing on the issue of paternity or maternity until after the expiration of the 14-day period. If an objection is not filed, the court shall admit in proceedings under this chapter the result of the blood or tissue typing or the DNA identification profile and the summary report without requiring foundation testimony or other proof of authenticity or accuracy. If an objection is filed within the 14-day period and on the motion of a party, the court shall hold a hearing to determine the admissibility of the DNA identification profile or summary report. The objecting party has the burden of proving by clear and convincing evidence by a qualified person described in section 11 of this chapter that foundation testimony or other proof of authenticity or accuracy is necessary for admission of the DNA identification profile or summary report.

(2) If the probability of paternity or maternity determined by the qualified person described in section 11 of this chapter conducting the blood or tissue typing or DNA

identification profiling is 99% or higher, and the DNA identification profile and summary report are admissible as provided in subsection (1), paternity or maternity is presumed. If the results of the analysis of genetic testing material from 2 or more persons indicate a probability of paternity or maternity greater than 99%, the contracting laboratory shall conduct additional genetic testing until all but 1 of the putative fathers or putative mothers is eliminated, unless the dispute involves 2 or more putative fathers or putative mothers who have identical DNA.

(3) Upon the establishment of the presumption of paternity or maternity as provided in subsection (2), the party who has the benefit of the presumption may move for summary disposition under the court rules on the issue of his paternity or her maternity.

712.13 Information obtained from genetic testing; disclosure of information; retention or destruction of genetic testing material; records; verification of compliance of contracting laboratory; audit; violation as misdemeanor; penalty. [M.S.A. 27.3178(583)]

Sec. 13. (1) Except as authorized under this chapter, a person shall not disclose information obtained from genetic testing that is authorized under this chapter.

(2) If a party who is tested as part of an action under this chapter is found to be the child's biological parent, the contracting laboratory shall retain the genetic testing material of the parent and the child for no longer than the period of years prescribed by the national standards under which the laboratory is accredited. If a party is found not to be the child's biological parent, the contracting laboratory shall destroy the party's genetic testing material after it is used in the action, in compliance with section 13811 of the public health code, 1978 PA 368, MCL 333.13811, and in the presence of a witness. The witness may be an individual who is a party to the destruction of the genetic testing material. After the genetic testing material is destroyed, the contracting laboratory shall make and keep a written record of the destruction and have the individual who witnessed the destruction sign the record. The contracting laboratory shall also expunge the contracting laboratory's records regarding the genetic testing performed on the genetic testing material in accordance with the national standards under which the laboratory is accredited. The contracting laboratory shall retain the genetic testing material of the child for no longer than the period of years prescribed by the national standards under which the laboratory is accredited. After a contracting laboratory destroys an individual's genetic testing material as provided in this subsection, it shall notify the adult individual, or the parent or legal guardian of a minor individual, by certified mail that the genetic testing material was destroyed.

(3) A contracting laboratory or another entity involved with the genetic testing are all required to protect the confidentiality of genetic testing material, except as required for a paternity or maternity determination under this chapter. The court and its officers shall not use or disclose genetic testing material for a purpose other than the paternity or maternity determination as authorized by this chapter.

(4) A person shall not sell, transfer, or offer genetic testing material obtained under this chapter except as authorized by this chapter.

(5) A contracting laboratory shall annually cause to be conducted an independent audit verifying the contracting laboratory's compliance with this section and sections 11 and 12 of this chapter. The audit shall not disclose the names of, or otherwise identify, the test subjects required to submit to blood or tissue typing or DNA identification profiling under section 11 of this chapter during the previous year. The contracting laboratory shall forward the audit to the department of consumer and industry services.

(6) A violation of this section is a misdemeanor punishable by a fine of not more than \$5,000.00. A second or subsequent violation of this section is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$10,000.00, or both.

712.14 Determination of custody; basis; newborn's best interest; factors. [M.S.A. 27.3178(584)]

Sec. 14. (1) In a custody action under this chapter, the court shall determine custody of the newborn based on the newborn's best interest. The court shall consider, evaluate, and make findings on each factor of the newborn's best interest with the goal of achieving permanence for the newborn at the earliest possible date.

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

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

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

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

(d) The permanence, as a family unit, of the existing or proposed custodial home.

(e) The parent's moral fitness.

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

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

(h) If the parent is not the parent who surrendered the newborn, the opportunity the parent had to provide appropriate care and custody of the newborn before the newborn's birth or surrender.

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

712.15 Court order. [M.S.A. 27.3178(585)]

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

(a) Grants legal or physical custody, or both, of the newborn to the parent, and either retains or relinquishes jurisdiction.

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

712.17 Release or termination of parental rights. [M.S.A. 27.3178(587)]

Sec. 17. (1) A parent who surrenders a newborn under section 3 of this chapter and who does not file a custody action under section 10 of this chapter is presumed to have knowingly released his or her parental rights to the newborn.

(2) If a custody action is not filed under section 10 of this chapter, the child placing agency shall petition the court for termination of parental rights under section 19b of chapter XIA. If the agency has complied with section 7(f) of this chapter, the notice under that section is the notice to the newborn's parents required by section 19b of chapter XIA.

CHAPTER XIII

JURISDICTION, PROCEDURE, AND DISPOSITIONS INVOLVING MINORS

712A.19b Termination of parental rights to child; petition; hearing; record; notice; findings; order; "concerned person" defined. [M.S.A. 27.3178(598.19b)]

Sec. 19b. (1) Except as provided in subsection (4), if a child remains in foster care in the temporary custody of the court following a review hearing under section 19(3) of this chapter or a permanency planning hearing under section 19a of this chapter or if a child remains in the custody of a guardian or limited guardian, upon petition of the prosecuting attorney, whether or not the prosecuting attorney is representing or acting as legal consultant to the agency or any other party, or petition of the child, guardian, custodian, concerned person as defined in subsection (6), agency, or children's ombudsman as authorized in section 7 of the children's ombudsman act, 1994 PA 204, MCL 722.927, the court shall hold a hearing to determine if the parental rights to a child should be terminated and, if all parental rights to the child are terminated, the child placed in permanent custody of the court. The court shall state on the record or in writing its findings of fact and conclusions of law with respect to whether or not parental rights should be terminated. The court shall issue an opinion or order regarding a petition for termination of parental rights within 70 days after the commencement of the initial hearing on the petition. However, the court's failure to issue an opinion within 70 days does not dismiss the petition.

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

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

(b) The child's foster parent or custodian.

(c) The child's parents.

(d) If the child has a guardian, the child's guardian.

(e) If the child has a guardian ad litem, the child's guardian ad litem.

(f) If tribal affiliation has been determined, the Indian tribe's elected leader.

(g) The child's attorney and each party's attorney.

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

(i) The prosecutor.

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

(a) The child has been deserted under any of the following circumstances:

(i) The child's parent is unidentifiable, has deserted the child for 28 or more days, and has not sought custody of the child during that period. For the purposes of this section, a parent is unidentifiable if the parent's identity cannot be ascertained after reasonable efforts have been made to locate and identify the parent.

(ii) The child's parent has deserted the child for 91 or more days and has not sought custody of the child during that period.

(iii) The child's parent voluntarily surrendered the child to an emergency service provider under chapter XII and did not petition the court to regain custody within 28 days after surrendering the child.

2000 PUBLIC AND LOCAL ACTS

(b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

(i) The parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home.

(ii) The parent who had the opportunity to prevent the physical injury or physical or sexual abuse failed to do so and the court finds that there is a reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if placed in the parent's home.

(iii) A nonparent adult's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse by the nonparent adult in the foreseeable future if placed in the parent's home.

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

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

(ii) Other conditions exist that cause the child to come within the court's jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(d) The child's parent has placed the child in a limited guardianship under section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, and has substantially failed, without good cause, to comply with a limited guardianship placement plan described in section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, regarding the child to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.

(e) The child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, and the parent has substantially failed, without good cause, to comply with a court-structured plan described in section 5207 or 5209 of the estates and protected individuals code, 1998 PA 386, MCL 700.5207 and 700.5209, regarding the child to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.

(f) The child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, and both of the following have occurred:

(i) The parent, having the ability to support or assist in supporting the minor, has failed or neglected, without good cause, to provide regular and substantial support for the minor for a period of 2 years or more before the filing of the petition 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.

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

2000 PUBLIC AND LOCAL ACTS

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

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

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

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

(k) The parent abused the child or a sibling of the child and the abuse included 1 or more of the following:

(i) Abandonment of a young child.

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

(iii) Battering, torture, or other severe physical abuse.

(iv) Loss or serious impairment of an organ or limb.

(v) Life threatening injury.

(vi) Murder or attempted murder.

(vii) Voluntary manslaughter.

(viii) Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

(l) The parent's rights to another child were terminated as a result of proceedings under section 2(b) of this chapter or a similar law of another state.

(m) The parent's rights to another child were voluntarily terminated following the initiation of proceedings under section 2(b) of this chapter or a similar law of another state.

(n) The parent is convicted of 1 or more of the following, and the court determines that termination is in the child's best interests because continuing the parent-child relationship with the parent would be harmful to the child:

(i) A violation of section 316, 317, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.316, 750.317, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(ii) A violation of a criminal statute, an element of which is the use of force or the threat of force, and which subjects the parent to sentencing under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(iii) A federal law or law of another state with provisions substantially similar to a crime or procedure listed or described in subparagraph (i) or (ii).

(4) If a petition to terminate the parental rights to a child is filed, the court may enter an order terminating parental rights under subsection (3) at the initial dispositional hearing. If a petition to terminate parental rights to a child is filed, parenting time for a parent who is a subject of the petition is automatically suspended and, except as otherwise provided in this subsection, remains suspended at least until a decision is issued on the termination petition. If a parent whose parenting time is suspended under this subsection establishes, and the court determines, that parenting time will not harm the child, the court may order parenting time in the amount and under the conditions the court determines appropriate.

2000 PUBLIC AND LOCAL ACTS

(5) If the court finds that there are grounds for termination of parental rights, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made, unless the court finds that termination of parental rights to the child is clearly not in the child's best interests.

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

Applicability of act.

Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act.

Effective date.

Enacting section 2. This amendatory act takes effect January 1, 2001.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 90th Legislature are enacted into law:

- (a) Senate Bill No. 1053.
- (b) Senate Bill No. 1187.
- (c) House Bill No. 5543.

This act is ordered to take immediate effect.

Approved June 26, 2000.

Filed with Secretary of State June 27, 2000.

Compiler's note: The bills referred to in enacting section 3 were enacted into law as follows:
Senate Bill No. 1053 was filed with the Secretary of State June 27, 2000, and became P.A. 2000, No. 233, Eff. Jan. 1, 2001.
Senate Bill No. 1187 was filed with the Secretary of State June 27, 2000, and became P.A. 2000, No. 234, Eff. Jan. 1, 2001.
House Bill No. 5543 was filed with the Secretary of State June 27, 2000, and became P.A. 2000, No. 235, Eff. Jan. 1, 2001.
