

# SENATE BILL No. 60

January 25, 2005, Introduced by Senators CHERRY, JACOBS, SWITALSKI, GOSCHKA and OLSHOVE and referred to the Committee on Judiciary.

A bill to amend 1970 PA 91, entitled  
"Child custody act of 1970,"  
by amending section 6c (MCL 722.26c), as added by 1993 PA 259.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 6c. (1) A third person may bring an action for custody of  
2 a child if the court finds either of the following:

3           (a) Both of the following:

4           (i) The child was placed for adoption with the third person  
5 under the adoption laws of this or another state, and the placement  
6 order is still in effect at the time the action is filed.

7           (ii) After the placement, the child has resided with the third  
8 person for a minimum of 6 months.

9           (b) All of the following:

1           (i) The child's biological parents have never been married to  
2 one another.

3           (ii) The child's parent who has custody of the child dies, **IS**  
4 **INCAPACITATED**, or is missing and the other parent has not been  
5 granted legal custody under court order.

6           (iii) The third person is related to the child within the fifth  
7 degree by marriage, blood, or adoption.

8           (2) A third person shall include with an action filed under  
9 this section both of the following:

10           (a) An affidavit setting forth facts relative to the existence  
11 of the prerequisites required by subsection (1)(a) or (b).

12           (b) Notice that a defense or objection to a third person's  
13 right to bring an action for custody may be raised as an  
14 affirmative defense or by a motion for summary disposition based on  
15 lack of standing as provided in the Michigan court rules.

16           (3) **AS USED IN THIS SECTION, "INCAPACITATED" MEANS IMPAIRED BY**  
17 **REASON OF MENTAL ILLNESS, MENTAL DEFICIENCY, PHYSICAL ILLNESS OR**  
18 **DISABILITY, CHRONIC USE OF DRUGS, CHRONIC INTOXICATION, OR OTHER**  
19 **CAUSE TO THE EXTENT OF LACKING SUFFICIENT UNDERSTANDING OR CAPACITY**  
20 **TO MAKE OR COMMUNICATE INFORMED DECISIONS.**