

HOUSE BILL No. 4131

February 4, 2009, Introduced by Reps. Smith, Warren, Miller and Byrnes and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 24 and 51 (MCL 710.24 and 710.51), section 24 as amended by 2004 PA 487 and section 51 as amended by 1996 PA 409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 24. (1) ~~If a~~ **A** person **WHO** desires to adopt a child or an
2 adult and to bestow upon the adoptee his or her family name, or to
3 adopt a child or an adult without a name change, with the intent to
4 make the adoptee his or her heir, ~~that person, together with his~~
5 ~~wife or her husband, if married,~~ shall file a petition with the
6 court. ~~or~~ **IF THE PETITIONER IS MARRIED, THE PETITIONER'S HUSBAND OR**
7 **WIFE MUST JOIN IN THE PETITION. TWO UNMARRIED PERSONS MAY PETITION**
8 **TO ADOPT A CHILD BY FILING A PETITION UNDER THIS SECTION.**

9 (2) **THE PETITION SHALL BE FILED IN** the county in which the
10 petitioner resides or where the adoptee is found. ~~or, if~~ **IF** the

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

10 (3) ~~(2)~~—In an adoption proceeding in which there is more than
11 1 applicant, the petition for adoption shall be filed with the
12 court of the county where the parent's parental rights were
13 terminated or are pending termination. If both parents' parental
14 rights were terminated at different times and in different courts,
15 a petition filed under this section shall be filed in the court of
16 the county where parental rights were first terminated.

17 (4) ~~(3)~~—If a petition to adopt is filed in a county other than
18 that in which the petitioner resides or the prospective adoptee is
19 found, the chief judge of the court may, upon motion, enter an
20 order transferring jurisdiction of the matter to the court of the
21 county in which the petitioner resides or the prospective adoptee
22 is found.

23 (5) ~~(4)~~—The petition for adoption shall be verified by each
24 petitioner and shall contain the following information:

25 (a) The name, date and place of birth, and place of residence
26 of each petitioner, including the maiden name **OR FORMER NAMES** of
27 the adopting ~~mother~~ **PETITIONER**.

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

4 (c) The relationship, if any, of the adoptee to the
5 petitioner.

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

8 (e) The full description of the property, if any, of the
9 adoptee.

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

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

17 (6) ~~(5)~~—In a direct placement, the petitioner shall attach to
18 the petition a verified statement certifying that the petitioner
19 has been informed of the availability of counseling services and
20 whether the petitioner has received counseling.

21 (7) ~~(6)~~—Except as otherwise provided in this subsection, in a
22 direct placement, the petitioner shall attach a copy of a
23 preplacement assessment of the petitioner completed or updated
24 within 1 year before the petition is filed with a finding that the
25 petitioner is suitable to be a parent of an adoptee, copies of all
26 other preplacement assessments of the petitioner, if any others
27 have been completed, and a verified statement stating that no

1 preplacement assessments of the petitioner have been completed
2 other than those attached to the petition and explaining any
3 preplacement assessments of the petitioner that have been initiated
4 but not completed. If the petitioner is seeking review of a
5 preplacement assessment under section ~~23F(8)~~**23F(9)** of this
6 chapter, the petitioner may comply with this subsection by
7 attaching a copy of that preplacement assessment and a copy of the
8 application for review, together with copies of all other
9 preplacement assessments and the verified statement required by
10 this section.

11 **(8)** ~~(7)~~—In a direct placement in which the parties have
12 elected not to exchange identifying information, the information
13 required by subsection ~~(4)(f)~~**(5)(F)** and (g) and the surname and
14 place of residence of the adoptee required under subsection ~~(4)(b)~~
15 **(5)(B)** may be omitted. The attorney or child placing agency
16 assisting in the adoption shall file a verified statement
17 containing the omitted information.

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

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

1 (b) The best interests of the adoptee will be served by the
2 adoption.

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

8 (3) Upon entry of an order terminating rights of parents or
9 persons in loco parentis, a child is a ward of the court and a
10 consent to adoption executed ~~pursuant to~~ **UNDER** section 43 of this
11 chapter shall not be withdrawn after the order is entered. Entry of
12 the order terminates the jurisdiction of the same court or another
13 court over the child in a divorce or separate maintenance action.
14 If the petitioner for adoption is married to the parent having
15 legal custody of the child, the child shall not be made a ward of
16 the court after termination of the rights of the other parent.

17 (4) Without making the child a ward of the court, the court
18 may approve placement of a child if the child is placed for
19 adoption in this state by a public or licensed private agency of
20 another state or country and if the law of the sending state or
21 country prohibits the giving of consent to adoption at the time of
22 placement. Before placement of the child in that instance, the
23 sending agency shall tender evidence as the court requires to
24 demonstrate that the agency possesses the necessary authority to
25 consent to the adoption at the time of entry of the final order of
26 adoption. After the sending agency has given evidence of its
27 ability to consent, the agency shall not do anything to jeopardize

1 its ability to grant the required consent before entry of the final
2 order of adoption. After the sending agency gives its consent for
3 the adoption, that consent shall not be withdrawn.

4 (5) If a parent having legal custody of the child is married
5 to the petitioner for adoption **OR HAS JOINED IN AN ADOPTION**
6 **PETITION WITH ANOTHER PERSON UNDER SECTION 24(1) OF THIS CHAPTER,**
7 the judge shall not enter an order terminating the rights of that
8 parent.

9 (6) If the parents of a child are divorced, or if the parents
10 are unmarried but the father has acknowledged paternity or is a
11 putative father who meets the conditions in section 39(2) of this
12 chapter, and if the parent having legal custody of the child
13 subsequently marries and that ~~parent's~~ **PERSON'S** spouse petitions to
14 adopt the child **OR THE PERSON HAVING LEGAL CUSTODY PETITIONS FOR**
15 **ADOPTION UNDER SECTION 24(1) OF THIS CHAPTER,** the court upon notice
16 and hearing may issue an order terminating the rights of the other
17 parent if both of the following occur:

18 (a) The other parent, having the ability to support, or assist
19 in supporting, the child, has failed or neglected to provide
20 regular and substantial support for the child or if a support order
21 has been entered, has failed to substantially comply with the
22 order, for a period of 2 years or more before the filing of the
23 petition.

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

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