

SENATE BILL No. 994

June 12, 2014, Introduced by Senators JONES and MARLEAU and referred to the Committee on Families, Seniors and Human Services.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
(MCL 710.21 to 712B.41) by adding section 21a to chapter XIIA.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

SEC. 21A. (1) THE COURT MAY ISSUE AN ORDER REINSTATING
PARENTAL RIGHTS IF THE COURT HAS DETERMINED THAT ADOPTION OR
GUARDIANSHIP IS NO LONGER THE CHILD'S PERMANENCY GOAL, IF 3 YEARS
OR MORE HAVE PASSED FROM THE DATE OF THE TERMINATION OF PARENTAL
RIGHTS, AND IF 1 OF THE FOLLOWING IS TRUE:

(A) THE CHILD IS AT LEAST 14 YEARS OF AGE.

(B) THE CHILD IS THE YOUNGER SIBLING OF A CHILD WHO IS AT
LEAST 14 YEARS OF AGE FOR WHOM REINSTATEMENT OF PARENTAL RIGHTS IS
BEING SOUGHT.

1 (2) THE DEPARTMENT OF HUMAN SERVICES, THE MCI, OR THE CHILD'S
2 LAWYER-GUARDIAN AD LITEM MAY FILE A PETITION REQUESTING
3 REINSTATEMENT OF PARENTAL RIGHTS.

4 (3) THE COURT MAY REQUEST THAT THE AGENCY INVESTIGATE WHETHER
5 REINSTATEMENT IS IN THE CHILD'S BEST INTERESTS.

6 (4) THE COURT MAY ORDER PARENTING TIME ACCORDING TO SECTION
7 13A OF THIS CHAPTER PENDING A HEARING ON THE PETITION.

8 (5) IF IT APPEARS FROM THE PETITION THAT THE CHILD'S FORMER
9 PARENT MAY BE FIT TO HAVE HIS OR HER PARENTAL RIGHTS REINSTATED AND
10 THE CHILD'S BEST INTERESTS MAY BE PROMOTED BY REINSTATEMENT OF
11 PARENTAL RIGHTS, THE COURT SHALL HOLD A HEARING. THE COURT SHALL
12 CAUSE WRITTEN NOTICE OF THE HEARING AND THE PETITION TO BE SERVED
13 ON ALL OF THE FOLLOWING:

14 (A) THE DEPARTMENT OF HUMAN SERVICES.

15 (B) THE MCI SUPERINTENDENT.

16 (C) THE CHILD.

17 (D) THE CHILD'S LAWYER-GUARDIAN AD LITEM.

18 (E) THE CHILD'S FOSTER PARENT OR RELATIVE CAREGIVER.

19 (F) THE CHILD'S FORMER PARENT WHOSE PARENTAL RIGHTS MAY BE
20 REINSTATED.

21 (G) IF THE CHILD IS AN INDIAN CHILD AS DEFINED IN SECTION 3 OF
22 CHAPTER XIIB, ALL THE PERSONS REQUIRED TO BE NOTIFIED UNDER CHAPTER
23 XIIB.

24 (H) ANY OTHER PERSON AS THE COURT DIRECTS.

25 (6) BEFORE THE HEARING, THE AGENCY SHALL COMPLETE A CRIMINAL
26 BACKGROUND CHECK AND PERFORM A CENTRAL REGISTRY CLEARANCE CHECK.
27 THE INFORMATION OBTAINED THROUGH THESE CHECKS SHALL BE SUBMITTED TO

1 THE COURT BEFORE THE HEARING CONCERNING THE ESTABLISHMENT OF A
2 TRIAL PERIOD FOR REINSTATEMENT OF PARENTAL RIGHTS.

3 (7) IF THE CHILD IS COMMITTED TO THE MCI, THE MCI SHALL
4 PROVIDE A RECOMMENDATION TO THE COURT AS TO WHETHER REINSTATEMENT
5 OF PARENTAL RIGHTS IS IN THE CHILD'S BEST INTERESTS.

6 (8) IN A HEARING ON THE PETITION TO REINSTATE PARENTAL RIGHTS,
7 THE COURT SHALL CONSIDER, AT A MINIMUM, ALL OF THE FOLLOWING:

8 (A) WHETHER THE PARENT IS FIT AND HAS REMEDIED THE GROUNDS
9 THAT SUPPORTED TERMINATION OF HIS OR HER PARENTAL RIGHTS, AS
10 PROVIDED IN THE RECORD OF THE TERMINATION PROCEEDINGS AND THE
11 TERMINATION ORDER.

12 (B) THE AGE AND MATURITY OF THE CHILD AND THE CHILD'S
13 PREFERENCE WITH REGARD TO REINSTATEMENT OF PARENTAL RIGHTS.

14 (C) WHETHER REINSTATEMENT OF PARENTAL RIGHTS WILL PRESENT A
15 RISK TO THE CHILD'S HEALTH, WELFARE, OR SAFETY.

16 (D) INFORMATION FOUND AS A PART OF THE AGENCY CRIMINAL
17 BACKGROUND CHECK PERFORMED UNDER THIS SECTION.

18 (E) OTHER MATERIAL CHANGES IN CIRCUMSTANCES, IF ANY, THAT MAY
19 HAVE OCCURRED SINCE THE DATE OF THE ORDER TERMINATING PARENTAL
20 RIGHTS.

21 (9) IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT
22 REINSTATEMENT OF PARENTAL RIGHTS IS IN THE CHILD'S BEST INTERESTS,
23 THE COURT SHALL REMOVE THE CHILD FROM THE COMMITMENT OF THE MCI AND
24 REINSTATE THE PARENT'S PARENTAL RIGHTS.

25 (10) IF THE COURT FINDS THAT A TRIAL PERIOD OF REINSTATEMENT
26 OF PARENTAL RIGHTS IS IN THE CHILD'S BEST INTERESTS, THE COURT MAY
27 ORDER A TRIAL PERIOD OF REINSTATEMENT OF PARENTAL RIGHTS THAT DOES

1 NOT EXCEED 180 DAYS.

2 (11) IF THE COURT ISSUES AN ORDER REINSTATING PARENTAL RIGHTS,
3 THE DEPARTMENT OF HUMAN SERVICES SHALL ENSURE THAT TRANSITION
4 SERVICES ARE PROVIDED FOR THE FAMILY AS APPROPRIATE.

5 (12) IF THE COURT ISSUES AN ORDER FOR A TRIAL PERIOD OF
6 REINSTATEMENT OF PARENTAL RIGHTS, BOTH OF THE FOLLOWING APPLY:

7 (A) THE CHILD SHALL BE CONDITIONALLY PLACED IN THE PHYSICAL
8 CARE OF THE PARENT FOR A PERIOD NOT TO EXCEED 180 DAYS.

9 (B) DURING THE TRIAL PERIOD, THE MCI SHALL DO ALL OF THE
10 FOLLOWING:

11 (i) RETAIN LEGAL CUSTODY OF THE CHILD, PERMITTING THE
12 DEPARTMENT OF HUMAN SERVICES TO VISIT THE CHILD IN THE PARENT'S
13 HOME, AT SCHOOL, IN A FACILITY, OR IN ANY OTHER SETTING THE
14 DEPARTMENT OF HUMAN SERVICES CONSIDERS NECESSARY AND APPROPRIATE.

15 (ii) DEVELOP A PERMANENT PLAN FOR REUNIFICATION AND ENSURE THAT
16 TRANSITION SERVICES ARE PROVIDED TO THE FAMILY, AS APPROPRIATE.

17 (iii) AT THE MCI SUPERINTENDENT'S DISCRETION, REMOVE THE CHILD
18 FROM PLACEMENT WITH THE FORMER PARENT AT ANY TIME IF THE MCI
19 SUPERINTENDENT CONSIDERS THAT THE CHILD'S HEALTH, WELFARE, OR
20 SAFETY IS AT RISK OR THAT IT IS NO LONGER IN THE CHILD'S BEST
21 INTERESTS FOR THE CHILD TO REMAIN WITH THE FORMER PARENT.

22 (iv) NOTIFY THE COURT WITHIN 3 DAYS IF THE CHILD HAS BEEN
23 REMOVED FROM PLACEMENT WITH THE PARENT WITHOUT A COURT ORDER. IF
24 THE CHILD HAS BEEN REMOVED FROM PLACEMENT WITH THE PARENT WITHOUT A
25 COURT ORDER, THE COURT SHALL ORDER A HEARING ON THE PHYSICAL
26 CUSTODY OF THE CHILD WITHIN 7 DAYS OF THE REMOVAL.

27 (13) THE COURT SHALL REVIEW THE TRIAL REINSTATEMENT PERIOD NOT

1 LESS THAN 1 TIME EVERY 90 DAYS THROUGHOUT THE TRIAL PERIOD.

2 (14) THE AGENCY SHALL ASSESS THE TRIAL REINSTATEMENT AND
3 SUBMIT A REPORT TO THE COURT AND ALL PARTIES BEFORE EACH REVIEW
4 HEARING.

5 (15) THE COURT MAY TERMINATE THE TRIAL REINSTATEMENT IF THE
6 COURT FINDS DURING THE TRIAL PERIOD THAT PERMANENT REINSTATEMENT IS
7 NOT IN THE CHILD'S BEST INTERESTS.

8 (16) FOLLOWING THE TRIAL REINSTATEMENT PERIOD, IF THE COURT
9 DETERMINES BY CLEAR AND CONVINCING EVIDENCE THAT PERMANENT
10 REINSTATEMENT IS IN THE CHILD'S BEST INTERESTS, THE COURT SHALL
11 REMOVE THE CHILD FROM THE COMMITMENT OF THE MCI AND REINSTATE THE
12 PARENT'S PARENTAL RIGHTS.

13 (17) A FINAL OR TRIAL REINSTATEMENT ORDER ENTERED UNDER THIS
14 SECTION DOES NOT MODIFY, VACATE, OR SET ASIDE THE ORDER TERMINATING
15 PARENTAL RIGHTS. AN ORDER REINSTATING PARENTAL RIGHTS FOLLOWING
16 SUCCESSFUL COMPLETION OF THE TRIAL PERIOD UNDER THIS SECTION
17 RESTORES ALL RIGHTS, POWERS, PRIVILEGES, IMMUNITIES, DUTIES, AND
18 OBLIGATIONS OF THE PARENT REGARDING THE CHILD, INCLUDING THOSE
19 RELATED TO CUSTODY, CONTROL, AND SUPPORT OF THE CHILD.

20 (18) AS USED IN THIS SECTION:

21 (A) "AGENCY" MEANS THAT TERM AS DEFINED IN SECTION 13A OF THIS
22 CHAPTER.

23 (B) "SIBLING" MEANS 1 OF 2 OR MORE INDIVIDUALS HAVING IN
24 COMMON 1 OR BOTH BIOLOGICAL OR ADOPTIVE PARENTS, WHERE A COURT HAS
25 PREVIOUSLY TERMINATED PARENTAL RIGHTS OF 1 OR BOTH OF THOSE
26 PARENTS.