

# SENATE BILL No. 530

September 29, 2015, Introduced by Senator EMMONS and referred to the Committee on Families, Seniors and Human Services.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 13a of chapter XIIIA (MCL 712A.13a), as amended by 2012 PA 163.

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

CHAPTER XIIIA

Sec. 13a. (1) As used in this section and sections 2, 6b, 13b, 17c, 17d, 18f, 19, 19a, 19b, and 19c of this chapter:

(a) "Agency" means a public or private organization, institution, or facility that is performing the functions under part D of title IV of the social security act, 42 USC 651 to 669b, or that is responsible under court order or contractual arrangement for a juvenile's care and supervision.

(b) "Agency case file" means the current file from the agency providing direct services to the child, that can include the child

1 protective services file if the child has not been removed from the  
2 home or the department ~~of human services~~ or contract agency foster  
3 care file as defined under 1973 PA 116, MCL 722.111 to 722.128.

4 (c) "Attorney" means, if appointed to represent a child in a  
5 proceeding under section 2(b) or (c) of this chapter, an attorney  
6 serving as the child's legal advocate in a traditional attorney-  
7 client relationship with the child, as governed by the Michigan  
8 rules of professional conduct. An attorney defined under this  
9 subdivision owes the same duties of undivided loyalty,  
10 confidentiality, and zealous representation of the child's  
11 expressed wishes as the attorney would to an adult client. For the  
12 purpose of a notice required under these sections, attorney  
13 includes a child's lawyer-guardian ad litem.

14 (d) "Case service plan" means the plan developed by an agency  
15 and prepared under section 18f of this chapter that includes  
16 services to be provided by and responsibilities and obligations of  
17 the agency and activities, responsibilities, and obligations of the  
18 parent. The case service plan may be referred to using different  
19 names than case service plan including, but not limited to, a  
20 parent/agency agreement or a parent/agency treatment plan and  
21 service agreement.

22 (e) "Foster care" means care provided to a juvenile in a  
23 foster family home, foster family group home, or child caring  
24 institution licensed or approved under 1973 PA 116, MCL 722.111 to  
25 722.128, or care provided to a juvenile in a relative's home under  
26 a court order.

27 (f) "Guardian ad litem" means an individual whom the court

1 appoints to assist the court in determining the child's best  
2 interests. A guardian ad litem does not need to be an attorney.

3 (g) "Lawyer-guardian ad litem" means an attorney appointed  
4 under section 17c of this chapter. A lawyer-guardian ad litem  
5 represents the child, and has the powers and duties, as set forth  
6 in section 17d of this chapter. The provisions of section 17d of  
7 this chapter also apply to a lawyer-guardian ad litem appointed  
8 under each of the following:

9 (i) Section 5213 or 5219 of the estates and protected  
10 individuals code, 1998 PA 386, MCL 700.5213 and 700.5219.

11 (ii) Section 4 of the child custody act of 1970, 1970 PA 91,  
12 MCL 722.24.

13 (iii) Section 10 of the child protection law, 1975 PA 238, MCL  
14 722.630.

15 (h) "Nonparent adult" means a person who is 18 years of age or  
16 older and who, regardless of the person's domicile, meets all of  
17 the following criteria in relation to a child over whom the court  
18 takes jurisdiction under this chapter:

19 (i) Has substantial and regular contact with the child.

20 (ii) Has a close personal relationship with the child's parent  
21 or with a person responsible for the child's health or welfare.

22 (iii) Is not the child's parent or a person otherwise related  
23 to the child by blood or affinity to the third degree.

24 (i) "Permanent foster family agreement" means an agreement for  
25 a child 14 years old or older to remain with a particular foster  
26 family until the child is 18 years old under standards and  
27 requirements established by the department, ~~of human services,~~

1 which agreement is among all of the following:

2 (i) The child.

3 (ii) If the child is a temporary ward, the child's family.

4 (iii) The foster family.

5 (iv) The child placing agency responsible for the child's care  
6 in foster care.

7 (j) "Relative" means an individual who is at least 18 years of  
8 age and related to the child by blood, marriage, or adoption, as  
9 grandparent, great-grandparent, great-great-grandparent, aunt or  
10 uncle, great-aunt or great-uncle, great-great-aunt or great-great-  
11 uncle, sibling, stepsibling, nephew or niece, first cousin or first  
12 cousin once removed, and the spouse of any of the above, even after  
13 the marriage has ended by death or divorce. **FOR THE PURPOSE OF THIS**  
14 **SUBDIVISION ONLY, A STEPPARENT, EX-STEPPARENT, OR THE PARENT WHO**  
15 **SHARES CUSTODY OF A HALF-SIBLING IS A RELATIVE FOR THE PURPOSE OF**  
16 **PLACEMENT. NOTIFICATION TO THE STEPPARENT, EX-STEPPARENT, OR THE**  
17 **PARENT WHO SHARES CUSTODY OF A HALF-SIBLING IS REQUIRED AS**  
18 **DESCRIBED IN SECTION 4A OF THE FOSTER CARE AND ADOPTION SERVICES**  
19 **ACT, 1994 PA 203, MCL 722.954A.** A child may be placed with the  
20 parent of a man whom the court has found probable cause to believe  
21 is the putative father if there is no man with legally established  
22 rights to the child. A placement with the parent of a putative  
23 father under this subdivision is not to be construed as a finding  
24 of paternity or to confer legal standing on the putative father.

25 (k) "Sex offenders registration act" means the sex offenders  
26 registration act, 1994 PA 295, MCL 28.721 to 28.736.

27 (l) **"SIBLING" MEANS A CHILD WHO IS RELATED THROUGH BIRTH OR**

1 ADOPTION BY AT LEAST 1 COMMON PARENT. SIBLING INCLUDES THAT TERM AS  
2 DEFINED BY THE AMERICAN INDIAN OR ALASKAN NATIVE CHILD'S TRIBAL  
3 CODE OR CUSTOM.

4 (2) If a juvenile is alleged to be within the provisions of  
5 section 2(b) of this chapter, the court may authorize a petition to  
6 be filed at the conclusion of the preliminary hearing or inquiry.  
7 The court may authorize the petition upon a showing of probable  
8 cause that 1 or more of the allegations in the petition are true  
9 and fall within the provisions of section 2(b) of this chapter. If  
10 a petition is before the court because the department ~~of human~~  
11 ~~services~~ is required to submit the petition under section 17 of the  
12 child protection law, 1975 PA 238, MCL 722.637, the court shall  
13 hold a hearing on the petition within 24 hours or on the next  
14 business day after the petition is submitted, at which hearing the  
15 court shall consider at least the matters governed by subsections  
16 (4) and (5).

17 (3) Except as provided in subsections (5) and (6), if a  
18 petition under subsection (2) is authorized, the court may release  
19 the juvenile in the custody of either of the juvenile's parents or  
20 the juvenile's guardian or custodian under reasonable terms and  
21 conditions necessary for either the juvenile's physical health or  
22 mental well-being.

23 (4) The court may order a parent, guardian, custodian,  
24 nonparent adult, or other person residing in a child's home to  
25 leave the home and, except as the court orders, not to subsequently  
26 return to the home if all of the following take place:

27 (a) A petition alleging abuse of the child by the parent,

1 guardian, custodian, nonparent adult, or other person is authorized  
2 under subsection (2).

3 (b) The court after a hearing finds probable cause to believe  
4 the parent, guardian, custodian, nonparent adult, or other person  
5 committed the abuse.

6 (c) The court finds on the record that the presence in the  
7 home of the person alleged to have committed the abuse presents a  
8 substantial risk of harm to the child's life, physical health, or  
9 mental well-being.

10 (5) If a petition alleges abuse by a person described in  
11 subsection (4), regardless of whether the court orders the alleged  
12 abuser to leave the child's home under subsection (4), the court  
13 shall not leave the child in or return the child to the child's  
14 home or place the child with a person not licensed under 1973 PA  
15 116, MCL 722.111 to 722.128, unless the court finds that the  
16 conditions of custody at the placement and with the individual with  
17 whom the child is placed are adequate to safeguard the child from  
18 the risk of harm to the child's life, physical health, or mental  
19 well-being.

20 (6) If a court finds a parent is required by court order to  
21 register under the sex offenders registration act, the department  
22 ~~of human services~~ may, but is not required to, make reasonable  
23 efforts to reunify the child with the parent. The court may order  
24 reasonable efforts to be made by the department. ~~of human services.~~

25 (7) In determining whether to enter an order under subsection  
26 (4), the court may consider whether the parent who is to remain in  
27 the juvenile's home is married to the person to be removed or has a

1 legal right to retain possession of the home.

2 (8) An order entered under subsection (4) may also contain 1  
3 or more of the following terms or conditions:

4 (a) The court may require the alleged abusive parent to pay  
5 appropriate support to maintain a suitable home environment for the  
6 juvenile during the duration of the order.

7 (b) The court may order the alleged abusive person, according  
8 to terms the court may set, to surrender to a local law enforcement  
9 agency any firearms or other potentially dangerous weapons the  
10 alleged abusive person owns, possesses, or uses.

11 (c) The court may include any reasonable term or condition  
12 necessary for the juvenile's physical or mental well-being or  
13 necessary to protect the juvenile.

14 (9) The court may order placement of the child in foster care  
15 if the court finds all of the following conditions:

16 (a) Custody of the child with the parent presents a  
17 substantial risk of harm to the child's life, physical health, or  
18 mental well-being.

19 (b) No provision of service or other arrangement except  
20 removal of the child is reasonably available to adequately  
21 safeguard the child from risk as described in subdivision (a).

22 (c) Continuing the child's residence in the home is contrary  
23 to the child's welfare.

24 (d) Consistent with the circumstances, reasonable efforts were  
25 made to prevent or eliminate the need for removal of the child.

26 (e) Conditions of child custody away from the parent are  
27 adequate to safeguard the child's health and welfare.

1           (10) If the court orders placement of the juvenile outside the  
2 juvenile's home, the court shall inform the parties of the  
3 following:

4           (a) That the agency has the responsibility to prepare an  
5 initial services plan within 30 days of the juvenile's placement.

6           (b) The general elements of an initial services plan as  
7 required by the rules promulgated under 1973 PA 116, MCL 722.111 to  
8 722.128.

9           (c) That participation in the initial services plan is  
10 voluntary without a court order.

11           (11) Before or within 7 days after a child is placed in a  
12 relative's home, the department ~~of human services~~ shall perform a  
13 criminal record check and central registry clearance. If the child  
14 is placed in the home of a relative, the court shall order a home  
15 study to be performed and a copy of the home study to be submitted  
16 to the court not more than 30 days after the placement.

17           (12) In determining placement of a juvenile pending trial, the  
18 court shall order the juvenile placed in the most family-like  
19 setting available consistent with the juvenile's needs.

20           (13) If a juvenile is removed from his or her home, the court  
21 shall permit the juvenile's parent to have frequent parenting time  
22 with the juvenile. If parenting time, even if supervised, may be  
23 harmful to the juvenile, the court shall order the child to have a  
24 psychological evaluation or counseling, or both, to determine the  
25 appropriateness and the conditions of parenting time. The court may  
26 suspend parenting time while the psychological evaluation or  
27 counseling is conducted.



1           (14) Upon the motion of any party, the court shall review  
2 custody and placement orders and initial services plans pending  
3 trial and may modify those orders and plans as the court considers  
4 under this section are in the juvenile's best interests.

5           (15) The court shall include in an order placing a child in  
6 foster care an order directing the release of information  
7 concerning the child in accordance with this subsection. If a child  
8 is placed in foster care, within 10 days after receipt of a written  
9 request, the agency shall provide the person who is providing the  
10 foster care with copies of all initial, updated, and revised case  
11 service plans and court orders relating to the child and all of the  
12 child's medical, mental health, and education reports, including  
13 reports compiled before the child was placed with that person.

14           (16) In an order placing a child in foster care, the court  
15 shall include both of the following:

16           (a) An order that the child's parent, guardian, or custodian  
17 provide the supervising agency with the name and address of each of  
18 the child's medical providers.

19           (b) An order that each of the child's medical providers  
20 release the child's medical records. The order may specify  
21 providers by profession or type of institution.

22           (17) As used in this section, "abuse" means 1 or more of the  
23 following:

24           (a) Harm or threatened harm by a person to a juvenile's health  
25 or welfare that occurs through nonaccidental physical or mental  
26 injury.

27           (b) Engaging in sexual contact or sexual penetration as

1 defined in section 520a of the Michigan penal code, 1931 PA 328,  
2 MCL 750.520a, with a juvenile.

3 (c) Sexual exploitation of a juvenile, which includes, but is  
4 not limited to, allowing, permitting, or encouraging a juvenile to  
5 engage in prostitution or allowing, permitting, encouraging, or  
6 engaging in photographing, filming, or depicting a juvenile engaged  
7 in a listed sexual act as defined in section 145c of the Michigan  
8 penal code, 1931 PA 328, MCL 750.145c.

9 (d) Maltreatment of a juvenile.

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