

HOUSE BILL NO. 4019

January 18, 2023, Introduced by Rep. Filler and referred to the Committee on Criminal Justice.

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

1
2 **Sec. 21a. (1) The court may issue an order reinstating**
3 **parental rights if the court has determined that adoption or**
4 **guardianship is no longer the child's permanency goal, if 3 years**
5 **or more have passed from the date of the termination of parental**
6 **rights, and if either of the following is true:**

1 (a) The child is at least 14 years of age.

2 (b) The child is the younger sibling of a child who is at
3 least 14 years of age for whom reinstatement of parental rights is
4 being sought.

5 (2) The department, the MCI, or the child's lawyer-guardian ad
6 litem may file a petition requesting reinstatement of parental
7 rights.

8 (3) The court may request that the agency investigate whether
9 reinstatement of parental rights is in the child's best interests.

10 (4) The court may order parenting time according to section
11 13a of this chapter pending a hearing on the petition.

12 (5) If it appears from the petition that the child's former
13 parent may be fit to have his or her parental rights reinstated and
14 the child's best interests may be promoted by reinstatement of
15 parental rights, the court must hold a hearing. The court must
16 ensure that written notice of the hearing and the petition are
17 served on all of the following:

18 (a) The department.

19 (b) The MCI superintendent.

20 (c) The child.

21 (d) The child's lawyer-guardian ad litem.

22 (e) The child's foster parent or relative caregiver.

23 (f) The child's former parent whose parental rights may be
24 reinstated.

25 (g) If the child is an Indian child as defined in section 3 of
26 chapter XIIB, all the persons required to be notified under chapter
27 XIIB.

28 (h) Any other person as the court directs.

29 (6) Before the hearing, the agency must complete a criminal

1 background check and perform a central registry clearance check.
2 The information obtained through these checks must be submitted to
3 the court before the hearing concerning establishing a trial period
4 for reinstatement of parental rights.

5 (7) If the child is committed to the MCI, the MCI must provide
6 a recommendation to the court as to whether reinstatement of
7 parental rights is in the child's best interests.

8 (8) In a hearing on the petition to reinstate parental rights,
9 the court must consider, at a minimum, all of the following:

10 (a) Whether the parent is fit and has remedied the grounds
11 that supported terminating his or her parental rights, as provided
12 in the record of the termination proceedings and the termination
13 order.

14 (b) The age and maturity of the child and the child's
15 preference with regard to reinstating parental rights.

16 (c) Whether reinstating parental rights presents a risk to the
17 child's health, welfare, or safety.

18 (d) Information found as a part of the agency criminal
19 background check performed under this section.

20 (e) Other material changes in circumstances, if any, that may
21 have occurred since the date of the order terminating parental
22 rights.

23 (9) If the court finds by clear and convincing evidence that
24 reinstating parental rights is in the child's best interests, the
25 court must remove the child from the commitment to the MCI and
26 reinstate the parent's parental rights.

27 (10) If the court finds that a trial period of reinstatement
28 of parental rights is in the child's best interests, the court may
29 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 must ensure that transition services are provided
4 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 must do all of the
10 following:

11 (i) Retain legal custody of the child, permitting the
12 department to visit the child in the parent's home, at school, in a
13 facility, or in any other setting the department considers
14 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 must order a hearing on the physical custody
26 of the child within 7 days after the removal.

27 (13) The court must review the trial reinstatement period not
28 less than once every 90 days throughout the trial period.

29 (14) The agency must assess the trial reinstatement and submit

1 a report to the court and all parties before each review hearing.

2 (15) The court may terminate the trial reinstatement if the
3 court finds during the trial period that permanent reinstatement is
4 not in the child's best interests.

5 (16) Following the trial reinstatement period, if the court
6 determines by clear and convincing evidence that permanent
7 reinstatement is in the child's best interests, the court shall
8 remove the child from the commitment to the MCI and reinstate the
9 parent's parental rights.

10 (17) A final or trial reinstatement order entered under this
11 section does not modify, vacate, or set aside the order terminating
12 parental rights. An order reinstating parental rights following
13 successful completion of the trial period under this section
14 restores all rights, powers, privileges, immunities, duties, and
15 obligations of the parent regarding the child, including those
16 related to custody, control, and support of the child.

17 (18) As used in this section:

18 (a) "Agency" means that term as defined in section 13a of this
19 chapter.

20 (b) "Sibling" means 1 of 2 or more individuals having in
21 common 1 or both biological or adoptive parents, where a court has
22 previously terminated parental rights of 1 or both of those
23 parents.