

# SENATE BILL NO. 498

September 14, 2023, Introduced by Senators IRWIN, GEISS, CAVANAGH, MCMORROW, KLINEFELT, CHANG and DAMOOSE and referred to the Committee on Housing and Human Services.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 13b of chapter XIIA (MCL 712A.13b), as amended by 2008 PA 201.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XIIA

2 Sec. 13b. (1) If a child under the court's jurisdiction under  
3 section 2(b) of this chapter, or under MCI jurisdiction, control,  
4 or supervision, is placed in foster care, the agency ~~shall~~**must** not  
5 change the child's placement **before complying with the requirements**  
6 **of this section**, except ~~under 1~~**when any** of the following

1 circumstances **apply**:

2 (a) The person providing the foster care requests or agrees to  
3 the change.

4 (b) **A contracted social services agency of a federally  
5 recognized tribal government is providing primary case management.**

6 (c) ~~(b) Even though if~~ the person providing the foster care  
7 **placement** objects to a proposed change in placement, **when** 1 of the  
8 following applies:

9 (i) The court orders the child returned home.

10 (ii) The change in placement is less than 30 days after the  
11 child's initial removal from ~~his or her~~ **the child's** home.

12 ~~(iii) The change in placement is less than 90 days after the  
13 child's initial removal from his or her home, and the new placement  
14 is with a relative.~~

15 (iii) **The court orders the child to be moved.**

16 (iv) **The child is an MCI ward and the move is a result of the  
17 MCI superintendent's denial of consent to adoption by the  
18 caregiver.**

19 (v) **The child is an Indian child and the foster care placement  
20 or the proposed placement is to or within the placement preferences  
21 listed in section 23 of chapter XIIB.**

22 (vi) ~~(iv)~~ The change in placement is in accordance with other  
23 provisions of this section.

24 (2) Except as provided in subsections (1) and (7), before a  
25 change in foster care placement takes effect, the agency ~~shall~~ **must**  
26 do all of the following:

27 (a) Notify **the foster care review board, under** the state court  
28 administrative office, of ~~the~~ **any** proposed change in placement.

29 Notice under this subdivision may be given by ordinary mail or by

1 electronic means as agreed by the department and the state court  
2 administrative office.

3 (b) Notify the foster parents of the intended change in  
4 placement and inform them that, if they disagree with the decision,  
5 they may appeal within 3 days to a foster care review board. A  
6 foster parent may appeal orally, but must submit the appeal in  
7 writing immediately following the oral appeal. The agency shall  
8 provide the foster parents with the address and telephone number of  
9 a foster care review board with jurisdiction over the child.

10 (c) Maintain the current placement for not less than the time  
11 for appeal to the foster care review board and if a foster parent  
12 appeals, until the foster care review board determination.

13 (d) Notify the court with jurisdiction over the child and  
14 notify the child's lawyer guardian ad litem of the change in  
15 placement. Notice to the court under this subdivision may be given  
16 by ordinary mail or by electronic means as agreed by the department  
17 and the court that has jurisdiction over the child. The notice  
18 provided under this subdivision does not affect the department's  
19 placement discretion and shall include all of the following  
20 information:

21 (i) The reason for the change in placement.

22 (ii) The number of times the child's placement has been  
23 changed.

24 (iii) Whether or not the child will be required to change  
25 schools.

26 (iv) Whether or not the change will separate or reunite  
27 siblings or affect sibling visitation.

28 (3) Upon receipt of an appeal from foster parents under  
29 subsection (2) or (7), the foster care review board shall

1 investigate the change in foster care placement within 7 days and  
2 shall report its findings and recommendations within 3 days after  
3 completion of the investigation to the court or, if the child is  
4 under MCI jurisdiction, control, or supervision, the MCI  
5 superintendent, to the foster care parents, to the parents, and to  
6 the agency.

7       (4) **If the child is an Indian child, the Indian child's tribe**  
8 **must be invited to participate in the investigation and the foster**  
9 **care review board must follow the best interests of the child**  
10 **standards and procedures identified in section 5 of chapter XIIB.**

11 If after investigation the foster care review board determines that  
12 the move is in the child's best interests, the agency may move the  
13 child.

14       (5) If after investigation the foster care review board  
15 determines that the move is not in the child's best interest, the  
16 agency shall maintain the current placement until a finding and  
17 order by the court or, if the child is under MCI jurisdiction,  
18 control, or supervision, a decision by the MCI superintendent. The  
19 agency shall not return a child to a placement from which the child  
20 was removed under subsection (7) unless the court orders that  
21 placement's restoration under subsection (6) or the MCI  
22 superintendent approves that placement's restoration under this  
23 subsection. The foster care review board shall notify the court, or  
24 if the child is under MCI jurisdiction, control, or supervision,  
25 the MCI superintendent, about the board's and agency's  
26 disagreement. The court shall set a hearing date and provide notice  
27 to the foster parents, each interested party, and the prosecuting  
28 attorney if the prosecuting attorney has appeared in the case. The  
29 court shall set the hearing no sooner than 7 and no later than 14

1 days after receipt of the notice from the foster care review board.  
2 The rules of evidence do not apply to a hearing required by this  
3 subsection. Within 14 days after notification under this  
4 subsection, the MCI superintendent shall make a decision regarding  
5 the child's placement and shall inform each interested party what  
6 the decision is.

7 (6) After hearing testimony from the agency and any other  
8 interested party, **including the Indian child's tribe**, and  
9 considering any other evidence bearing upon the proposed change in  
10 placement, the court shall order the continuation or restoration of  
11 the placement unless the court finds that the proposed change in  
12 placement is in the child's best interests.

13 (7) If the agency has reasonable cause to believe that the  
14 child has suffered sexual abuse or nonaccidental physical injury,  
15 or that there is substantial risk of harm to the child's **physical**  
16 **or** emotional well-being, the agency may change the child's foster  
17 care placement without complying with subsection (1) or (2)(b) or  
18 (c). The agency shall include in the child's file documentation of  
19 its justification for action under this subsection. If a foster  
20 parent objects to the removal of a child under this subsection, ~~he~~  
21 ~~or she~~ **the foster parent** may appeal to the foster care review board  
22 within 3 days after the child's removal. The foster parent may  
23 appeal orally, but must submit the appeal in writing immediately  
24 following the oral appeal.

25 (8) At the time of or immediately following a child's removal  
26 under subsection (7), the agency shall inform the foster parents  
27 about the removal and that, if they disagree with the decision,  
28 they may appeal within 3 days to a foster care review board in the  
29 manner provided in subsection (7). The agency shall provide the

1 foster parents with the address and telephone number of a foster  
2 care review board with jurisdiction over the child.

3 (9) If an Indian child, not already removed from foster care  
4 review board consideration by subsection (1) (b) or (c) (v), under the  
5 court's jurisdiction under section 2(b) of this chapter, or under  
6 MCI jurisdiction, control, or supervision, is placed in foster  
7 care, the agency, foster care review board, or MCI must not change  
8 the child's placement or make a recommendation for placement change  
9 before notifying the Indian child's tribe, and before a change in  
10 an Indian child's foster care placement takes effect, the agency,  
11 foster care review board, or MCI, where applicable, must do all the  
12 following:

13 (a) Except as provided by subsection (1) (c) (i), (1) (c) (iii), or  
14 (7), the agency, foster care review board, or MCI, where  
15 applicable, must notify an Indian child's tribe at least 3 days  
16 before any proposed placement change of an Indian child.  
17 Notification under this subdivision may be given by ordinary mail  
18 and email to the designated Indian child welfare act agent with  
19 receipt 3 days before the beginning of the foster care review board  
20 investigation.

21 (b) The agency, foster care review board, or MCI must notify  
22 the court with jurisdiction over the Indian child, the Indian  
23 child's tribe, and the Indian child's lawyer guardian ad litem, as  
24 provided by subsection (2), and provide all the following:

25 (i) A statement that the child being moved is an Indian child.

26 (ii) A list of active efforts to place the child in compliance  
27 with section 23 of chapter XIIB.

28 (iii) The reason for the change in placement.

29 (iv) The number of times the child's placement has been

1 changed.

2 (v) Whether the child will be required to change schools.

3 (vi) Whether the change will separate or reunite siblings or  
4 affect sibling visitation.

5 (c) At the time of or immediately following an Indian child's  
6 removal under subsection (7), the agency, foster care review board,  
7 or MCI must inform the Indian child's tribe of the child's  
8 placement.

9 (d) The agency, foster care review board, and MCI must comply  
10 with section 23 of chapter XIIB for any placement change, including  
11 a placement following a removal under subsection (7).

12 (e) As used in this section, "Indian child" and "Indian  
13 child's tribe" mean those terms as defined in section 3 of chapter  
14 XIIB.