PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.21 Short title of act; Michigan adoption code.

Sec. 21. (1) This act shall be known and may be cited as the “probate code of 1939”.

(2) This chapter shall be known and may be cited as the “Michigan adoption code”.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1998, Act 474, Imd. Eff. Jan. 4, 1999.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.21a General purposes of chapter.

Sec. 21a. The general purposes of this chapter are:

(a) To provide that each adoptee in this state who needs adoption services receives those services.

(b) To provide procedures and services that will safeguard and promote the best interests of each adoptee in need of adoption and that will protect the rights of all parties concerned. If conflicts arise between the rights of the adoptee and the rights of another, the rights of the adoptee shall be paramount.

(c) To provide prompt legal proceedings to assure that the adoptee is free for adoptive placement at the earliest possible time.

(d) To achieve permanency and stability for adoptees as quickly as possible.

(e) To support the permanency of a finalized adoption by allowing all interested parties to participate in proceedings regarding the adoptee.

History: Add. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.21b Court order or decree issued in another country; rights and obligations of parties.

Sec. 21b. A court order or decree establishing the relationship of parent and child by adoption and issued by a court in another country is presumed to be issued in accordance with the laws of that country and shall be recognized in this state. The rights and obligations of the parties as to matters within the jurisdiction of this state shall be determined as though the order or decree were issued by a court of this state.

History: Add. 1994, Act 241, Eff. July 5, 1994.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.22 Definitions.

Sec. 22. As used in this chapter:

(a) "Adoptee" means the individual who is to be adopted, regardless of whether the individual is a child or an adult.

(b) "Adoption attorney" means an attorney acting as counsel in an adoption proceeding or case.

(c) "Adult former sibling" means an individual who is 18 years of age or older and is related to an adult adoptee either biologically or through adoption by at least 1 common parent, regardless of whether the adult former sibling ever lived in the same household as the adult adoptee.

(d) "Agency placement" means a placement in which a child placing agency, the department, or a court selects the adoptive parent for the child and transfers physical custody of the child to the prospective adoptive parent.

(e) "Applicant" means an individual or individuals who desire to adopt a child and who have submitted an adoption application to a child placing agency.

(f) "Attending practitioner" means a licensed physician or a registered professional nurse certified as a nurse midwife by the Michigan board of nursing.

(g) "Best interests of the adoptee" or "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court to be applied to give the adoptee permanence at the earliest possible date:

(*i*) The love, affection, and other emotional ties existing between the adopting individual or individuals and the adoptee or, in the case of a hearing under section 39 of this chapter, the putative father and the adoptee.

(*ii*) The capacity and disposition of the adopting individual or individuals or, in the case of a hearing under

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

section 39 of this chapter, the putative father to give the adoptee love, affection, and guidance, and to educate and create a milieu that fosters the religion, racial identity, and culture of the adoptee.

(*iii*) The capacity and disposition of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, the putative father, to provide the adoptee with food, clothing, education, permanence, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.

(*iv*) The length of time the adoptee has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(*v*) The permanence as a family unit of the proposed adoptive home, or, in the case of a hearing under section 39 of this chapter, the home of the putative father.

(*vi*) The moral fitness of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, of the putative father.

(*vii*) The mental and physical health of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, of the putative father, and of the adoptee.

(*viii*) The home, school, and community record of the adoptee.

(*ix*) The reasonable preference of the adoptee, if the adoptee is 14 years of age or less and if the court considers the adoptee to be of sufficient age to express a preference.

(*x*) The ability and willingness of the adopting individual or individuals to adopt the adoptee's siblings.

(*xi*) Any other factor considered by the court to be relevant to a particular adoption proceeding, or to a putative father's request for child custody.

(h) "Born out of wedlock" means a child conceived and born to a woman who was not married from the conception to the date of birth of the child, or a child whom the court has determined to be a child born during a marriage but not the issue of that marriage.

(i) "Central adoption registry" means the registry established by the department under section 27b of this chapter to control the release of identifying adoption information.

(j) "Child" means an individual less than 18 years of age.

(k) "Child placing agency" means a private organization licensed under 1973 PA 116, MCL 722.111 to 722.128, to place children for adoption.

(*l*) "Consent" means a document in which all parental rights over a specific child are voluntarily relinquished to the court for placement with a specific adoptive parent.

(m) "Court" means the family division of circuit court of this state, or if the context requires, the court having jurisdiction over adoption in another state or country.

(n) "Department" means the family independence agency.

(o) "Direct placement" means a placement in which a parent or guardian selects an adoptive parent for a child, other than a stepparent or an individual related to the child within the fifth degree by marriage, blood, or adoption, and transfers physical custody of the child to the prospective adoptive parent.

(p) "Formal placement" means a placement that is approved by the court under section 51 of this chapter.

(q) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(r) "Petitioner", except as used in section 68b of this chapter, means the individual or individuals who file an adoption petition with the court.

(s) "Placement" or "to place" means selection of an adoptive parent for a child and transfer of physical custody of the child to a prospective adoptive parent according to this chapter.

(t) "Relative" means an individual who is related to the child within the fifth degree by marriage, blood, or adoption.

(u) "Release" means a document in which all parental rights over a specific child are voluntarily relinquished to the department or to a child placing agency.

(v) "Rescission petition" means a petition filed by an adult adoptee and his or her parent whose rights have been terminated to rescind the adoption in which a stepparent acquired parental rights and to restore parental rights of that parent according to section 66 of this chapter.

(w) "Suitable to be a parent of an adoptee" means a conclusion that there is no specific concern with respect to an individual that would suggest that placement of any child, or a particular child, in the home of the individual would pose a risk of harm to the physical or psychological well-being of the child.

(x) "Temporary placement" means a placement that occurs before court approval under section 51 of this chapter and that meets the requirements of section 23d of this chapter.

(y) "Within the fifth degree by marriage, blood, or adoption" means any of the following relationships: parent, step-parent, grandparent, step-grandparent, brother, step-brother, sister, step-sister, uncle, step-uncle, aunt, step-aunt, first cousin, step-first cousin, great aunt, step-great aunt, great uncle, step-great uncle, great

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

grandparent, step-great grandparent, first cousin once removed, step-first cousin once removed, great great grandparent, step-great great grandparent, great great uncle, step-great great uncle, great great aunt, step-great great aunt, great great great grandparent, or step-great great great grandparent.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1990, Act 175, Imd. Eff. July 2, 1990;—Am. 1992, Act 247, Imd. Eff. Nov. 19, 1992;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.22a Adoption placement or issuance of order prohibited; convictions.

Sec. 22a. A child shall not be placed with a prospective adoptive parent and an adoption order shall not be issued if a person authorized to place the child or the court authorized to issue the order has reliable information that the prospective adoptive parent has been convicted under any of the following:

(a) Section 145a or 145c of the Michigan penal code, 1931 PA 328, MCL 750.145a and 750.145c.

(b) Sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g.

(c) A law of another state substantially similar to 1 of the sections included in subdivision (a) or (b).

History: Add. 1994, Act 430, Imd. Eff. Jan. 6, 1995;—Am. 2003, Act 222, Imd. Eff. Dec. 2, 2003.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.23 Hearing appeal brought under MCL 400.115k; powers of court.

Sec. 23. The court has jurisdiction to hear an appeal brought under section 115k of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.115k of the Michigan Compiled Laws. The court may set aside, affirm, reverse, or modify a final determination of the department as provided in sections 101 to 106 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.301 to 24.306 of the Michigan Compiled Laws.

History: Add. 1980, Act 288, Eff. Oct. 17, 1980;—Am. 1994, Act 373, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.23a Direct placement by parent or guardian of child for adoption; temporary placement; formal placement; selection by parent or guardian not delegated; information to be provided by prospective adoptive parent, adoption attorney, or child placing agency; placement of child with stepparent or relative; attendance of child at hearing.

Sec. 23a. (1) A parent or guardian having legal and physical custody of a child may make a direct placement of the child for adoption by making a temporary placement under section 23d of this chapter or a formal placement under section 51 of this chapter. A temporary placement becomes a formal placement when the court orders the termination of the rights of the parent or parents or the guardian and approves placement under section 51 of this chapter. A formal placement under section 51 of this chapter is not required to be preceded by a temporary placement.

(2) A parent or guardian shall personally select a prospective adoptive parent in a direct placement. The selection shall not be delegated.

(3) In a direct placement the prospective adoptive parent, an adoption attorney, or a child placing agency shall provide information about a prospective adoptive parent to the parent or guardian before placement. This information shall include the specific information contained in a preplacement assessment as described in section 23f of this chapter, and may include additional information requested by the parent or guardian. The information does not have to include identifying information described in section 27(3) of this chapter. The parent or guardian and the prospective adoptive parent shall determine whether to exchange identifying information and whether to meet each other.

(4) A parent or guardian having legal and physical custody of a child may make a formal placement of the child for adoption under section 51 of this chapter with a stepparent or a relative.

(5) The court may allow the child to attend his or her adoption hearing held under this act.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.23b Placement of child by child placing agency or department of social services; written authorization from parent or guardian for temporary placement; assistance; involvement of parent or guardian in selection of adoptive parent; validity of authorization.

Sec. 23b. (1) A child placing agency or the department that acquires legal and physical custody of a child pursuant to section 29 of this chapter or chapter XIIA may formally place a child for adoption under section 51 of this chapter. A child placing agency that acquires written authorization pursuant to subsection (3) from the parent or guardian having legal custody of a child may make a temporary placement of the child under section 23d of this chapter. A child placing agency may assist a parent or guardian to make a direct placement under section 23a of this chapter.

(2) In an agency placement, a child placing agency or the department may involve the parent or guardian of a child in the selection of an adoptive parent and may facilitate the exchange of identifying information or meetings between a biological parent and an adoptive parent.

(3) In a written document signed by a witness and by the parent or guardian in the presence of the witness, a parent or guardian having legal and physical custody of a child may authorize a child placing agency to make a temporary placement of the child under section 23d of this chapter. If the parent of the child being temporarily placed is an unemancipated minor, the authorization is not valid unless it is also signed in the presence of the witness by a parent or guardian of that minor parent.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.23c Placement of child by court.

Sec. 23c. A court that acquires legal and physical custody of a child pursuant to chapter XIIA may formally place a child for adoption under section 51 of this chapter.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

****** 710.23d THIS SECTION IS AMENDED EFFECTIVE OCTOBER 12, 2014: See 710.23d.amended ******

710.23d Temporary placement; procedures.

Sec. 23d. (1) In a direct placement, a parent or guardian with legal and physical custody of a child may make a temporary placement of the child as prescribed by this section. In an agency placement, a child placing agency with written authorization from the parent or guardian as prescribed by section 23b of this chapter may make a temporary placement of the child as prescribed by this section. A temporary placement shall meet all of the following requirements:

(a) The prospective adoptive parent with whom a child is temporarily placed has had a preplacement assessment completed within 1 year before the date of the transfer with a finding that the prospective adoptive parent is suitable to be a parent of an adoptee.

(b) In a direct placement, the parent or guardian is assisted by an adoption attorney or a child placing agency.

(c) In the presence of a witness who also signs the document, the parent, guardian, or representative of the child placing agency signs a statement evidencing the transfer of physical custody of the child. If the parent making the temporary placement is an unemancipated minor, the statement is not valid unless it is also signed in the presence of the witness by a parent or guardian of that minor parent. The statement shall contain all of the following:

(*i*) The date of the transfer of physical custody.

(*ii*) Language providing that the transfer is for the purpose of adoption by the prospective adoptive parent.

(*iii*) Language indicating that unless the parent or guardian and the prospective adoptive parent agree otherwise, the prospective adoptive parent has the authority to consent to all medical, surgical, psychological, educational, and related services for the child and language indicating that the parent or guardian otherwise

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

retains full parental rights to the child being temporarily placed and that the temporary placement may be revoked by the filing of a petition under subsection (5).

(*iv*) Language providing that the person making the transfer has read a preplacement assessment of the prospective adoptive parent completed or updated within 1 year before the date of the transfer with a finding that the prospective adoptive parent is suitable to be a parent of an adoptee. If a child placing agency makes the transfer of physical custody, the statement shall include a verification that the child placing agency has given the parent or guardian who authorized the temporary placement an opportunity to review the preplacement assessment.

(*v*) Even if only 1 parent is making the temporary placement, the name and address of both parents of the child, including in the case of a child born out of wedlock, the name and the address of each putative father of the child, if known.

(d) In the presence of a witness who also signs the document, the prospective adoptive parent signs a statement setting forth the date of the transfer of physical custody and the name and address of the prospective adoptive parent and attesting to all of the following:

(*i*) That the prospective adoptive parent understands that the temporary placement will not become a formal placement until the parents consent or release their parental rights and the court orders the termination of parental rights and approves the placement and that the prospective adoptive parent must relinquish custody of the child within 24 hours after being served with an order under section 23e(2) of this chapter.

(*ii*) That, if the prospective adoptive parent is a Michigan resident, the prospective adoptive parent agrees to reside with the child in Michigan until formal placement occurs.

(*iii*) That the prospective adoptive parent agrees to obtain approval in compliance with the interstate compact on the placement of children, 1984 PA 114, MCL 3.711 to 3.717, before the child is sent, brought, or caused to be sent or brought into a receiving state as that term is defined in section 1 of the interstate compact on the placement of children, 1984 PA 114, MCL 3.711.

(*iv*) That the prospective adoptive parent submits to this state's jurisdiction.

(2) Not later than 2 days, excluding weekends and holidays, after a transfer of physical custody of a child in accordance with subsection (1), the adoption attorney or child placing agency who assists with the temporary placement or the child placing agency that makes the temporary placement shall submit to the court in the county in which the child's parent or guardian or the prospective adoptive parent resides, or in which the child is found, a report that contains all of the following:

(a) The date of the transfer of physical custody.

(b) The name and address of the parent or guardian or the child placing agency who made the temporary placement.

(c) The name and address of the prospective adoptive parent with whom the temporary placement was made.

(d) Even if only 1 parent is making the temporary placement, the name and address of both parents of the child, including, in the case of a child born out of wedlock, the name of each putative father, if known.

(e) The documents required under subsection (1)(c) and (d) and, if applicable, the authorization required under section 23b of this chapter.

(3) Not later than 30 days after the transfer of physical custody of a child under this section, the adoption attorney or child placing agency who assists with the temporary placement or the child placing agency that makes the temporary placement shall submit to the court that received the report described in subsection (2) a report indicating whether or not 1 of the following dispositions has occurred:

(a) A petition for adoption of the child has been filed.

(b) The child has been returned to the agency or to a parent or other person having legal custody.

(4) If the court has not received the report required under subsection (3) within 45 days after the transfer of physical custody of a child, the court shall immediately investigate and determine whether an adoption petition has been filed or the child has been returned to a parent or other person having legal custody. If the report required under subsection (3) or the court's investigation reveals that neither disposition has occurred, the court shall immediately report to the prosecutor, who shall immediately file a petition in the court that received the report described in subsection (2) for disposition of the child as required by section 23e of this chapter. If a petition has been filed under subsection (5), (6), or (7), the prosecutor is not required to file a petition.

(5) A parent or guardian who wishes to regain custody of a child who has been placed temporarily shall file a petition in the court that received the report described in subsection (2) requesting that the temporary placement be revoked and that the child be returned to the parent or guardian. Upon request of the parent or guardian, the adoption attorney or child placing agency who assisted in making the temporary placement shall assist the parent or guardian in filing the petition to revoke the temporary placement. If the temporary

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

placement was made by a child placing agency under section 23b(3) of this chapter, the child placing agency shall file the petition on behalf of a parent or guardian who wishes to regain custody of the child.

(6) If a prospective adoptive parent with whom a child has been temporarily placed is either unwilling or unable to proceed with the adoption, the prospective adoptive parent may file a petition in the court that received the report described in subsection (2) for disposition of the child as required by section 23e of this chapter.

(7) If a child placing agency that temporarily placed a child is unable to proceed with an adoption because of the unavailability of a parent or guardian to execute a release, or if a child placing agency with legal custody of a child decides not to proceed with the adoption by a prospective adoptive parent with whom the child has been temporarily placed and the prospective adoptive parent refuses upon the agency's request to return the child to the agency, the child placing agency shall file a petition in the court that received the report described in subsection (2) for disposition of the child as required by section 23e of this chapter.

(8) Except as otherwise agreed to by the parties, the prospective adoptive parent with whom a child is temporarily placed under this section may consent to all medical, surgical, psychological, educational, and related services for the child.

(9) A hospital or attending practitioner shall not release a child to an individual or agency not otherwise legally entitled to the physical custody of the child unless all of the requirements of subsection (1) are met.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2004, Act 68, Imd. Eff. Apr. 20, 2004;—Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.23e Temporary placement; hearing to determine custody; petition; ex parte order to return child to parent or guardian; petition requesting court jurisdiction; temporary disposition; powers of court; act as exclusive remedy.

Sec. 23e. (1) Not later than 14 days after the filing of a petition by the prosecutor as required by section 23d(4) of this chapter, by a prospective adoptive parent as permitted in section 23d(6) of this chapter, or by a child placing agency as required by section 23d(7) of this chapter, the court shall hold a hearing to determine the custody of a child for whom a temporary placement has been made.

(2) Upon receiving a petition filed under section 23d(5) of this chapter, the court shall immediately issue an ex parte order directing the prospective adoptive parent to return the child to the parent or guardian with legal custody within 24 hours after receipt of the order, unless the court proceeds under subsection (3).

(3) The court may appoint an attorney to represent the child or refer the matter to the department. The attorney or the department may file a petition on the child's behalf requesting the court to take jurisdiction under section 2(b) of chapter XIIA. If that petition has not been filed within 14 days after the court appoints an attorney or refers the matter to the department under this section, the court shall order the return of the child to the parent or guardian with legal custody. During the period before the petition for jurisdiction under section 2(b) of chapter XIIA is filed and a preliminary hearing is held or the return of custody is ordered, the court shall remove the child from the home of the prospective adoptive parent and make a temporary disposition appropriate for the welfare of the child as authorized by section 18 of chapter XIIA.

(4) Subject to subsection (2), the court may appoint a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, in response to a petition filed by the prospective adoptive parent or another individual interested in the child's welfare, and make a temporary disposition appropriate for the child's welfare as authorized by section 18 of chapter XIIA until an order of guardianship is entered.

(5) The court may order the return of a child to a child placing agency that has obtained legal custody of the child.

(6) The court may appoint a guardian ad litem for the child or for a minor parent of the child.

(7) This act provides the exclusive remedy for all custody disputes arising out of a temporary placement.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 2000, Act 55, Eff. Apr. 1, 2000.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.23f Preplacement assessment.

Sec. 23f. (1) In a direct placement, an individual seeking to adopt may request, at any time, that a preplacement assessment be prepared by a child placing agency.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(2) An individual requesting a preplacement assessment does not need to have located a prospective adoptee when the request is made or when the assessment is completed.

(3) An individual may request more than 1 preplacement assessment or may request that an assessment, once initiated, not be completed.

(4) If an individual is seeking to adopt a child from a particular child placing agency, the agency may require the individual to be assessed by its own employee, even if the individual has already had a favorable preplacement assessment completed by another child placing agency.

(5) A preplacement assessment is based upon personal interviews and visits at the residence of the individual being assessed, interviews of others who know the individual, and reports received under this subsection. The assessment shall contain all of the following information about the individual being assessed:

(a) Age, nationality, race or ethnicity, and any religious preference.

(b) Marital and family status and history, including the presence of other children or adults in the household and the relationship of those individuals to the adoptive parent.

(c) Physical and mental health, including any history of substance abuse.

(d) Educational and employment history and any special skills and interests.

(e) Property and income, including outstanding financial obligations as indicated in a current financial report provided by the individual.

(f) Reason for wanting to adopt.

(g) Any previous request for an assessment or involvement in an adoptive placement and the outcome of the assessment or placement.

(h) Whether the individual has ever been the respondent in a domestic violence proceeding or a proceeding concerning a child who was allegedly abused, dependent, deprived, neglected, abandoned, or delinquent, and the outcome of the proceeding.

(i) Whether the individual has ever been convicted of a crime.

(j) Whether the individual has located a parent interested in placing a child with the individual for adoption and a brief description of the parent and the child.

(k) Any fact or circumstance that raises a specific concern about the suitability of the individual as an adoptive parent, including the quality of the environment in the home, the functioning of other children in the household, and any aspect of the individual's familial, social, psychological, or financial circumstances that may be relevant to a determination that the individual is not suitable. A specific concern is one that suggests that placement of any child, or a particular child, in the home of the individual would pose a risk of harm to the physical or psychological well-being of the child.

(6) A child placing agency shall request an individual seeking a preplacement assessment to provide a document from the Michigan state police and the federal bureau of investigation describing all of the individual's criminal convictions as shown by that agency's records, or stating that the agency's records indicate that the individual has not been convicted of a crime. Upon request of the individual and receipt of a signed authorization, the child placing agency shall obtain the criminal record from the law enforcement agency on the individual's behalf.

(7) A child placing agency shall request an individual seeking a preplacement assessment to undergo a physical examination conducted by a licensed physician, a licensed physician's assistant, or a certified nurse practitioner to determine that the individual is free from any known condition that would affect his or her ability to care for an adoptee. If an individual has had a physical examination within the 12 months immediately preceding his or her request for a preplacement assessment, he or she may submit a medical statement that is signed and dated by the licensed physician, licensed physician's assistant, or certified nurse practitioner verifying that he or she has had a physical examination within the previous 12-month period and is free from any known condition that would affect his or her ability to care for an adoptee. This subsection does not require new or additional third party reimbursement or worker's compensation benefits for services rendered.

(8) A preplacement assessment shall contain a list of the sources of information on which it is based. If the child placing agency determines that the information assessed does not raise a specific concern, the child placing agency shall find that the individual is suited to be an adoptive parent. If the child placing agency determines that the information assessed does raise a specific concern, the child placing agency shall find that the individual is not suitable to be an adoptive parent. The conclusion shall be supported by a written account of how 1 or more specific concerns pose a risk to the physical or psychological well-being of any child or a particular child. If the conclusion of a preplacement assessment regarding the suitability of the individual differs from the conclusion in a prior assessment, the child placing agency shall explain and justify the difference.

(9) An individual who receives a preplacement assessment with a conclusion of unsuitability may seek a

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

review of the assessment by the court after filing an adoption petition. The court may order an agent or employee of the court to make an investigation and report to the court before the hearing. If, at the hearing, the court finds by clear and convincing evidence that the conclusion of unsuitability is not justified, the person with legal custody of the child may place the child with that individual. If the court determines that the conclusion of unsuitability is justified, it shall order that the child shall not be placed with the individual.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 2006, Act 41, Imd. Eff. Mar. 2, 2006.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.24 Petition for adoption; filing; jurisdiction; verification; contents; preplacement assessments; omission of certain identifying information.

Sec. 24. (1) Except as otherwise provided in this section, if a person desires to adopt a child or an adult and to bestow upon the adoptee his or her family name, or to adopt a child or an adult without a name change, with the intent to make the adoptee his or her heir, that person, together with his wife or her husband, if married, shall file a petition with the court of the county in which the petitioner resides or where the adoptee is found or, if the petitioner and adoptee reside out of state, where the parent's parental rights were terminated or are pending termination. If both parents' parental rights were terminated at different times and in different courts, a petition filed under this section shall be filed in the court of the county where parental rights were first terminated. If there has been a temporary placement of the child, the petition for adoption shall be filed with the court that received the report described in section 23d(2) of this chapter.

(2) Notwithstanding any other provision in this section, the court may allow either of the following to occur:

(a) A married individual to adopt an adult without his or her spouse joining in the petition if all of the interested parties consent.

(b) A married individual to adopt without his or her spouse joining in the petition if the failure of the other spouse to join in the petition or to consent to the adoption is excused by the court for good cause shown or in the best interest of the child.

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

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

(5) The petition for adoption shall be verified by each petitioner and shall contain the following information:

(a) The name, date and place of birth, and place of residence of each petitioner, including the maiden name of the adopting mother.

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

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

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

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

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

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

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

(7) Except as otherwise provided in this subsection, in a direct placement, the petitioner shall attach a copy of a preplacement assessment of the petitioner completed or updated within 1 year before the petition is filed with a finding that the petitioner is suitable to be a parent of an adoptee, copies of all other preplacement

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

assessments of the petitioner, if any others have been completed, and a verified statement stating that no preplacement assessments of the petitioner have been completed other than those attached to the petition and explaining any preplacement assessments of the petitioner that have been initiated but not completed. If the petitioner is seeking review of a preplacement assessment under section 23f(8) of this chapter, the petitioner may comply with this subsection by attaching a copy of that preplacement assessment and a copy of the application for review, together with copies of all other preplacement assessments and the verified statement required by this section.

(8) In a direct placement in which the parties have elected not to exchange identifying information, the information required by subsection (5)(f) and (g) and the surname and place of residence of the adoptee required under subsection (5)(b) may be omitted. The attorney or child placing agency assisting in the adoption shall file a verified statement containing the omitted information.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004;—Am. 2012, Act 614, Imd. Eff. Jan. 9, 2013.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.24a Interested parties; appointment of guardian to defeat parent's status as interested party.

Sec. 24a. (1) Interested parties in a petition for adoption are all of the following:

(a) The petitioner or petitioners.

(b) The adoptee, if over 14 years of age.

(c) A minor parent, adult parent, or surviving parent of an adoptee, unless 1 or more of the following apply:

(*i*) The rights of the parent have been terminated by a court of competent jurisdiction.

(*ii*) A guardian of the adoptee, with specific authority to consent to adoption, has been appointed.

(*iii*) A guardian of the parent, with specific authority to consent to adoption, has been appointed.

(*iv*) The rights of the parent have been released.

(*v*) The parent has consented to the granting of the petition.

(d) The department or a child placing agency to which the adoptee has been, or for purposes of subsection (3) is proposed to be, released or committed by an order of the court.

(e) A parent, guardian, or guardian ad litem of an unemancipated minor parent of the adoptee.

(f) The court with permanent custody of the adoptee.

(g) A court with continuing jurisdiction over the adoptee.

(h) A child placing agency of another state or country that has authority to consent to adoption.

(i) The guardian or guardian ad litem of an interested party.

(2) Interested parties in a petition for a hearing to identify the father of an adoptee and to determine or terminate his rights are all of the following:

(a) The persons set forth in subsection (1).

(b) A putative father of the adoptee.

(3) Interested parties in a proceeding relating to the execution of a voluntary release are all of the following:

(a) The adoptee, if over 5 years of age.

(b) The department or a child placing agency to which the adoptee is proposed to be released.

(c) The person executing the release of parental rights.

(4) Interested parties in a rescission petition are all of the following:

(a) The petitioners.

(b) The stepparent who adopted the adult adoptee.

(c) The spouse of the parent whose rights were terminated.

(5) Interested parties in a hearing related to temporary placement are all of the following:

(a) The parent or guardian who made or authorized the temporary placement.

(b) The parent or guardian of an unemancipated minor parent of the adoptee.

(c) A child placing agency that was authorized under section 23b of this chapter to make the temporary placement.

(d) If only 1 parent made or authorized the temporary placement, the other parent and each putative father of the adoptee.

(e) The prospective adoptive parent with whom temporary placement was made.

(f) The prosecutor who filed a petition under section 23d of this chapter.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(g) The guardian ad litem of any interested party, if a guardian ad litem has been appointed.

(6) In the interest of justice, the court may require additional parties to be served.

(7) The court shall not appoint a guardian of the adoptee or of a parent solely for the purpose of defeating that parent's status as an interested party under this section.

History: Add. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1992, Act 247, Imd. Eff. Nov. 19, 1992;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.25 Proceedings; priority; disposition; adjournment or continuance.

Sec. 25. (1) All proceedings under this chapter shall be considered to have the highest priority and shall be advanced on the court docket so as to provide for their earliest practicable disposition.

(2) An adjournment or continuance of a proceeding under this chapter shall not be granted without a showing of good cause.

History: Add. 1982, Act 72, Imd. Eff. Apr. 14, 1982.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.26 Documentation required; informing adoptee and adoptive parents of MCL 710.27a, 710.27b, 710.68, 710.68a, and 710.68b; applicability of subsection (2); providing adoptee and adoptive parents with list of adoption support groups; applicability of subsection (3).

Sec. 26. (1) Subsequent to or concurrent with the filing of the adoption petition but before the hearing on the petition by the court, the petitioner, the department, an employee or agent of the court, or a child placing agency, as appropriate, shall file all of the following documentation:

(a) Except in instances of parental consent to adoption, a copy of each release or order terminating parental rights over the child having a bearing upon the authority of a person to execute the consent to adoption.

(b) A copy of the order of commitment, if a commitment was made to a child placing agency or to the department.

(c) Proof of a guardian's appointment and authorization to execute the release or consent to the child's adoption.

(d) A copy of the consent to adoption as required in this chapter. If the consent is required pursuant to section 43(1)(b), (c), or (d) of this chapter, the consent shall be filed concurrently with the filing of the adoption petition unless a motion is filed pursuant to section 45 of this chapter.

(e) A copy of the adoptee's birth certificate, verification of birth, hospital birth registration, or other satisfactory proof of date and place of birth, if obtainable, unless this filing is waived by written order of the judge.

(f) The report of the investigation prepared pursuant to section 46 of this chapter.

(g) If the petition alleges nonsupport and noncommunication by a parent, as described in section 51(6), an affidavit verifying that fact.

(h) Any additional facts considered necessary by the court.

(2) Before or at the time of the hearing on the adoption petition, the court shall inform the adoptee, if he or she is 14 years old or older, and the adoptive parents of the provisions described in sections 27a, 27b, 68, 68a, and 68b. This subsection also applies to a stepparent adoption and the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

(3) Before or at the time of the hearing on the adoption petition, the court shall provide the adoptee, if he or she is 14 years old or older, and the adoptive parents with a list of adoption support groups. This subsection also applies to a stepparent adoption and to the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 509, Imd. Eff. Jan. 26, 1981;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1990, Act 175, Imd. Eff. July 2, 1990;—Am. 1994, Act 239, Eff. July 5, 1994;—Am. 1996, Act 409, Eff. Jan. 1, 1998.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.27 Nonidentifying information to be provided prospective adoptive parent; time of

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

submission; supplemental information; compilation; maintenance; transmission; destruction of information as misdemeanor; forwarding adoption records; adoptions to which section applicable; exchanging identifying information.

Sec. 27. (1) Before placement of a child for adoption, a parent or guardian, a child placing agency, the department, or the court that places the child shall compile and provide to the prospective adoptive parent a written document containing all of the following nonidentifying information that is not made confidential by state or federal law and that is reasonably obtainable from the parents, relatives, or guardian of the child; from any person who has had physical custody of the child for 30 days or more; or from any person who has provided health, psychological, educational, or other services to the child:

(a) Date, time, and place of birth of the child including the hospital, city, county, and state.

(b) An account of the health and genetic history of the child, including an account of the child's prenatal care; medical condition at birth; any drug or medication taken by the child's mother during pregnancy; any subsequent medical, psychological, psychiatric, or dental examination and diagnosis; any psychological evaluation done when the child was under the jurisdiction of the court; any neglect or physical, sexual, or emotional abuse suffered by the child; and a record of any immunizations and health care the child received while in foster or other care.

(c) An account of the health and genetic history of the child's biological parents and other members of the child's family, including any known hereditary condition or disease; the health of each parent at the child's birth; a summary of the findings of any medical, psychological, or psychiatric evaluation of each parent at the time of placement; and, if a parent is deceased, the cause of and the age at death.

(d) A description of the child and the child's family of origin, including all of the following:

(*i*) Given first name of the child at birth.

(*ii*) The age and sex of siblings of the child.

(*iii*) The child's enrollment and performance in school, results of educational testing, and any special educational needs.

(*iv*) The child's racial, ethnic, and religious background, and a general description of the child's parents, including the age of the child's parents at the time of termination of parental rights, and the length of time the parents had been married at the time of placement.

(*v*) An account of the child's past and existing relationship with any relative, foster parent, or other individual or facility with whom the child has lived or visited on a regular basis. The account shall not include names and addresses of individuals.

(*vi*) The levels of educational, occupational, professional, athletic, or artistic achievement of the child's family.

(*vii*) Hobbies, special interests, and school activities of the child's family.

(*viii*) The circumstances of any judicial order terminating the parental rights of a parent for abuse, neglect, abandonment, or other mistreatment of the child.

(*ix*) Length of time between the termination of parental rights and adoptive placement and whether the termination was voluntary or court-ordered.

(*x*) Any information necessary to determine the child's eligibility for state or federal benefits, including financial, medical, or other assistance.

(2) Information required by subsection (1) that is unobtainable before temporary placement shall be submitted by the time of formal placement if reasonably obtainable. The information required by subsection (1) shall be supplemented by other nonidentifying background information that the parent or guardian, child placing agency, department, or court considers appropriate.

(3) A parent or guardian, the department, a child placing agency, or a court that places an adoptee under this chapter shall compile all of the following identifying information if reasonably obtainable:

(a) Name of the child before placement in adoption.

(b) Name of each biological parent at the time of termination of parental rights.

(c) The most recent name and address of each biological parent.

(d) Names of the biological siblings at the time of termination.

(4) The information required by subsections (1) to (3) shall be maintained by the child placing agency, department, or court that places the child or, in the case of a direct placement by a parent or guardian, by the court that approves the placement. In a direct placement, the parent or guardian shall transmit the information required under subsections (1) to (3) to the court before the termination of parental rights. An employee or agent of a child placing agency, the court, or the department who intentionally destroys information required to be maintained under this section is guilty of a misdemeanor.

(5) If a child placing agency ceases to operate, the agency's adoption records shall be forwarded to the

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

department. A branch or associate agency of a child placing agency that ceases to operate shall forward its records to the central agency of the branch or associate agency.

(6) This section does not apply to a stepparent adoption or to the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

(7) This section does not prevent a parent or guardian and prospective adoptive parent from exchanging identifying information or meeting pursuant to sections 23a and 23b.

History: Add. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1988, Act 505, Eff. Mar. 30, 1989;—Am. 1990, Act 175, Imd. Eff. July 2, 1990;—Am. 1994, Act 208, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.27a Statement consenting to or denying release of identifying information; statement providing notice that former parent deceased; statement releasing adult former sibling's name and address; presumption of release of certain identifying information.

Sec. 27a. (1) A former parent, including a former parent whose parental rights were terminated under chapter XII of this act, may file with the central adoption registry a statement consenting to or denying the release of the identifying information about that parent specified in section 27(3)(b) and (c). The consent or denial may be filed, updated, or revoked at any time.

(2) An adult former sibling may file a statement with the central adoption registry providing notice that a former parent is deceased. A copy of the former parent's death certificate or other evidence of the former parent's death shall be attached to the statement.

(3) An adult former sibling who knows the birth name of an adoptee may file with the central adoption registry a statement consenting to the release of the adult former sibling's name and address to the adult adoptee. The statement may be filed, updated, or revoked at any time.

(4) At the time of termination of parental rights under this chapter or chapter XIIA, the court shall inform each parent of the provisions described in this section and sections 27b, 68, 68a, and 68b. The court shall inform each parent that the parent's consent to the release of identifying information about that parent specified in section 27(3)(b) and (c) shall be presumed unless the parent files a statement with the central adoption registry denying the release of the information about that parent. The court shall explain the parent's right to file, update, or revoke the denial at any time, and shall provide each parent with the forms prescribed under section 27b.

History: Add. 1994, Act 208, Eff. Jan. 1, 1995;—Am. 2012, Act 385, Imd. Eff. Dec. 19, 2012.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.27b Central adoption registry; establishment; maintenance; statements to be kept on file; forms; transmission of clearance reply; attachments; transmission of statement releasing former adult sibling's name and address.

Sec. 27b. (1) The department shall establish and maintain a central adoption registry to control the release of identifying information described in section 27(3).

(2) The central adoption registry shall keep on file the statements of former parents consenting to or denying the release of identifying information and the statements of adult former siblings described in section 27a(2) and (3).

(3) The department shall develop forms for former parents to use to consent to, deny, or revoke a consent to or denial of, the release of identifying information and forms for adult former siblings to use to provide notice of the death of a former parent and to consent to the release of the adult former sibling's name and address to an adult adoptee. The department shall make the forms available to child placing agencies and the court. The forms shall include the current name and address of the former parent or adult former sibling. The denial form shall contain a space for the former parent to indicate, if he or she wishes, the reason why he or she does not wish to be identified or contacted. The department shall also develop and distribute clearance request and reply forms to be used by child placing agencies, the department, and the court to request and receive information from the central adoption registry pursuant to section 68(5) and (8).

(4) Upon receipt of a clearance request form from a child placing agency or the department or court pursuant to section 68(5), the central adoption registry shall transmit to the requester a clearance reply form indicating whether a particular former parent has filed with the registry a statement either denying or

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

consenting to the release of identifying information or whether a former parent is deceased. The central adoption registry shall attach a copy of the statement consenting to or denying the release of identifying information. Once a request for information has been received by the central adoption registry, a subsequent statement submitted by a former parent consenting to the release of identifying information or revoking a previous denial of release of identifying information shall be transmitted to the person who requested the information.

(5) Upon receipt of a clearance request form from a child placing agency or the department or court pursuant to section 68(8), the central adoption registry shall transmit to the requester a statement from an adult former sibling consenting to the release of the adult former sibling's name and address to an adult adoptee. Once a request for information has been received by the central adoption registry, a subsequent statement submitted by an adult former sibling consenting to the release of the adult former sibling's name and address shall be transmitted to the person who requested the information.

History: Add. 1994, Act 208, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.28 Release; persons authorized to execute; release to child placing agency or department; advising parent or guardian of child placing agencies; advising agencies of child's availability for adoption; release of child by agency to department; child as state ward; proof accompanying release.

Sec. 28. (1) Subject to this section and section 29 of this chapter, a release shall be executed:

(a) By each parent of a child to be adopted or the surviving parent, except under the following circumstances:

(*i*) The rights of the parent have been terminated by a court of competent jurisdiction.

(*ii*) A guardian of the child has been appointed.

(*iii*) A guardian of a parent has been appointed.

(b) By the authorized representative of a child placing agency to whom the child has been committed by an order of the court.

(c) By the authorized representative of the child placing agency to whom the child has been released.

(d) By the guardian of the child, subject to subsection (3), if a guardian has been appointed.

(e) By the guardian of a parent, subject to subsection (4), if a guardian has been appointed.

(2) If the parent of the child to be adopted is an unemancipated minor, that parent's release is not valid unless a parent, guardian, or guardian ad litem of that minor parent has also executed the release.

(3) The guardian of the child to be adopted may not execute a release of the child pursuant to subsection (1) unless the guardian has first obtained authority to execute the release from the court that appointed the guardian.

(4) The guardian of a parent may not execute a release of the parent's child pursuant to subsection (1) unless the guardian has first obtained authority to execute the release from the court that appointed the guardian. Such a release shall have the same effect as if the release were executed by the parent.

(5) A release shall be given only to a child placing agency or to the department.

(6) Before the department arranges a release from a parent or guardian, a representative of the department shall advise the parent or guardian about child placing agencies serving the county and, upon the parent's or guardian's request, shall refer the parent or guardian to a child placing agency. After the release of a child by a parent or guardian to the department, the department shall advise the child placing agencies serving the county that the child is available for adoption.

(7) If a child was released for adoption or committed to a child placing agency, that agency may release that child to the department and the department shall accept the release.

(8) Upon release of a child to the department pursuant to this section, the child becomes a state ward.

(9) Where applicable under this section, proof of the termination of parental rights, release of parental rights, appointment, authorization, or commitment shall accompany the release.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1990, Act 175, Imd. Eff. July 2, 1990;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

710.29 Release; separate instrument; persons before whom release executed and acknowledged; execution in another state or country; investigation; explaining legal rights to parent or guardian; order terminating rights; order committing child; foster care funding; termination of jurisdiction; hearing to consider revocation of release.

Sec. 29. (1) Except as otherwise provided in this section, a release shall be by a separate instrument executed before a judge of the court or a juvenile court referee. If a parent's or guardian's release is executed before a judge or referee as provided in this subsection, a verbatim record of testimony related to execution of the release shall be made.

(2) If the person from whom a release is required is in the armed services or is in prison, the release may be executed and acknowledged before an individual authorized by law to administer oaths.

(3) If the release is to be given by an authorized representative of a child placing agency that has jurisdiction of the child to be adopted, the release may be executed and acknowledged before an individual authorized by law to administer oaths.

(4) If the release is executed in another state or country, the court having jurisdiction over the adoption proceeding in this state shall determine whether the release was executed in accordance with the laws of that state or country or the laws of this state and shall not proceed unless it finds that the release was so executed.

(5) A release by a parent or guardian shall be accompanied by a verified statement signed by the parent or guardian that contains all of the following:

(a) That the parent or guardian has received a list of support groups and, if the release is to a child placing agency, a copy of the written document described in section 6(1)(c) of the foster care and adoption services act, Act No. 203 of the Public Acts of 1994, being section 722.956 of the Michigan Compiled Laws.

(b) That the parent or guardian has received counseling related to the adoption of his or her child or waives the counseling with the signing of the verified statement.

(c) That the parent or guardian has not received or been promised any money or anything of value for the release of the child, except for lawful payments that are itemized on a schedule filed with the release.

(d) That the validity and finality of the release is not affected by any collateral or separate agreement between the parent or guardian and the agency, or the parent or guardian and the prospective adoptive parent.

(e) That the parent or guardian understands that it serves the welfare of the child for the parent to keep the child placing agency or department informed of any health problems that the parent develops that could affect the child.

(f) That the parent or guardian understands that it serves the welfare of the child for the parent or guardian to keep his or her address current with the child placing agency or department in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years of age or older.

(6) A release by a parent or a guardian of the child shall not be executed until after the investigation the court considers proper and until after the judge, referee, or other individual authorized in subsection (2) has fully explained to the parent or guardian the legal rights of the parent or guardian and the fact that the parent or guardian by virtue of the release voluntarily relinquishes permanently his or her rights to the child; and, if the child is over 5 years of age, the court has determined that the child is best served by the release.

(7) Upon the release of a child by a parent or guardian, the court immediately shall issue an order terminating the rights of that parent or guardian to that child. If the rights of both parents, the surviving parent, or the guardian have been terminated, the court shall issue an order committing the child to the child placing agency or department to which the release was given.

(8) The court shall authorize foster care funding pending expiration of the period of appeal or rehearing as provided in sections 64 and 65 of this chapter, and pending disposition of any appeal or rehearing, for all persons committed to a child placing agency. Foster care funding authorized under this subsection shall exclude the administrative costs of the child placing agency. The costs of foster care shall be paid through the use of the child care fund as provided by section 117c of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.117c of the Michigan Compiled Laws, or by any successor statute. When foster care funding is authorized pursuant to this subsection, the court shall send a copy of the order to the department. Upon receiving a copy of this order, the department shall reimburse the court child care fund of the county where the court order for foster care funding was made in the total amount of the court ordered payment. The reimbursement shall be made monthly.

(9) Entry of an order terminating the rights of both parents under subsection (7) terminates the jurisdiction of the circuit court over the child in any divorce or separate maintenance action.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(10) Upon petition of the same person or persons who executed the release and of the department or child placing agency to which the child was released, the court with which the release was filed may grant a hearing to consider whether the release should be revoked. A release may not be revoked if the child has been placed for adoption unless the child is placed as provided in section 41(2) of this chapter and a petition for rehearing or claim of appeal is filed within the time required. A verbatim record of testimony related to a petition to revoke a release shall be made.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1976, Act 382, Imd. Eff. Dec. 28, 1976;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.31 Child born out of wedlock; inability to obtain release or consent of natural father; release by mother; petition of dependency or neglect; order authorizing temporary care; delaying formal execution of mother's release.

Sec. 31. (1) Except as provided in section 23d of this chapter, if a child is born out of wedlock and the release or consent of the biological father cannot be obtained, the child shall not be placed for adoption until the parental rights of the father are terminated by the court as provided in section 37 or 39 of this chapter, by the court pursuant to chapter XIIA, or by a court of competent jurisdiction in another state or country.

(2) Pending the termination or other disposition of the rights of the father of a child born out of wedlock, the mother may execute a release terminating her rights to the child. If the mother releases the child, the child placing agency or department to which the child is released may file a petition of dependency or neglect pursuant to chapter XIIA. Pending disposition of the dependency or neglect petition, the court may enter an order authorizing temporary care of the child.

(3) At the request of the mother, her formal execution of a release or consent shall be delayed until after court determination of the status of the putative father's request for custody of the child.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.33 Notice of intent to claim paternity.

Sec. 33. (1) Before the birth of a child born out of wedlock, a person claiming under oath to be the father of the child may file a verified notice of intent to claim paternity with the court in any county of this state. The form of the notice shall be prescribed by the director of the department of public health and provided to the court. The notice shall include the claimant's address. On the next business day after receipt of the notice the court shall transmit the notice to the vital records division of the department of public health. If the mother's address is stated on the notice, the vital records division shall send a copy of the notice by first-class mail to the mother of the child at the stated address.

(2) A person filing a notice of intent to claim paternity shall be presumed to be the father of the child for purposes of this chapter unless the mother denies that the claimant is the father. Such a notice is admissible in a paternity proceeding under Act No. 205 of the Public Acts of 1956, as amended, being sections 722.711 to 722.730 of the Michigan Compiled Laws, and shall create a rebuttable presumption as to the paternity of that child for purposes of that act. Such a notice shall create a rebuttable presumption as to paternity of the child for purposes of dependency or neglect proceedings under chapter 12a.

(3) A person who timely files a notice of intent to claim paternity shall be entitled to notice of any hearing involving that child to determine the identity of the father of the child and any hearing to determine or terminate his paternal rights to the child.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.34 Ex parte petition evidencing intent to release or consent; notice of intent to release or consent; form.

Sec. 34. (1) In order to provide due notice at the earliest possible time to a putative father who may have an interest in the custody of an expected child or in the mother's intended release of an expected child for

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

adoption or consent to adoption of the expected child, and in order to facilitate early placement of a child for adoption, a woman pregnant out of wedlock may file with the court an ex parte petition which evidences her intent to release her expected child for adoption or to consent to the child's adoption, which indicates the approximate date and location of conception and the expected date of her confinement, which alleges that a particular person is the putative father of her expected child, and which requests the court to notify the putative father about his rights to file a notice of intent to claim paternity pursuant to section 33. The petition may allege more than 1 putative father where circumstances warrant. The petition shall be verified. Upon the filing of the petition, the court shall issue a notice of intent to release or consent, which notice shall be served upon the putative father by any officer or person authorized to serve process of the court. Proof of service shall be filed with the court.

(2) A notice of intent to release or consent shall:

(a) Indicate the approximate date and location of conception of the child and the expected date of confinement of the mother.

(b) Inform the putative father of his right under section 33(1) to file a notice of intent to claim paternity before the birth of the child.

(c) Inform the putative father of the rights to which his filing of a notice of intent to claim paternity will entitle him under section 33(3).

(d) Inform the putative father that his failure to file a notice of intent to claim paternity before the expected date of confinement or before the birth of the child, whichever is later, shall constitute a waiver of his right to receive the notice to which he would otherwise be entitled under section 33(3) and shall constitute a denial of his interest in custody of the child, which denial shall result in the court's termination of his rights to the child.

(3) The form of the notice of intent to release or consent shall be approved by the supreme court administrator and shall be consistent with this section.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1996, Act 409, Eff. Jan. 1, 1998.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.36 Hearing to determine whether child born out of wedlock and to determine identity and rights of father; filing proof of service of notice of intent or acknowledgment; copy of notice of intent to claim paternity; notice of hearing; contents; filing proof of service of notice of hearing; waiver; evidence of identity; adjournment of proceedings.

Sec. 36. (1) If a child is claimed to be born out of wedlock and the mother executes or proposes to execute a release or consent relinquishing her rights to the child or joins in a petition for adoption filed by her husband, and the release or consent of the natural father cannot be obtained, the judge shall hold a hearing as soon as practical to determine whether the child was born out of wedlock, to determine the identity of the father, and to determine or terminate the rights of the father as provided in this section and sections 37 and 39 of this chapter.

(2) Proof of service of a notice of intent to release or consent or the putative father's verified acknowledgment of notice of intent to release or consent shall be filed with the court, if the notice was given to the putative father. The court shall request the vital records division of the department of public health to send to the court a copy of any notice of intent to claim paternity of the particular child which the division has received.

(3) Notice of the hearing shall be served upon the following:

(a) A putative father who has timely filed a notice of intent to claim paternity as provided in section 33 or 34 of this chapter.

(b) A putative father who was not served a notice of intent to release or consent at least 30 days before the expected date of confinement specified in the notice of intent to release or consent.

(c) Any other male who was not served pursuant to section 34(1) of this chapter with a notice of intent to release or consent and who the court has reason to believe may be the father of the child.

(4) The notice of hearing shall inform the putative father that his failure to appear at the hearing shall constitute a denial of his interest in custody of the child, which denial shall result in the court's termination of his rights to the child.

(5) Proof of service of the notice of hearing required by subsection (3) shall be filed with the court. A verified acknowledgment of service by the party to be served is proof of personal service. Notice of the hearing shall not be required if the putative father is present at the hearing. A waiver of notice of hearing by a person entitled to receive it is sufficient.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(6) The court shall receive evidence as to the identity of the father of the child. Based upon the evidence received, the court shall enter a finding identifying the father or declaring that the identity of the father cannot be determined.

(7) If the court finds that the father of the child is a person who did not receive either a timely notice of intent to release or consent pursuant to section 34(1) of this chapter or a notice required pursuant to subsection (3), and who has neither waived his right to notice of hearing nor is present at the hearing, the court shall adjourn further proceedings until that person is served with a notice of hearing.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 288, Eff. Oct. 17, 1980;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1996, Act 409, Eff. Jan. 1, 1998.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.37 Termination of rights of putative father.

Sec. 37. (1) If the court has proof that the person whom it determines pursuant to section 36 to be the father of the child was timely served with a notice of intent to release or consent pursuant to section 34(1) or was served with or waived the notice of hearing required by section 36(3), the court may permanently terminate the rights of the putative father under any of the following circumstances:

(a) The putative father submits a verified affirmation of his paternity and a denial of his interest in custody of the child.

(b) The putative father files a disclaimer of paternity. For purposes of this section the filing of the disclaimer of paternity shall constitute a waiver of notice of hearing and shall constitute a denial of his interest in custody of the child.

(c) The putative father was served with a notice of intent to release or consent in accordance with section 34(1), at least 30 days before the expected date of confinement specified in that notice but failed to file an intent to claim paternity either before the expected date of confinement or before the birth of the child.

(d) The putative father is given proper notice of hearing in accordance with section 36(3) or 36(5) but either fails to appear at the hearing or appears and denies his interest in custody of the child.

(2) If the identity of the father cannot be determined, or if the identity of the father is known but his whereabouts cannot be determined, the court shall take evidence to determine the facts in the matter. The court may terminate the rights of the putative father if the court finds from the evidence that reasonable effort has been made to identify and locate the father and that any of the following circumstances exist:

(a) The putative father, whose identity is not known, has not made provision for the child's care and did not provide support for the mother during her pregnancy or during her confinement.

(b) The putative father, whose identity is known but whose whereabouts are unknown, has not provided support for the mother, has not shown any interest in the child, and has not made provision for the child's care, for at least 90 days preceding the hearing required under section 36.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

***** *710.39 THIS SECTION IS AMENDED EFFECTIVE OCTOBER 12, 2014: See 710.39.amended* *****

710.39 Inquiry into fitness of putative father; determining best interests of child; termination of rights of putative father; order granting custody to putative father and legitimating child; fee; report.

Sec. 39. (1) If the putative father does not come within the provisions of subsection (2), and if the putative father appears at the hearing and requests custody of the child, the court shall inquire into his fitness and his ability to properly care for the child and shall determine whether the best interests of the child will be served by granting custody to him. If the court finds that it would not be in the best interests of the child to grant custody to the putative father, the court shall terminate his rights to the child.

(2) If the putative father has established a custodial relationship with the child or has provided substantial and regular support or care in accordance with the putative father's ability to provide such support or care for the mother during pregnancy or for either mother or child after the child's birth during the 90 days before notice of the hearing was served upon him, the rights of the putative father shall not be terminated except by proceedings in accordance with section 51(6) of this chapter or section 2 of chapter XIIA.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) If the parental rights of the mother are terminated pursuant to this chapter or other law and if the court awards custody of a child born out of wedlock to the putative father, the court shall enter an order granting custody to the putative father and legitimating the child for all purposes. Upon entry of an order granting custody and legitimating the child, the clerk of the court shall collect a fee of $35.00 from the putative father. The clerk shall retain $9.00 of the fee and remit the $26.00 balance, along with a written report of the order granting custody and legitimating the child, to the director of the department of community health. The report shall be on a form prescribed by or in a manner approved by the director of the department of community health. Regardless of whether the fee required by this section is collected, the clerk shall transmit and the department of community health shall receive the report of the order granting custody and legitimating the child.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 288, Eff. Oct. 17, 1980;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1994, Act 202, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 1998, Act 94, Eff. Sept. 1, 1998.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.41 Conditions to placing child in home for purpose of adoption; adoption by foster parent or by petitioner married to parent having legal custody.

Sec. 41. (1) Except as provided in section 23d of this chapter, a child shall not be placed in a home for the purpose of adoption until an order terminating parental rights has been entered pursuant to this chapter or chapter XIIA and the court has formally approved placement under section 51 of this chapter. After an order terminating parental rights has been entered, the court shall enter any appropriate orders pursuant to sections 45, 46, and 51 of this chapter. Such orders shall not be withheld because the period specified for a rehearing or an appeal as of right has not expired, or because of the pendency of any rehearing or appeal as of right.

(2) If an order terminating parental rights is entered pursuant to this chapter or chapter XIIA, the child may be placed in a home for the purpose of adoption during the period specified for a rehearing or an appeal as of right and the period during which a rehearing or appeal as of right is pending. When a child placing agency, the court, or the department formally places a child or the court approves placement of a child pursuant to this subsection, the child placing agency, court, or department shall inform the person or persons in whose home the child is placed that an adoption will not be ordered until 1 of the following occurs:

(a) The petition for rehearing is granted, at the rehearing the order terminating parental rights is not modified or set aside, and subsequently the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(b) The petition for rehearing is denied and the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(c) There is a decision of the court of appeals affirming the order terminating parental rights.

(3) This section shall not be construed to prevent a child residing in a licensed foster home from being adopted by the foster parent or parents.

(4) This section does not apply if the petitioner for adoption is married to a parent having legal custody of the child.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1994, Act 222, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.43 Consent to adoption; persons authorized to execute.

Sec. 43. (1) Subject to this section and sections 44 and 51 of this chapter, consent to adoption of a child shall be executed:

(a) By each parent of a child to be adopted or the surviving parent, except under the following circumstances:

(*i*) The rights of the parent have been terminated by a court of competent jurisdiction.

(*ii*) The child has been released for the purpose of adoption to a child placing agency or to the department.

(*iii*) A guardian of the child has been appointed.

(*iv*) A guardian of a parent has been appointed.

(*v*) A parent having legal custody of the child is married to the petitioner.

(b) By the authorized representative of the department or his or her designee or of a child placing agency to

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

whom the child has been permanently committed by an order of the court.

(c) By the court or by a tribal court having permanent custody of the child.

(d) By the authorized representative of the department or his or her designee or of a child placing agency to whom the child has been released.

(e) By the guardian of the child, subject to subsection (5), if a guardian has been appointed.

(f) By the guardian of a parent, subject to subsection (6), if a guardian has been appointed.

(g) By the authorized representative of a court or child placing agency of another state or country that has authority to consent to adoption.

(2) If the child to be adopted is over 14 years of age, that child's consent is necessary before the court may enter an order of adoption.

(3) If the individual to be adopted is an adult, the individual's consent is necessary before the court may enter an order of adoption, but consent by any other individual is not required.

(4) If the parent of the child to be adopted is an unemancipated minor, that parent's consent is not valid unless a parent, guardian, or guardian ad litem of that minor parent has also executed the consent.

(5) The guardian of the child to be adopted shall not execute a consent to that child's adoption according to subsection (1) unless the guardian has first obtained authority to execute the consent from the court that appointed the guardian.

(6) The guardian of a parent shall not execute a consent to the adoption of the parent's child according to subsection (1) unless the guardian has first obtained authority to execute the consent from the court that appointed the guardian. The consent shall have the same effect as if the consent were executed by the parent.

(7) If the petitioner for adoption is married to the parent having legal custody of the child and that parent has joined the petitioner in filing the petition for adoption, that parent shall not execute a consent to the adoption. The consent of the parent who does not have legal custody of the child and whose parental rights have not been terminated shall be executed before the court may enter an order of adoption under section 56 of this chapter.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1980, Act 509, Imd. Eff. Jan. 26, 1981;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1990, Act 175, Imd. Eff. July 2, 1990;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2011, Act 32, Imd. Eff. May 24, 2011.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

****** 710.44 THIS SECTION IS AMENDED EFFECTIVE OCTOBER 12, 2014: See 710.44.amended ******

710.44 Consent to adoption; separate instrument; persons before whom consent executed and acknowledged; execution in another state or country; investigation; explaining legal rights of parent or guardian; conditions to execution of adoptee's consent to adoption.

Sec. 44. (1) Except as otherwise provided in this section, the consent required by section 43 of this chapter shall be by a separate instrument executed before the judge having jurisdiction or, at the court's direction, before another judge of the family division of circuit court in this state. A consent may be executed before a juvenile court referee. The consent hearing shall be held within 7 days after it is requested. If the consent of a parent or guardian is executed before a judge or referee as provided in this subsection, a verbatim record of testimony related to execution of the consent shall be made.

(2) If the individual whose consent is required is in any of the armed services or is in prison, the consent may be executed and acknowledged before any individual authorized by law to administer oaths.

(3) If the child to be adopted is legally a ward of the department or of a child placing agency, the consent required to be made under section 43 of this chapter by the authorized representative of the department or agency may be executed and acknowledged before an individual authorized by law to administer oaths.

(4) If the consent is executed in another state or country, the court having jurisdiction over the adoption proceeding in this state shall determine whether the consent was executed in accordance with the laws of that state or country or the laws of this state and shall not proceed unless it finds that the consent was so executed.

(5) In a direct placement, a consent by a parent or guardian shall be accompanied by a verified statement signed by the parent or guardian that contains all of the following:

(a) That the parent or guardian has received a list of support groups and a copy of the written document described in section 6(1)(c) of the foster care and adoption services act, Act No. 203 of the Public Acts of 1994, being section 722.956 of the Michigan Compiled Laws.

(b) That the parent or guardian has received counseling related to the adoption of his or her child or waives

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the counseling with the signing of the verified statement.

(c) That the parent or guardian has not received or been promised any money or anything of value for the consent to adoption of the child, except for lawful payments that are itemized on a schedule filed with the consent.

(d) That the validity and finality of the consent is not affected by any collateral or separate agreement between the parent or guardian and the adoptive parent.

(e) That the parent or guardian understands that it serves the welfare of the child for the parent to keep the child placing agency, court, or department informed of any health problems that the parent develops which could affect the child.

(f) That the parent or guardian understands that it serves the welfare of the child for the parent or guardian to keep his or her address current with the child placing agency, court, or department in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years or older.

(6) If a parent's consent to adoption is required under section 43 of this chapter or if a guardian's consent is required pursuant to section 43(1)(e) of this chapter, the consent shall not be executed until after the investigation the court considers proper and until after the judge, referee, or other individual authorized in subsection (2) has fully explained to the parent or guardian the legal rights of the parent or guardian and the fact that the parent or guardian by virtue of the consent voluntarily relinquishes permanently his or her rights to the child.

(7) If the adoptee's consent to adoption is required under section 43 of this chapter, the consent shall not be executed until after the investigation the court considers proper and until after the judge or referee has fully explained to the adoptee the fact that he or she is consenting to acquire permanently the adopting parent or parents as his or her legal parent or parents as though the adoptee had been born to the adopting parent or parents.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.45 Withholding of consent by representative or court; motion by petitioner; decision by court; termination of rights; entering orders; appeal.

Sec. 45. (1) A court shall not allow the filing of a petition to adopt a child if the consent of a representative or court is required by section 43(1)(b), (c), or (d) of this chapter unless the petition is accompanied by the required consent or a motion as provided in subsection (2).

(2) If an adoption petitioner has been unable to obtain the consent required by section 43(1)(b), (c), or (d) of this chapter, the petitioner may file a motion with the court alleging that the decision to withhold consent was arbitrary and capricious. A motion under this subsection shall contain information regarding both of the following:

(a) The specific steps taken by the petitioner to obtain the consent required and the results, if any.

(b) The specific reasons why the petitioner believes the decision to withhold consent was arbitrary and capricious.

(3) If consent has been given to another petitioner and if the child has been placed with that other petitioner according to an order under section 51 of this chapter, a motion under this section shall not be brought after either of the following:

(a) Fifty-six days following the entry of the order placing the child.

(b) Entry of an order of adoption.

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

(5) The court shall provide notice of a motion brought under this section to all interested parties as described in section 24a(1) of this chapter, the guardian ad litem of the prospective adoptee if one has been appointed during a child protection proceeding, and the applicant who received consent to adopt.

(6) Upon the filing of a petition to adopt a child and the motion described in subsection (2), the court may waive or modify the full investigation of the petition provided in section 46 of this chapter. The court shall decide the motion within 91 days after the filing of the motion unless good cause is shown.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(7) Unless the petitioner establishes by clear and convincing evidence that the decision to withhold consent was arbitrary and capricious, the court shall deny the motion described in subsection (2) and dismiss the petition to adopt.

(8) If the court finds by clear and convincing evidence that the decision to withhold consent was arbitrary and capricious, the court shall issue a written decision and may terminate the rights of the appropriate court, child placing agency, or department and may enter further orders in accordance with this chapter or section 18 of chapter XIIA as the court considers appropriate. In addition, the court may grant to the petitioner reimbursement for petitioner's costs of preparing, filing, and arguing the motion alleging the withholding of consent was arbitrary and capricious, including a reasonable allowance for attorney fees.

(9) If the consent at issue is that required of the court under section 43(1)(c) of this chapter, the motion shall be heard by a visiting judge assigned according to section 8212 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8212.

(10) The court's decision on a motion brought under this section is appealable by right to the court of appeals.

History: Add. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1994, Act 239, Eff. July 5, 1994;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2004, Act 486, Imd. Eff. Dec. 28, 2004.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.46 Investigation; considerations; report; waiver.

Sec. 46. (1) Upon the filing of an adoption petition, the court shall direct a full investigation by an employee or agent of the court, a child placing agency, or the department. The court may use the preplacement assessment described in section 23f of this chapter and may order an additional investigation by an employee or agent of the court or a child placing agency. The following shall be considered in the investigation:

(a) The best interests of the adoptee.

(b) The adoptee's family background, including names and identifying data regarding the parent or parents, if obtainable.

(c) The reasons for the adoptee's placement away from his or her parent or parents.

(2) A written report of the investigation shall be filed within 3 months after the order for investigation.

(3) If the adoptee has been placed for foster care with the petitioner for 12 months or longer and the foster family study was completed or updated not more than 12 months before the petition was filed, the court, upon motion by the petitioner, may waive the full investigation required by this section. The foster family study, with information added as necessary to update or supplement the original study, may be substituted for the written report required under subsection (2).

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1994, Act 222, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.48 Repealed. 1980, Act 288, Eff. Oct. 17, 1980.

Compiler's note: The repealed section pertained to subsidies.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.51 Order terminating rights of parents or person in loco parentis; extension of time; conditions; child as ward of court; termination of jurisdiction; marriage of petitioner to parent having legal custody; placement without making child ward of court; evidence; order terminating rights of divorced or unmarried parent not having legal custody; conditions; consent to services for child by prospective adoptive parents.

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

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

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

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

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

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

(4) Without making the child a ward of the court, the court may approve placement of a child if the child is placed for adoption in this state by a public or licensed private agency of another state or country and if the law of the sending state or country prohibits the giving of consent to adoption at the time of placement. Before placement of the child in that instance, the sending agency shall tender evidence as the court requires to demonstrate that the agency possesses the necessary authority to consent to the adoption at the time of entry of the final order of adoption. After the sending agency has given evidence of its ability to consent, the agency shall not do anything to jeopardize its ability to grant the required consent before entry of the final order of adoption. After the sending agency gives its consent for the adoption, that consent shall not be withdrawn.

(5) If a parent having legal custody of the child is married to the petitioner for adoption, the judge shall not enter an order terminating the rights of that parent.

(6) If the parents of a child are divorced, or if the parents are unmarried but the father has acknowledged paternity or is a putative father who meets the conditions in section 39(2) of this chapter, and if the parent having legal custody of the child subsequently marries and that parent's spouse petitions to adopt the child, the court upon notice and hearing may issue an order terminating the rights of the other parent if both of the following occur:

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

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

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

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1980, Act 509, Imd. Eff. Jan. 26, 1981;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.52 Supervision of child; reports.

Sec. 52. (1) Subject to subsection (2), during the period before entry of the order of adoption, the child shall be supervised at the direction of the court by an employee or agent of the court, a child placing agency, or the department, who shall make reports regarding the adjustment of the child in the home as the court orders. The investigations shall be made under reasonable circumstances and at reasonable intervals.

(2) In a direct placement, the child shall be supervised during the period before entry of the order of adoption by the child placing agency that investigated the placement under section 46 of this chapter or, in the court's discretion, by another child placing agency.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1994, Act 222, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.54 Prohibitions as to money or other consideration or thing of value; statement; compensation for certain activities prohibited; payment of charges; documents filed with

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

court; assuring compliance; approval of fees and expenses; violation.

Sec. 54. (1) Except for charges and fees approved by the court, a person shall not pay or give, offer to pay or give, or request, receive, or accept any money or other consideration or thing of value, directly or indirectly, in connection with any of the following:

(a) The placing of a child for adoption.

(b) The registration, recording, or communication of the existence of a child available for adoption.

(c) A release.

(d) A consent.

(e) A petition.

(2) Except for a child placing agency's preparation of a preplacement assessment described in section 23f of this chapter or investigation under section 46 of this chapter, a person shall not be compensated for the following activities:

(a) Assisting a parent or guardian in evaluating a potential adoptive parent.

(b) Assisting a potential adoptive parent in evaluating a parent or guardian or adoptee.

(c) Referring a prospective adoptive parent to a parent or guardian of a child for purposes of adoption.

(d) Referring a parent or guardian of a child to a prospective adoptive parent for purposes of adoption.

(3) An adoptive parent may pay the reasonable and actual charge for all of the following:

(a) The services of a child placing agency in connection with an adoption.

(b) Medical, hospital, nursing, or pharmaceutical expenses incurred by the birth mother or the adoptee in connection with the birth or any illness of the adoptee, if not covered by the birth parent's private health care payment or benefits plan or by Medicaid.

(c) Counseling services related to the adoption for a parent, a guardian, or the adoptee.

(d) Living expenses of a mother before the birth of the child and for no more than 6 weeks after the birth.

(e) Expenses incurred in ascertaining the information required under this chapter about an adoptee and the adoptee's biological family.

(f) Legal fees charged for consultation and legal advice, preparation of papers, and representation in connection with an adoption proceeding, including legal services performed for a biological parent or a guardian and necessary court costs in an adoption proceeding.

(g) Traveling expenses necessitated by the adoption.

(4) An adoptive parent shall pay the reasonable and actual charge for preparation of the preplacement assessment and any additional investigation ordered pursuant to section 46 of this chapter.

(5) A prospective adoptive parent shall pay for counseling for the parent or guardian related to the adoption, unless the parent or guardian waives the counseling pursuant to section 29 or 44.

(6) A payment authorized by subsection (3) shall not be made contingent on the placement of the child for adoption, release of the child, consent to the adoption, or cooperation in the completion of the adoption. If the adoption is not completed, an individual who has made payments authorized by subsection (3) may not recover them.

(7) At least 7 days before formal placement of a child under section 51 of this chapter, the following documents shall be filed with the court:

(a) A verified accounting signed by the petitioner itemizing all payments or disbursements of money or anything of value made or agreed to be made by or on behalf of the petitioner in connection with the adoption. The accounting shall include the date and amount of each payment or disbursement made, the name and address of each recipient, and the purpose of each payment or disbursement. Receipts shall be attached to the accounting.

(b) A verified statement of the attorney for each petitioner itemizing the services performed and any fee, compensation, or other thing of value received by, or agreed to be paid to, the attorney for, or incidental to, the adoption of the child. If the attorney is an adoption attorney representing a party in a direct placement adoption, the verified statement shall contain the following statements:

(*i*) The attorney meets the requirements for an adoption attorney under section 22 of this chapter.

(*ii*) The attorney did not request or receive any compensation for services described in section 54(2) of this chapter.

(c) A verified statement of the attorney for each parent of the adoptee itemizing the services performed and any fee, compensation, or other thing of value received by, or agreed to be paid to, the attorney for, or incidental to, the adoption of the child. If the attorney is an adoption attorney representing a party in a direct placement adoption, the verified statement shall contain the following statements:

(*i*) The attorney meets the requirements for an adoption attorney under section 22 of this chapter.

(*ii*) The attorney did not request or receive any compensation for services described in section 54(2) of this

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

chapter.

(d) A verified statement of the child placing agency or the department itemizing the services performed and any fee, compensation, or other thing of value received by, or agreed to be paid to, the child placing agency or the department for, or incidental to, the adoption of the child, and containing a statement that the child placing agency or the department did not request or receive any compensation for services described in section 54(2) of this chapter.

(8) At least 21 days before the entry of the final order of adoption, the documents described in subsection (7) shall be updated and filed with the court.

(9) To assure compliance with limitations imposed by this section and section 55 of this chapter and by section 14 of Act No. 116 of the Public Acts of 1973, being section 722.124 of the Michigan Compiled Laws, the court may require sworn testimony from persons who were involved in any way in informing, notifying, exchanging information, identifying, locating, assisting, or in any other way participating in the contracts or arrangements that, directly or indirectly, led to placement of the individual for adoption.

(10) The court shall approve or disapprove all fees and expenses. Acceptance or retention of amounts in excess of those approved by the court constitutes a violation of this section.

(11) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both, for the first violation, and of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both, for each subsequent violation. The court may enjoin from further violations any person who violates this section.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1994, Act 222, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.55 Persons authorized to place child for adoption or solicit biological or adoptive parents; violation as misdemeanor; penalty; "solicit" defined.

Sec. 55. (1) Only a person specified in sections 23a(1), 23b(1), and 23c of this chapter may place a child for adoption. Only a prospective adoptive parent may solicit biological parents or guardians of potential adoptees for the purposes of adoption. Only a biological parent or guardian or the court, department, or child placing agency with authority to place a child may solicit potential adoptive parents for purposes of adoption of that child. A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both, for the first violation, and of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both, for each subsequent violation. The court may enjoin from further violations any person who violates this section.

(2) As used in this section, "solicit" means contact in person, by telephone or telegraph, by letter or other writing, or by other communication directed to a specific recipient. Solicit does not include public communication that is not directed to specific individuals.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.55a Representation by attorney.

Sec. 55a. (1) An attorney shall not represent a party in a direct placement adoption unless the attorney is an adoption attorney. An attorney or law firm shall not serve as the attorney for, or provide legal services to, both a parent or guardian and a prospective adoptive parent.

(2) In a direct placement or agency placement adoption, if the minor parent of a child who is a potential adoptee is not represented by an attorney, the adoption attorney or child placing agency that is providing adoption services involving that minor parent shall provide the minor parent with an opportunity to discuss with an attorney who is not associated with the adoption attorney or child placing agency the legal ramifications of a consent or release, or of the termination of parental rights, before the execution of a consent or release or the termination of parental rights.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

****** 710.56 THIS SECTION IS AMENDED EFFECTIVE OCTOBER 12, 2014: See 710.56.amended ******

710.56 Order of adoption; time; waiver; extension of time; hearing; effect of filing petition for rehearing or appeal from order terminating parental rights; conditions; adoption of adult.

Sec. 56. (1) Six months after formal placement under section 51, unless the court determines that circumstances have arisen that make adoption undesirable, the court may enter an order of adoption. Upon the motion of the petitioner, the court may waive the 6-month period, or any portion of that period, if the waiver is in the best interests of the adoptee. If, after a hearing, the court finds that the best interests of the adoptee will be served, it may extend the 6-month period for an additional period of time not exceeding 18 months from the time of formal placement for adoption. In an adoption proceeding for which an adoption order is not entered within 18 months after formal placement, the court shall hold a hearing and determine whether an order of adoption shall be entered or the petition denied. If a child is formally placed according to section 41(2) of this chapter, the court may extend the 6-month period for an additional period, which may exceed 18 months from the time of formal placement, until an order for adoption may be entered under subsection (2).

(2) Except as provided in subsection (3), if a petition for rehearing or an appeal as of right from an order terminating parental rights has been filed, the court shall not order an adoption until 1 of the following occurs:

(a) The petition for rehearing is granted, and at the rehearing the order terminating parental rights is not modified or set aside, and subsequently the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(b) The petition for rehearing is denied and the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(c) The court of appeals affirms the order terminating parental rights.

(3) If an application for leave to appeal has been filed with the supreme court, the court shall not order an adoption until 1 or more of the following occurs:

(a) The application for leave to appeal is denied.

(b) The supreme court affirms the order terminating parental rights.

(4) If a motion brought under section 45 of this chapter has been filed, the court shall not order an adoption until 1 of the following occurs:

(a) The motion is decided and subsequently the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(b) The motion is decided, an appeal as of right to the court of appeals has been filed, the court of appeals issues an opinion, and subsequently the period for filing an application for leave to the supreme court has expired without an application being filed.

(c) The supreme court denies an application for leave or, if an application is granted, the supreme court issues an opinion.

(5) If the person to be adopted is an adult, the court may enter an order of adoption after all of the following occur:

(a) The person to be adopted consents to the adoption according to section 43(3) of this chapter.

(b) The written report of investigation required by section 46(2) of this chapter is filed.

(c) Notice has been served upon interested parties described in section 24a of this chapter.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 288, Eff. Oct. 17, 1980;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1992, Act 247, Imd. Eff. Nov. 19, 1992;—Am. 1994, Act 240, Eff. July 5, 1994;—Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.56a Repealed. 2008, Act 331, Eff. Dec. 18, 2008.

Constitutionality: The repealed section pertained to entry of adoption order.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.58 Order of adoption; certified copies.

Sec. 58. When the court enters an order of adoption, certified copies shall be given to the adopting parent or parents. If the consent to the adoption was given by a duly authorized representative of the department, of a child placing agency, or of a public or licensed private agency of another state or country, a certified copy of

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the order of adoption shall be furnished by the court to the department or agency.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.58a Information to be forwarded by court; "primary adoption facilitator" and "public information form" defined.

Sec. 58a. (1) Beginning on the effective date of section 14c of Act No. 116 of the Public Acts of 1973, being section 722.124c of the Michigan Compiled Laws, the court shall forward to the department, not later than 15 days after the entry of an order of adoption pursuant to section 56 of this chapter, either of the following:

(a) A public information form filled out and filed with the court by the primary adoption facilitator and completed by the court as provided in subsection (2).

(b) If the primary adoption facilitator has not filed a form, a public information form completed by the court that consists only of the name of the primary adoption facilitator and the confidential information as prescribed by section 14d of Act No. 116 of the Public Acts of 1973, being section 722.124d of the Michigan Compiled Laws.

(2) If the primary adoption facilitator has filed a public information form with the court and has indicated that he or she does not have access to certain information required on the public portion of the form, the court shall complete the form by filling in missing information that is contained in court records to which the primary adoption facilitator does not have access. The court shall complete all public information forms filed with the court by filling in the information required on the confidential portion of the form.

(3) As used in this section, "primary adoption facilitator" and "public information form" mean those terms as defined in section 14b of Act No. 116 of the Public Acts of 1973, being section 722.124b of the Michigan Compiled Laws.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.59 Changing name of adopted child; effect on order of adoption and exemplification of record.

Sec. 59. Where the parents or surviving parent has given consent to an adoption and the petitioner desires to change the name of the adopted child, the order of adoption and exemplification of record shall not contain the name of the child's natural parents or the name bestowed upon the child before the adoption.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.60 Adoptee to be known and called by new name; status and liability of persons adopting adoptee; rights and duties of adopted person; adopted person as heir at law; order for grandparenting time.

Sec. 60. (1) After the entry of an order of adoption, if the adoptee's name is changed, the adoptee shall be known and called by the new name. The person or persons adopting the adoptee then become the parent or parents of the adoptee under the law as though the adopted person had been born to the adopting parents and are liable for all the duties and entitled to all the rights of parents.

(2) After entry of the order of adoption, there is no distinction between the rights and duties of natural progeny and adopted persons, and the adopted person becomes an heir at law of the adopting parent or parents and an heir at law of the lineal and collateral kindred of the adopting parent or parents. After entry of the order of adoption, except as provided in section 2114(2) of the estates and protected individuals code, 1998 PA 386, MCL 700.2114, an adopted child is no longer an heir at law of a parent whose rights have been terminated under this chapter or chapter XIIA or the lineal or collateral kindred of that parent, nor is an adopted adult an heir at law of a person who was his or her parent at the time the order of adoption was entered or the lineal or collateral kindred of that person, except that a right, title, or interest that has vested before entry of the final order of adoption is not divested by that order.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) This section does not prohibit the filing of an action or entry of an order for grandparenting time as provided in section 7b of the child custody act of 1970, 1970 PA 91, MCL 722.27b.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1982, Act 341, Imd. Eff. Dec. 17, 1982;—Am. 1996, Act 16, Eff. June 1, 1996;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2006, Act 352, Imd. Eff. Sept. 18, 2006.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.62 Effect of denying order of adoption.

Sec. 62. If the court denies an order of adoption, the court may return the child to the parents or original custodian and restore their rights, or make a disposition appropriate for the welfare of the ward as is authorized by section 18 of chapter 12a by an ex parte order entered in the court.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.63 Denial of petition or motion or failure to issue order; statement by court.

Sec. 63. A court that denies a petition or motion, or fails to issue an order under this chapter shall state the reason for that action on the record or in writing.

History: Add. 1982, Act 72, Imd. Eff. Apr. 14, 1982.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.64 Rehearing; modifying or setting aside order; entering order with respect to original hearing or rehearing of contested matters.

Sec. 64. (1) Upon the filing of a petition in court within 21 days after entry of any order under this chapter, and after due notice to all interested parties, the judge may grant a rehearing and may modify or set aside the order.

(2) The court shall enter an order with respect to the original hearing or rehearing of contested matters within 21 days after the termination of the hearing or rehearing.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1994, Act 244, Eff. July 5, 1994;—Am. 1996, Act 409, Eff. Jan. 1, 1998.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.65 Appeal to court of appeals; staying court order pending appeal; priority.

Sec. 65. (1) A party aggrieved by an order that is entered by the court under this chapter, including an order entered after a rehearing, may appeal the order to the court of appeals as of right not later than 21 days after the order is entered by the court or not later than 21 days after a petition for a rehearing is denied.

(2) An order of the court entered under this chapter shall not be stayed pending appeal unless ordered by the court of appeals upon motion for good cause shown and on such terms as are deemed just.

(3) An appeal from an order entered under this chapter shall be given priority in the court of appeals and shall take precedence over all other matters, except for other matters that are given priority by specific statutory provision or rule of the supreme court.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1994, Act 244, Eff. July 5, 1994.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.66 Adult adoptee; rescinding adoption by stepparent and restoring parental rights of parent; rescission petition; filing new certificate of birth; hearing; certified copies; effect of entry of order of rescission.

Sec. 66. (1) If an adult adoptee who was adopted by a stepparent and the adult adoptee's parent whose rights have been terminated desire to rescind the adoption by the stepparent and restore the parental rights of that parent, they shall file a rescission petition with the court of the county in which the adoption by the

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

stepparent was confirmed. This section applies to an adult adoptee who was adopted by a stepparent regardless of whether the adoptee was a minor at the time of adoption.

(2) The rescission petition shall be verified by both the adult adoptee and the parent whose rights were terminated, and shall contain the following information:

(a) The present name of each petitioner, the name of the adoptee at the time of birth and immediately after an adoption if different from the adoptee's present name, the name of the parent at the time of termination of parental rights, the date and place of the adoptee's birth, and the present place of residence of each petitioner.

(b) The name, date and place of birth, and address of the parent whose rights were not terminated and whose spouse adopted the adoptee, if known to either of the petitioners.

(c) The name of the stepparent at the time of the order of adoption, including the maiden name of the stepparent if applicable and if known, and the stepparent's date and place of birth.

(3) Subsequent to or concurrent with the filing of the rescission petition but before the hearing on the rescission petition by the court, the petitioners shall file with the court a copy of the adoptee's new certificate of live birth if a new certificate was established by the department of public health.

(4) Upon receipt of a rescission petition, the court shall conduct a hearing after notice is served by petitioners on the interested parties. The court may order an investigation by an employee or agent of the court and may enter an order of rescission of the adoption that restores the parental rights of the parent who filed the petition. The rescission of the adoption shall be effective from the date of the order of rescission.

(5) Certified copies of the order of rescission shall be given to each petitioner, and a copy shall be sent to the department of public health together with any other information required by section 2829 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.2829 of the Michigan Compiled Laws.

(6) After entry of an order of rescission, the adult adoptee becomes an heir at law of the parent whose parental rights have been restored and of the lineal and collateral kindred of that parent. After entry of the order of rescission, the adult adoptee is no longer an heir at law of a person who was his or her stepparent at the time of the order of rescission or an heir at law of the lineal or collateral kindred of that person, except that a right, title, or interest vesting before entry of the order of rescission shall not be divested by that order.

History: Add. 1992, Act 247, Imd. Eff. Nov. 19, 1992;—Am. 1996, Act 409, Eff. Jan. 1, 1998.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.67 Disposition of adoption records; copying or inspecting records; petition; notice and hearing; granting or denying petition; disclosing names of biological or adoptive parents; certified copy of new birth certificate; powers and duties of children's ombudsman.

Sec. 67. (1) Except as otherwise provided in subsection (4) or in section 68 of this chapter, records of proceedings in adoption cases, including a notice filed under section 33(1) of this chapter, and a petition filed under section 34(1) of this chapter, and the papers and books relating to the proceedings shall be kept in separate locked files and shall not be open to inspection or copy except upon order of a court of record for good cause shown expressly permitting inspection or copy. Except as otherwise provided in subsection (4) or in section 68 of this chapter, the court, after 21 days following entry of the final order of adoption, shall not permit copy or inspection of the adoption proceedings, except upon a sworn petition setting forth the purpose of the inspection or copy. The court may order notice and a hearing on the petition. The court shall grant or deny the petition in writing within 63 days after the petition is filed, except that for good cause the court may grant or deny the petition after the 63-day period but not later than 182 days after the petition is filed.

(2) A person in charge of adoption records shall not disclose the names of the biological or adoptive parents of an adopted person, unless ordered to do so by a court of record or as provided in subsection (4) or in section 68 of this chapter, except to meet requirements of the director of public health for the purpose of creating a new certificate of birth in the adoptive name and sealing the original certificate of birth.

(3) The director of public health shall furnish to the adopting parent or parents a certified copy of the new birth certificate that shall not disclose the adoption of the person. A birth certificate issued to an adopted person shall not refer to adoption and shall conform as nearly as possible to the appearance of birth certificates issued in other cases.

(4) After an order of adoption has been entered under section 56, the court shall permit the children's ombudsman to inspect closed adoption records in connection with an investigation authorized under the children's ombudsman act, Act No. 204 of the Public Acts of 1994, being sections 722.921 to 722.935 of the Michigan Compiled Laws. The ombudsman shall not disclose information obtained by an inspection under this subsection. If the children's ombudsman requires further information from an individual whose identity is

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

protected in closed adoption records, the ombudsman shall contact the individual discreetly and confidentially. The ombudsman shall inform the individual that his or her participation in the ombudsman's investigation is confidential, is strictly voluntary, and will not alter or constitute a challenge to the adoption. The ombudsman shall honor the individual's request not to be contacted further. As used in this subsection, “children's ombudsman” or “ombudsman” means the ombudsman appointed pursuant to section 3 of Act No. 204 of the Public Acts of 1994, being section 722.923 of the Michigan Compiled Laws, or his or her designee.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1988, Act 505, Eff. Mar. 30, 1989;—Am. 1994, Act 373, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.68 Nonidentifying and identifying information; request; availability; release; request for adoption record information; identity of court or child placing agency; counseling; list of adoption support groups; transmitting information of medical or genetic condition; return of information undelivered; placement of information in adoption files; releasing or transmitting copies; information returned undelivered; notice to department of community health; sealing original and preparing new birth certificate; release of identifying information as misdemeanor; adoptions to which section applicable; “adult adoptee” defined; fees; waiver; powers and duties of children's ombudsman.

Sec. 68. (1) Within 63 days after a request for nonidentifying information is received, a child placing agency, a court, or the department shall provide in writing to the adoptive parent, adult adoptee, former parent, or adult former sibling requesting the information all of the nonidentifying information described in section 27(1) and (2) of this chapter.

(2) Within 63 days after a request for identifying information about an adult adoptee is received, a child placing agency or court or the department shall provide in writing to the former parent or adult former sibling requesting the information the adult adoptee's most recent name and address if the adult adoptee has given written consent to release of the information pursuant to this chapter. If the adult adoptee has not given written consent to the release of information, the child placing agency, the court, or the department shall, upon presentation of a certified copy of the order of appointment, give the adult adoptee's name and address to a confidential intermediary appointed under section 68b of this chapter, together with any other information in its possession that would help the confidential intermediary locate the adult adoptee. At the option of agency or the department, the information may be released to the court for release to the confidential intermediary.

(3) If the department or a child placing agency receives a request for adoption record information in its possession from an adult adoptee, former parent, or adult former sibling, the department or child placing agency shall provide the individual requesting the information with the identity of the court that confirmed the adoption within 28 days after receipt of the request. If a court receives such a request, the court shall provide the individual requesting the information with the identity of the child placing agency that handled the adoption.

(4) If the court that terminated parental rights receives from the former parents or adult former siblings of the adult adoptee a request for the identity of the agency, court, or department to which the child was committed, the court shall provide in writing the name of that agency, court, or department, if known, within 28 days after receipt of the request.

(5) Upon receipt of a written request for identifying information from an adult adoptee, a child placing agency, a court, or the department, if it maintains the adoption file for that adoptee, shall submit a clearance request form to the central adoption registry. Within 28 days after receipt of a clearance reply form from the central adoption registry, the child placing agency, court, or department shall notify the adoptee in writing of the identifying information to which the adoptee is entitled under subsection (6) or (7), or, if the identifying information cannot be released under those subsections, the reason why the information cannot be released. The child placing agency, court, or department shall retain a copy of the notice sent to the adult adoptee.

(6) For adoptions in which the former parents' rights were terminated on or after May 28, 1945 and before September 12, 1980, a child placing agency, a court, or the department shall release to an adult adoptee or to a confidential intermediary appointed under section 68b of this chapter the identifying information described in section 27(3) of this chapter and other identifying information on file with the central adoption registry as specified in section 27b of this chapter, in the following manner:

(a) All of the identifying information described in section 27(3) of this chapter shall be released to the adult adoptee, if both former parents have on file with the central adoption registry a statement consenting to

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

release of the identifying information.

(b) The identifying information described in section 27(3)(b) and (c) of this chapter about 1 of the former parents and the identifying information described in section 27(3)(a) and (d) of this chapter shall be released to the adult adoptee if that former parent has on file with the central adoption registry a statement consenting to release of identifying information.

(c) The identifying information described in section 27(3)(b) and (c) of this chapter about 1 of the former parents and the identifying information described in section 27(3)(a) and (d) of this chapter shall be released to the adult adoptee if that parent is deceased.

(d) All of the identifying information described in section 27(3) of this chapter on both former parents shall be released to the adult adoptee, if both former parents are deceased.

(e) Upon presentation of a certified copy of the order of appointment, all of the identifying information described in section 27(3) of this chapter shall be released to a confidential intermediary appointed under section 68b of this chapter, together with additional information to assist the confidential intermediary to locate former family members. At the option of the agency or the department, the information may be released to the court for release to the confidential intermediary.

(7) For all adoptions in which the former parents' rights were terminated before May 28, 1945 or on or after September 12, 1980, a child placing agency, a court, or the department shall release to an adult adoptee the identifying information described in section 27(3) of this chapter and any additional information on file with the central adoption registry as specified in section 27b of this chapter, except that if a former parent has filed a statement currently in effect with the central adoption registry denying consent to have identifying information released, the identifying information specified in section 27(3)(b) and (c) of this chapter shall not be released about that parent. For purposes of this subsection, a denial of consent is not effective after the death of the former parent. This subsection does not apply to adoptions in which the former parents' rights were terminated under chapter XII of this act unless the former parent has filed a statement with the central adoption registry consenting to the release of identifying information.

(8) Upon receipt of a written request from an adult adoptee for the name and address of an adult former sibling, a child placing agency, a court, or the department, if it maintains the adoption file for that adoptee, shall submit a clearance request form to the central adoption registry. Within 28 days after receipt of a clearance reply form from the central adoption registry, the child placing agency, court, or department shall notify the adoptee in writing of the name and address of an adult former sibling whose statement was forwarded by the central adoption registry.

(9) If a child placing agency or court or the department requests information from the central adoption registry and if the clearance reply form from the central adoption registry indicates that neither of the former parents has on file with the central adoption registry a statement currently in effect denying consent to have identifying information released, the child placing agency, court, or department shall deliver to the adult adoptee a copy of the clearance reply form it received from the central adoption registry. The clearance reply form may be used by the adult adoptee to obtain a copy of his or her original certificate of live birth under section 2882 of the public health code, 1978 PA 368, MCL 333.2882. Except for adoptions in which the former parents' parental rights were terminated under chapter XII of this act, this subsection applies to all adoptions in which the parents' rights were terminated before May 28, 1945 or on or after September 12, 1980.

(10) If a child placing agency, a court, or the department receives written information concerning a physician-verified medical or genetic condition of an individual biologically related to an adoptee and a request that the information be transmitted to the adoptee because of the serious threat it poses to the adoptee's life, the child placing agency, court, or department shall send a written copy of the information by first-class mail within 7 days after the request is received to the adoptee at his or her last known address. If the adoptee is less than 18 years of age, the information shall be sent by first-class mail within 7 days after the request is received to the adoptive parents at their last known address.

(11) If the information described in subsection (10) is returned undelivered, the agency, court, or department shall make a reasonable effort to find the most recent address of the adoptee or minor adoptee's parents and shall again send the information by first-class mail within 21 days after receiving the returned letter.

(12) If a child placing agency, a court, or the department receives written information concerning a physician-verified medical or genetic condition of a person biologically related to an adoptee, and the condition is not life-threatening to the adoptee, the child placing agency, court, or department shall place the information in its adoption files. If the child placing agency, court, or department receives a written request for the information from the adult adoptee or minor adoptee's adoptive parents, it shall release a written copy of the information to the adult adoptee or to the minor adoptee's adoptive parents within 63 days after the

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

request for the information was made.

(13) If a child placing agency, a court, or the department receives written information concerning a physician-verified medical or genetic condition that threatens the life of an adoptee and for which a biologically related person could give life-saving aid, and receives a request from or on behalf of the adoptee that the information be transmitted, the child placing agency, court, or department shall send a written copy of the information by first-class mail within 7 days after the request is received to the biological parents or adult biological siblings of the adoptee at their last known address.

(14) If the information described in subsection (13) is returned undelivered, the agency, court, or department shall make a reasonable effort to find the most recent address of the biological parents or adult biological siblings and shall again send the information by first-class mail within 21 days after receiving the returned letter.

(15) If a child placing agency, a court, or the department provides an adoptee with the name of 1 of the adoptee's former parents, that child placing agency, court, or department shall notify the department of community health of that fact. Upon receipt of notification by the child placing agency, court, or department, the department of community health shall insure that the original birth certificate on file for the adoptee has been sealed and that a new birth certificate has been prepared in conformance with section 67 of this chapter.

(16) An employee or agent of a child placing agency, a court, or the department, who intentionally releases identifying information in violation of this section, is guilty of a misdemeanor.

(17) This section also applies to a stepparent adoption and to the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

(18) As used in this section, "adult adoptee" means an individual who was adopted as a child who is now 18 years of age or older or an individual who was 18 years of age or older at the time of adoption.

(19) A child placing agency, a court, and the department may require a fee for supplying information under this section. The fee shall be $60.00 or the actual cost of supplying the information, whichever is less. The child placing agency, court, or department may waive a part or all of the fee in case of indigency or hardship.

(20) A direct descendant of a deceased adult adoptee may request information under this section. All information to which an adult adoptee is entitled under this section shall be released to the adult adoptee's direct descendants if the adult adoptee is deceased.

(21) A child placing agency, a court or the department shall permit the children's ombudsman to inspect adoption records in its possession in connection with an investigation authorized under the children's ombudsman act, 1994 PA 204, MCL 722.921 to 722.935. The ombudsman shall not disclose information obtained by an inspection under this section. If the children's ombudsman requires further information from an individual whose identity is protected in closed adoption records, the ombudsman shall contact the individual discreetly and confidentially. The ombudsman shall inform the individual that his or her participation in the investigation is confidential, is strictly voluntary, and will not alter or constitute a challenge to the adoption. The ombudsman shall honor the individual's request not to be contacted further. As used in this subsection, "children's ombudsman" or "ombudsman" means the ombudsman appointed under section 3 of the children's ombudsman act, 1994 PA 204, MCL 722.923, or his or her designee.

History: Add. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1988, Act 505, Eff. Mar. 30, 1989;—Am. 1990, Act 175, Imd. Eff. July 2, 1990;—Am. 1994, Act 202, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 2012, Act 385, Imd. Eff. Dec. 19, 2012.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.68a Providing information pamphlet, list of adoption support groups, and information about MCL 710.27a, 710.27b, 710.68 and 710.68b; placement of requester's current address in adoption files.

Sec. 68a. (1) The department, in cooperation with adoption support groups, shall develop and publish an information pamphlet explaining the release of information from adoption records pursuant to this act.

(2) Within 14 days after it is contacted by an adoptee, adult former sibling, former parent, or adoptive parent, a child placing agency or court or the department shall provide the adoptee, adult former sibling, former parent, or adoptive parent with all of the following:

(a) A copy of the information pamphlet described in subsection (1).

(b) A list of adoption support groups.

(c) Information about the provisions described in this section and sections 27a, 27b, 68, and 68b of this chapter.

(3) If a child placing agency, a court, or the department receives a written request from an adoptee, adult

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

former sibling, former parent, adoptive parent, or any other person biologically related to an adoptee that the requester's current address be placed in its adoption files, the child placing agency, court, or department shall place the information in its adoption files.

History: Add. 1988, Act 505, Eff. Mar. 30, 1989;—Am. 1990, Act 175, Imd. Eff. July 2, 1990;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—1994, Act 373, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.68b Definitions; petition to appoint confidential intermediary to search for and contact former family member; approval; training; oath of confidentiality; duties of confidential intermediary; acceptance of money or other value; failure to contact former family member.

Sec. 68b. (1) As used in this section:

(a) "Former family member" means a parent, grandparent, or adult sibling related to the adult adoptee through birth or adoption by at least 1 common parent, regardless of whether the adult adoptee ever lived in the same household as the former family member.

(b) "Petitioner" means an individual on whose behalf a confidential intermediary is appointed pursuant to subsection (2).

(2) An adult adoptee, an adoptive parent of a minor adoptee, or an adult child of a deceased adoptee may petition the court in which the final order of adoption was entered to appoint a confidential intermediary to search for and contact a former family member. A former family member may petition the court in which the final order of adoption was entered to appoint a confidential intermediary to search for and contact an adult adoptee or an adult child of a deceased adoptee. Upon receipt of a petition under this section, the court shall contact the central adoption registry to determine whether there is currently on file a statement from the individual being sought that denies consent to the release of identifying information. If no denial of consent is currently on file for that individual, the court shall by written order appoint as confidential intermediary an individual who meets the requirements of subsection (3). The court shall provide the confidential intermediary with a certified copy of the order of appointment. The court may dismiss an intermediary if the intermediary engages in conduct that violates professional or ethical standards.

(3) An individual may serve as a confidential intermediary if he or she is approved by the court after completing training and files an oath of confidentiality with the court. The oath of confidentiality shall be substantially as follows:

"I, ..., signing under penalty of perjury, affirm all of the following:

(a) I will not disclose to a petitioner, directly or indirectly, any identifying information in sealed records without written consent of the individual to whom the information pertains.

(b) I will conduct a reasonable search for an individual being sought. I will make a discreet and confidential inquiry as to whether the individual consents to the release of information to the petitioner, or to meeting or communicating with the petitioner, and I will report to the petitioner and the court the results of my search and inquiry.

(c) If the petitioner and the individual being sought consent in writing to meet or communicate with each other, I will act in accordance with the instructions of those persons and, if applicable, the instructions of the court to facilitate any meeting or communication between them.

(d) I will not charge or accept any fee for my services except for reimbursement from the petitioner for actual expenses incurred in performing my services, or as authorized by the court.

(e) I recognize that I may be subject to contempt of court sanctions and dismissal by the court if I permit the release of confidential information without authorization.".

(4) A confidential intermediary shall make a reasonable search for an individual whose identity is sought by a petitioner under this section. The confidential intermediary shall first search the court records. If it is necessary to obtain information from an agency or the department, the confidential intermediary shall provide a certified copy of the order of appointment to the agency or the department before requesting the records. If the confidential intermediary locates the individual being sought, the intermediary shall discreetly and confidentially contact the individual to ascertain whether the individual is willing to release information to the petitioner or to meet or communicate with the petitioner. If the individual consents in writing to the release of information, the intermediary shall release the information to the petitioner. Upon the mutual written consent of the petitioner and the individual, the intermediary may facilitate a meeting or other communication between the petitioner and the individual. If the individual refuses to authorize the release of information

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

sought by the petitioner, the intermediary shall report the refusal to the petitioner and the court. If an individual sought under this section is deceased, the intermediary shall report that fact to the petitioner and the court.

(5) Except for a reasonable fee approved by the court and reimbursement for actual expenses incurred in performing services, a confidential intermediary shall not request or accept any money or other thing of value for serving as a confidential intermediary.

(6) If a confidential intermediary appointed under this section has failed to contact a former family member within 6 months after his or her appointment, the adult adoptee may petition the court for release of information described in section 27(3) and any additional information obtained by the confidential intermediary. Before a hearing on the petition, the confidential intermediary shall submit a written report to the court describing all efforts made to locate the former family member and all information obtained. After the hearing, the court shall do 1 of the following:

(a) Order the confidential intermediary to search for another 6-month period.

(b) Appoint a new confidential intermediary to search for a 6-month period.

(c) Release to the adult adoptee the identifying information described in section 27(3) and any other information that the court considers appropriate, if the court finds that a diligent search has been made and that there is good cause to release the information. The court's finding shall be made on the record.

History: Add. 1994, Act 202, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.69 Violation of MCL 710.41 as felony.

Sec. 69. A person who violates section 41 of this chapter is, upon conviction, guilty of a misdemeanor, and upon any subsequent conviction, is guilty of a felony.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1994, Act 373, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.70 Prior adoption proceedings or orders of adoption.

Sec. 70. (1) Adoption proceedings commenced before January 1, 1975, shall be consummated according to the provisions of this chapter which were in effect at the time the petition was filed, except that sections 64 and 65 shall apply to orders entered after January 1, 1975.

(2) An order of adoption entered before January 1, 1975, in conformity with the law then in effect is not affected or impaired by the repeal of sections 1 to 14 of this chapter, as amended.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975.

Popular name: Probate Code

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov