

# HOUSE BILL No. 4259

February 13, 2007, Introduced by Reps. Condino, Miller, Byrnes, Alma Smith, Warren, Donigan, Accavitti, Coulouris, Meisner, Meadows and Farrah and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 24 and 51 (MCL 710.24 and 710.51), section 24 as amended by 2004 PA 487 and section 51 as amended by 1996 PA 409.

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

1           Sec. 24. (1) ~~If a~~ **A** person **WHO** desires to adopt a child or an  
2 adult and to bestow upon the adoptee his or her family name, or to  
3 adopt a child or an adult without a name change, with the intent to  
4 make the adoptee his or her heir, ~~that person, together with his~~  
5 ~~wife or her husband, if married,~~ shall file a petition with the  
6 court. ~~of~~ **IF THE PETITIONER IS MARRIED, THE PETITIONER'S HUSBAND OR**  
7 **WIFE MUST JOIN IN THE PETITION. TWO UNMARRIED PERSONS MAY PETITION**  
8 **TO ADOPT A CHILD BY FILING A PETITION UNDER THIS SECTION.**

9           (2) **THE PETITION SHALL BE FILED IN** the county in which the

1 petitioner resides or where the adoptee is found. ~~or, if~~ **IF** the  
2 petitioner and adoptee reside out of state, **THE PETITION SHALL BE**  
3 **FILED** where the parent's parental rights were terminated or are  
4 pending termination. If both parents' parental rights were  
5 terminated at different times and in different courts, ~~a~~ **THE**  
6 petition filed under this section shall be filed in the court of  
7 the county where parental rights were first terminated. If there  
8 has been a temporary placement of the child, the petition for  
9 adoption shall be filed with the court that received the report  
10 described in section 23d(2) of this chapter.

11 (3) ~~(2)~~—In an adoption proceeding in which there is more than  
12 1 applicant, the petition for adoption shall be filed with the  
13 court of the county where the parent's parental rights were  
14 terminated or are pending termination. If both parents' parental  
15 rights were terminated at different times and in different courts,  
16 a petition filed under this section shall be filed in the court of  
17 the county where parental rights were first terminated.

18 (4) ~~(3)~~—If a petition to adopt is filed in a county other than  
19 that in which the petitioner resides or the prospective adoptee is  
20 found, the chief judge of the court may, upon motion, enter an  
21 order transferring jurisdiction of the matter to the court of the  
22 county in which the petitioner resides or the prospective adoptee  
23 is found.

24 (5) ~~(4)~~—The petition for adoption shall be verified by each  
25 petitioner and shall contain the following information:

26 (a) The name, date and place of birth, and place of residence  
27 of each petitioner, including the maiden name **OR FORMER NAMES** of

1 the adopting ~~mother~~ **PETITIONER**.

2 (b) Except as otherwise provided in subsection ~~(7)~~ **(8)**, the  
3 name, date and place of birth, and place of residence if known of  
4 the adoptee.

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

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

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

11 (f) Unless the rights of the parents have been terminated by a  
12 court of competent jurisdiction or except as otherwise provided in  
13 subsection ~~(7)~~ **(8)**, the names of the parents of the adoptee and the  
14 place of residence of each living parent if known.

15 (g) Except as otherwise provided in subsection ~~(7)~~ **(8)**, the  
16 name and place of residence of the guardian of the person or estate  
17 of the adoptee, if any has been appointed.

18 **(6)** ~~(5)~~—In a direct placement, the petitioner shall attach to  
19 the petition a verified statement certifying that the petitioner  
20 has been informed of the availability of counseling services and  
21 whether the petitioner has received counseling.

22 **(7)** ~~(6)~~—Except as otherwise provided in this subsection, in a  
23 direct placement, the petitioner shall attach a copy of a  
24 preplacement assessment of the petitioner completed or updated  
25 within 1 year before the petition is filed with a finding that the  
26 petitioner is suitable to be a parent of an adoptee, copies of all  
27 other preplacement assessments of the petitioner, if any others

1 have been completed, and a verified statement stating that no  
2 preplacement assessments of the petitioner have been completed  
3 other than those attached to the petition and explaining any  
4 preplacement assessments of the petitioner that have been initiated  
5 but not completed. If the petitioner is seeking review of a  
6 preplacement assessment under section ~~23F(8)~~**23F(9)** of this  
7 chapter, the petitioner may comply with this subsection by  
8 attaching a copy of that preplacement assessment and a copy of the  
9 application for review, together with copies of all other  
10 preplacement assessments and the verified statement required by  
11 this section.

12 **(8)** ~~(7)~~—In a direct placement in which the parties have  
13 elected not to exchange identifying information, the information  
14 required by subsection ~~(4)(f)~~**(5)(F)** and (g) and the surname and  
15 place of residence of the adoptee required under subsection ~~(4)(b)~~  
16 **(5)(B)** may be omitted. The attorney or child placing agency  
17 assisting in the adoption shall file a verified statement  
18 containing the omitted information.

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

27 (a) The genuineness of consent to the adoption and the legal

1 authority of the person or persons signing the consent.

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

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

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

18 (4) Without making the child a ward of the court, the court  
19 may approve placement of a child if the child is placed for  
20 adoption in this state by a public or licensed private agency of  
21 another state or country and if the law of the sending state or  
22 country prohibits the giving of consent to adoption at the time of  
23 placement. Before placement of the child in that instance, the  
24 sending agency shall tender evidence as the court requires to  
25 demonstrate that the agency possesses the necessary authority to  
26 consent to the adoption at the time of entry of the final order of  
27 adoption. After the sending agency has given evidence of its

1 ability to consent, the agency shall not do anything to jeopardize  
2 its ability to grant the required consent before entry of the final  
3 order of adoption. After the sending agency gives its consent for  
4 the adoption, that consent shall not be withdrawn.

5 (5) If a parent having legal custody of the child is married  
6 to the petitioner for adoption **OR HAS JOINED IN AN ADOPTION**  
7 **PETITION WITH ANOTHER PERSON UNDER SECTION 24(1) OF THIS CHAPTER,**  
8 the judge shall not enter an order terminating the rights of that  
9 parent.

10 (6) If the parents of a child are divorced, or if the parents  
11 are unmarried but the father has acknowledged paternity or is a  
12 putative father who meets the conditions in section 39(2) of this  
13 chapter, and if the parent having legal custody of the child  
14 subsequently marries and that ~~parent's~~ **PERSON'S** spouse petitions to  
15 adopt the child **OR THE PERSON HAVING LEGAL CUSTODY PETITIONS FOR**  
16 **ADOPTION UNDER SECTION 24(1) OF THIS CHAPTER,** the court upon notice  
17 and hearing may issue an order terminating the rights of the other  
18 parent if both of the following occur:

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

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

1 filing of the petition.

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