

HOUSE BILL No. 4314

February 17, 2009, Introduced by Reps. Meadows, Warren, Gonzales, Johnson, Roberts and Dean and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 17c of chapter XIIA (MCL 712A.17c), as amended
by 1998 PA 480.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XIIA

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Sec. 17c. (1) In a proceeding under section 2(a) or (d) of
this chapter or a proceeding regarding a supplemental petition
alleging a violation of a personal protection order under section
2(h) of this chapter, the court shall advise the child that he or
she has a right to an attorney at each stage of the proceeding.

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(2) In a proceeding under section 2(a) or (d) of this chapter,
the court shall appoint an attorney to represent the child. ~~if 1 or~~
~~more of the following apply:~~

9

~~1 (a) The child's parent refuses or fails to appear and
2 participate in the proceedings.~~

~~3 (b) The child's parent is the complainant or victim.~~

~~4 (c) The child and those responsible for his or her support are
5 financially unable to employ an attorney and the child does not
6 waive his or her right to an attorney.~~

~~7 (d) Those responsible for the child's support refuse or
8 neglect to employ an attorney for the child and the child does not
9 waive his or her right to an attorney.~~

~~10 (e) The court determines that the best interests of the child
11 or the public require appointment.~~

12 (3) Except as otherwise provided in this subsection, in a
13 proceeding under section 2(a) or (d) of this chapter, the child may
14 waive his or her right to an attorney. The waiver by a child shall
15 be made in open court, on the record, and shall not be made unless
16 the court finds on the record that the waiver was voluntarily and
17 understandingly made. ~~The child may not waive his or her right to
18 an attorney if the child's parent or guardian ad litem objects or
19 if the appointment is made under subsection (2)(e).~~

20 (4) In a proceeding under section 2(b) or (c) of this chapter,
21 the court shall advise the respondent at the respondent's first
22 court appearance of all of the following:

23 (a) The right to an attorney at each stage of the proceeding.

24 (b) The right to a court-appointed attorney if the respondent
25 is financially unable to employ an attorney.

26 (c) If the respondent is not represented by an attorney, the
27 right to request and receive a court-appointed attorney at a later

1 proceeding.

2 (5) If it appears to the court in a proceeding under section
3 2(b) or (c) of this chapter that the respondent wants an attorney
4 and is financially unable to retain an attorney, the court shall
5 appoint an attorney to represent the respondent.

6 (6) Except as otherwise provided in this subsection, in a
7 proceeding under section 2(b) or (c) of this chapter, the
8 respondent may waive his or her right to an attorney. A respondent
9 who is a minor may not waive his or her right to an attorney if the
10 respondent's parent or guardian ad litem objects.

11 (7) In a proceeding under section 2(b) or (c) of this chapter,
12 the court shall appoint a lawyer-guardian ad litem to represent the
13 child. The child shall not waive the assistance of the lawyer-
14 guardian ad litem. In addition to any other powers and duties, a
15 lawyer-guardian ad litem's powers and duties include those
16 prescribed in section 17d.

17 (8) If an attorney or lawyer-guardian ad litem is appointed
18 for a party under this act, after a determination of ability to pay
19 the court may enter an order assessing attorney costs against the
20 party or the person responsible for that party's support, or
21 against the money allocated from marriage license fees for family
22 counseling services under section 3 of 1887 PA 128, MCL 551.103. An
23 order assessing attorney costs may be enforced through contempt
24 proceedings.

25 (9) An attorney or lawyer-guardian ad litem appointed by the
26 court under this section shall serve until discharged by the court.
27 If the child's case was petitioned under section 2(b) of this

1 chapter, the court shall not discharge the lawyer-guardian ad litem
2 for the child as long as the child is subject to the jurisdiction,
3 control, or supervision of the court, or of the Michigan children's
4 institute or other agency, unless the court discharges the lawyer-
5 guardian ad litem for good cause shown on the record. If the child
6 remains subject to the jurisdiction, control, or supervision of the
7 court, or the Michigan children's institute or other agency, the
8 court shall immediately appoint another lawyer-guardian ad litem to
9 represent the child.

10 (10) To assist the court in determining a child's best
11 interests, the court may appoint a guardian ad litem for a child
12 involved in a proceeding under this chapter.