

SENATE BILL No. 457

July 31, 2013, Introduced by Senators WARREN, ANANICH, ANDERSON and HOPGOOD and referred to the Committee on Families, Seniors and Human Services.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 24 and 51 of chapter X (MCL 710.24 and 710.51), section 24 as amended by 2012 PA 614 and section 51 as amended by 1996 PA 409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 24. (1) Except as otherwise provided in this section, ~~if~~ a person **WHO** 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. ~~if~~ **IF THE PETITIONER IS MARRIED, THE PETITIONER'S HUSBAND OR WIFE MUST**

1 JOIN IN THE PETITION. TWO UNMARRIED PERSONS MAY PETITION TO ADOPT A
2 CHILD BY FILING A PETITION UNDER THIS SECTION.

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

14 (3) ~~(2)~~ Notwithstanding any other provision in this section,
15 the court may allow either of the following to occur:

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

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

23 (4) ~~(3)~~ In an adoption proceeding in which there is more than
24 1 applicant, the petition for adoption shall be filed with the
25 court of the county where the parent's parental rights were
26 terminated or are pending termination. If both parents' parental
27 rights were terminated at different times and in different courts,

1 a petition filed under this section shall be filed in the court of
2 the county where parental rights were first terminated.

3 (5) ~~(4)~~—If a petition to adopt is filed in a county other than
4 that in which the petitioner resides or the prospective adoptee is
5 found, the chief judge of the court may, upon motion, enter an
6 order transferring jurisdiction of the matter to the court of the
7 county in which the petitioner resides or the prospective adoptee
8 is found.

9 (6) ~~(5)~~—The petition for adoption shall be verified by each
10 petitioner and shall contain the following information:

11 (a) The name, date and place of birth, and place of residence
12 of each petitioner, including the maiden name **OR FORMER NAMES** of
13 the adopting ~~mother~~. **PETITIONER.**

14 (b) Except as otherwise provided in subsection ~~(8)~~, **(9)**, the
15 name, date and place of birth, and place of residence if known of
16 the adoptee.

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

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

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

23 (f) Unless the rights of the parents have been terminated by a
24 court of competent jurisdiction or except as otherwise provided in
25 subsection ~~(8)~~, **(9)**, the names of the parents of the adoptee and
26 the place of residence of each living parent if known.

27 (g) Except as otherwise provided in subsection ~~(8)~~, **(9)**, the

1 name and place of residence of the guardian of the person or estate
2 of the adoptee, if any has been appointed.

3 (7) ~~(6)~~—In a direct placement, the petitioner shall attach to
4 the petition a verified statement certifying that the petitioner
5 has been informed of the availability of counseling services and
6 whether the petitioner has received counseling.

7 (8) ~~(7)~~—Except as otherwise provided in this subsection, in a
8 direct placement, the petitioner shall attach a copy of a
9 preplacement assessment of the petitioner completed or updated
10 within 1 year before the petition is filed with a finding that the
11 petitioner is suitable to be a parent of an adoptee, copies of all
12 other preplacement assessments of the petitioner, if any others
13 have been completed, and a verified statement stating that no
14 preplacement assessments of the petitioner have been completed
15 other than those attached to the petition and explaining any
16 preplacement assessments of the petitioner that have been initiated
17 but not completed. If the petitioner is seeking review of a
18 preplacement assessment under section ~~23f(8)~~—**23F(9)** of this
19 chapter, the petitioner may comply with this subsection by
20 attaching a copy of that preplacement assessment and a copy of the
21 application for review, together with copies of all other
22 preplacement assessments and the verified statement required by
23 this section.

24 (9) ~~(8)~~—In a direct placement in which the parties have
25 elected not to exchange identifying information, the information
26 required by subsection ~~(5)(f)~~—**(6)(F)** and (g) and the surname and
27 place of residence of the adoptee required under subsection ~~(5)(b)~~

1 (6) (B) may be omitted. The attorney or child placing agency
2 assisting in the adoption shall file a verified statement
3 containing the omitted information.

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

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

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

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

21 (3) Upon entry of an order terminating rights of parents or
22 persons in loco parentis, a child is a ward of the court and a
23 consent to adoption executed ~~pursuant to~~ **UNDER** section 43 of this
24 chapter shall not be withdrawn after the order is entered. Entry of
25 the order terminates the jurisdiction of the same court or another
26 court over the child in a divorce or separate maintenance action.
27 If the petitioner for adoption is married to the parent having

1 legal custody of the child, the child shall not be made a ward of
2 the court after termination of the rights of the other parent.

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

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

22 (6) If the parents of a child are divorced, or if the parents
23 are unmarried but the father has acknowledged paternity or is a
24 putative father who meets the conditions in section 39(2) of this
25 chapter, and if the parent having legal custody of the child
26 subsequently marries and that ~~parent's~~ **PERSON'S** spouse petitions to
27 adopt the child **OR THE PERSON HAVING LEGAL CUSTODY PETITIONS FOR**

1 **ADOPTION UNDER SECTION 24(1) OF THIS CHAPTER**, the court upon notice
2 and hearing may issue an order terminating the rights of the other
3 parent if both of the following occur:

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

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

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