

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5974**

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 13a of chapter XIIA (MCL 712A.13a), as amended
by 2016 PA 191.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XIIA
2 Sec. 13a. (1) As used in this section and sections 2, 6b, 13b,
3 17c, 17d, 18f, 19, 19a, 19b, and 19c of this chapter:
4 (a) "Agency" means a public or private organization,
5 institution, or facility that is performing the functions under
6 part D of title IV of the social security act, 42 USC 651 to 669b,
7 or that is responsible under court order or contractual arrangement
8 for a juvenile's care and supervision.

1 (b) "Agency case file" means the current file from the agency
2 providing direct services to the child, that ~~can~~**may** include the
3 child protective services file if the child has not been removed
4 from the home or the department or contract agency foster care file
5 as provided under 1973 PA 116, MCL 722.111 to 722.128.

6 (c) "Attorney" means, if appointed to represent a child in a
7 proceeding under section 2(b) or (c) of this chapter, an attorney
8 serving as the child's legal advocate in a traditional attorney-
9 client relationship with the child, as governed by the Michigan
10 ~~rules of professional conduct.~~**Rules of Professional Conduct.** An
11 attorney defined under this subdivision owes the same duties of
12 undivided loyalty, confidentiality, and zealous representation of
13 the child's expressed wishes as the attorney would to an adult
14 client. For the purpose of a notice required under these sections,
15 attorney includes a child's lawyer-guardian ad litem.

16 (d) "Case service plan" means the plan developed by an agency
17 and prepared under section 18f of this chapter that includes
18 services to be provided by and responsibilities and obligations of
19 the agency and activities, responsibilities, and obligations of the
20 parent. The case service plan may be referred to using different
21 names than case service plan including, but not limited to, a
22 parent/agency agreement or a parent/agency treatment plan and
23 service agreement.

24 (e) "Foster care" means care provided to a juvenile in a
25 foster family home, foster family group home, or child caring
26 institution licensed or approved under 1973 PA 116, MCL 722.111 to
27 722.128, or care provided to a juvenile in a relative's home under
28 a court order.

29 (f) "Guardian ad litem" means an individual whom the court

1 appoints to assist the court in determining the child's best
2 interests. A guardian ad litem does not need to be an attorney.

3 (g) "Lawyer-guardian ad litem" means an attorney appointed
4 under section 17c of this chapter. A lawyer-guardian ad litem
5 represents the child, and has the powers and duties, as set forth
6 in section 17d of this chapter. The provisions of section 17d of
7 this chapter also apply to a lawyer-guardian ad litem appointed
8 under each of the following:

9 (i) Section 5213 or 5219 of the estates and protected
10 individuals code, 1998 PA 386, MCL 700.5213 and 700.5219.

11 (ii) Section 4 of the child custody act of 1970, 1970 PA 91,
12 MCL 722.24.

13 (iii) Section 10 of the child protection law, 1975 PA 238, MCL
14 722.630.

15 (h) "Nonparent adult" means a person who is 18 years of age or
16 older and who, regardless of the person's domicile, meets all of
17 the following criteria in relation to a child over whom the court
18 takes jurisdiction under this chapter:

19 (i) Has substantial and regular contact with the child.

20 (ii) Has a close personal relationship with the child's parent
21 or with a person responsible for the child's health or welfare.

22 (iii) Is not the child's parent or a person otherwise related to
23 the child by blood or affinity to the third degree.

24 (i) "Permanent foster family agreement" means an agreement for
25 a child 14 years old or older to remain with a particular foster
26 family until the child is 18 years old under standards and
27 requirements established by the department, which agreement is
28 among all of the following:

29 (i) The child.

1 (ii) If the child is a temporary ward, the child's family.

2 (iii) The foster family.

3 (iv) The child placing agency responsible for the child's care
4 in foster care.

5 (j) "Relative" means an individual who is at least 18 years of
6 age and ~~related~~ **is either of the following:**

7 (i) **Related** to the child **within the fifth degree** by blood,
8 marriage, or adoption, ~~as grandparent, great-grandparent, great-~~
9 ~~great-grandparent, aunt or uncle, great-aunt or great-uncle, great-~~
10 ~~great-aunt or great-great-uncle, sibling, stepsibling, nephew or~~
11 ~~niece, first cousin or first cousin once removed, and including the~~
12 ~~spouse of any of the above, an individual related to the child~~
13 **within the fifth degree**, even after the marriage has ended by death
14 or divorce, ~~. A stepparent, ex-stepparent, or the parent who shares~~
15 ~~custody of a half-sibling, shall be considered a relative for the~~
16 ~~purpose of placement. Notification to the stepparent, ex-~~
17 ~~stepparent, or the parent who shares custody of a half-sibling is~~
18 ~~required as described in section 4a of the foster care and adoption~~
19 ~~services act, 1994 PA 203, MCL 722.954a. A child may be placed with~~
20 **and** the parent of a man whom the court has found probable cause to
21 believe is the putative father if there is no man with legally
22 established rights to the child. ~~A placement with the parent of a~~
23 ~~putative father under this subdivision is not a finding of~~
24 ~~paternity and does not confer legal standing on the putative~~
25 ~~father.~~

26 (ii) **Not related to a child within the fifth degree by blood,**
27 **marriage, or adoption but who has a strong positive emotional tie**
28 **or role in the child's life or the child's parent's life if the**
29 **child is an infant, as determined by the department or, if the**

1 child is an Indian child, as determined solely by the Indian
2 child's tribe. As used in this section, "Indian child" and "Indian
3 child's tribe" mean those terms as defined in section 3 of chapter
4 XIIB.

5 (k) "Sex offenders registration act" means the sex offenders
6 registration act, 1994 PA 295, MCL 28.721 to ~~28.736~~ 28.730.

7 (l) "Sibling" means a child who is related through birth or
8 adoption by at least 1 common parent. Sibling includes that term as
9 defined by ~~the~~ an American Indian or Alaskan native child's tribal
10 code or custom.

11 (2) If a juvenile is alleged to be within the provisions of
12 section 2(b) of this chapter, the court may authorize a petition to
13 be filed at the conclusion of the preliminary hearing or inquiry.
14 The court may authorize the petition upon a showing of probable
15 cause that 1 or more of the allegations in the petition are true
16 and fall within the provisions of section 2(b) of this chapter. If
17 a petition is before the court because the department is required
18 to submit the petition under section 17 of the child protection
19 law, 1975 PA 238, MCL 722.637, the court shall hold a hearing on
20 the petition within 24 hours or on the next business day after the
21 petition is submitted, at which hearing the court shall consider at
22 least the matters governed by subsections (4) and (5).

23 (3) Except as provided in subsections (5) and (6), if a
24 petition under subsection (2) is authorized, the court may release
25 the juvenile in the custody of either of the juvenile's parents or
26 the juvenile's guardian or custodian under reasonable terms and
27 conditions necessary for either the juvenile's physical health or
28 mental well-being.

29 (4) The court may order a parent, guardian, custodian,

1 nonparent adult, or other person residing in a child's home to
2 leave the home and, except as the court orders, not to subsequently
3 return to the home if all of the following take place:

4 (a) A petition alleging abuse of the child by the parent,
5 guardian, custodian, nonparent adult, or other person is authorized
6 under subsection (2).

7 (b) The court after a hearing finds probable cause to believe
8 the parent, guardian, custodian, nonparent adult, or other person
9 committed the abuse.

10 (c) The court finds on the record that the presence in the
11 home of the person alleged to have committed the abuse presents a
12 substantial risk of harm to the child's life, physical health, or
13 mental well-being.

14 (5) If a petition alleges abuse by a person described in
15 subsection (4), regardless of whether the court orders the alleged
16 abuser to leave the child's home under subsection (4), the court
17 shall not leave the child in or return the child to the child's
18 home or place the child with a person not licensed under 1973 PA
19 116, MCL 722.111 to 722.128, unless the court finds that the
20 conditions of custody at the placement and with the individual with
21 whom the child is placed are adequate to safeguard the child from
22 the risk of harm to the child's life, physical health, or mental
23 well-being.

24 (6) If a court finds a parent is required by court order to
25 register under the sex offenders registration act, the department
26 may, but is not required to, make reasonable efforts to reunify the
27 child with the parent. The court may order reasonable efforts to be
28 made by the department.

29 (7) In determining whether to enter an order under subsection

1 (4), the court may consider whether the parent who is to remain in
2 the juvenile's home is married to the person to be removed or has a
3 legal right to retain possession of the home.

4 (8) An order entered under subsection (4) may also contain 1
5 or more of the following terms or conditions:

6 (a) The court may require the alleged abusive parent to pay
7 appropriate support to maintain a suitable home environment for the
8 juvenile during the duration of the order.

9 (b) The court may order the alleged abusive person, according
10 to terms the court may set, to surrender to a local law enforcement
11 agency any firearms or other potentially dangerous weapons the
12 alleged abusive person owns, possesses, or uses.

13 (c) The court may include any reasonable term or condition
14 necessary for the juvenile's physical or mental well-being or
15 necessary to protect the juvenile.

16 (9) The court may order placement of the child in foster care
17 if the court finds all of the following conditions:

18 (a) Custody of the child with the parent presents a
19 substantial risk of harm to the child's life, physical health, or
20 mental well-being.

21 (b) No provision of service or other arrangement except
22 removal of the child is reasonably available to adequately
23 safeguard the child from risk as described in subdivision (a).

24 (c) Continuing the child's residence in the home is contrary
25 to the child's welfare.

26 (d) Consistent with the circumstances, reasonable efforts were
27 made to prevent or eliminate the need for removal of the child.

28 (e) Conditions of child custody away from the parent are
29 adequate to safeguard the child's health and welfare.

1 (10) If the court orders placement of the juvenile outside the
2 juvenile's home, the court shall inform the parties of the
3 following:

4 (a) That the agency has the responsibility to prepare an
5 initial services plan within 30 days of the juvenile's placement.

6 (b) The general elements of an initial services plan as
7 required by the rules promulgated under 1973 PA 116, MCL 722.111 to
8 722.128.

9 (c) That participation in the initial services plan is
10 voluntary without a court order.

11 (11) Before or within 7 days after a child is placed in a
12 relative's home, the department shall perform a criminal record
13 check and central registry clearance. If the child is placed in the
14 home of a relative, the court shall order a home study to be
15 performed and a copy of the home study to be submitted to the court
16 not more than 30 days after the placement.

17 (12) In determining placement of a juvenile pending trial, the
18 court shall order the juvenile placed in the most family-like
19 setting available consistent with the juvenile's needs.

20 (13) If a juvenile is removed from the parent's custody at any
21 time, the court shall permit the juvenile's parent to have regular
22 and frequent parenting time with the juvenile. Parenting time
23 between the juvenile and his or her parent ~~shall~~**must** not be less
24 than 1 time every 7 days unless the court determines either that
25 exigent circumstances require less frequent parenting time or that
26 parenting time, even if supervised, may be harmful to the
27 juvenile's life, physical health, or mental well-being. If the
28 court determines that parenting time, even if supervised, may be
29 harmful to the juvenile's life, physical health, or mental well-

1 being, the court may suspend parenting time until the risk of harm
2 no longer exists. The court may order the juvenile to have a
3 psychological evaluation or counseling, or both, to determine the
4 appropriateness and the conditions of parenting time.

5 (14) Reasonable efforts ~~shall~~**must** be made to do the
6 following:

7 (a) Place siblings removed from their home in the same foster
8 care, kinship guardianship, or adoptive placement, unless the
9 supervising agency documents that a joint placement would be
10 contrary to the safety or well-being of any of the siblings.

11 (b) In the case of siblings removed from their home who are
12 not jointly placed, provide for visitation, at least monthly, or
13 other ongoing interaction between the siblings, unless the
14 supervising agency documents that visitation, at least monthly, or
15 other ongoing interaction would be contrary to the safety or well-
16 being of any of the siblings.

17 (15) If the supervising agency documents that visitation or
18 other contact is contrary to the safety or well-being of any of the
19 siblings and temporarily suspends visitation or contact, the
20 supervising agency shall report its determination to the court for
21 consideration at the next review hearing.

22 (16) If the supervising agency temporarily suspends visitation
23 or contact, the court shall review the decision and determine
24 whether sibling visitation or contact will be beneficial to the
25 siblings. If so, the court shall order sibling visitation or
26 contact to the extent reasonable.

27 (17) Upon the motion of any party, the court shall review
28 custody and placement orders and initial services plans pending
29 trial and may modify those orders and plans as the court considers

1 under this section ~~are~~**is** in the juvenile's best interests.

2 (18) The court shall include in an order placing a child in
 3 foster care an order directing the release of information
 4 concerning the child in accordance with this subsection. If a child
 5 is placed in foster care, within 10 days after receipt of a written
 6 request, the agency shall provide the person who is providing the
 7 foster care with copies of all initial, updated, and revised case
 8 service plans and court orders relating to the child and all of the
 9 child's medical, mental health, and education reports, including
 10 reports compiled before the child was placed with that person.

11 (19) In an order placing a child in foster care, the court
 12 shall include both of the following:

13 (a) An order that the child's parent, guardian, or custodian
 14 provide the supervising agency with the name and address of each of
 15 the child's medical providers.

16 (b) An order that each of the child's medical providers
 17 release the child's medical records. The order may specify
 18 providers by profession or type of institution.

19 **(20) Nothing in this section is intended to supersede the**
 20 **placement preferences for an Indian child under chapter XIIB.**

21 **(21)** ~~(20)~~As used in this section, "abuse" means 1 or more of
 22 the following:

23 (a) Harm or threatened harm by a person to a juvenile's health
 24 or welfare that occurs through nonaccidental physical or mental
 25 injury.

26 (b) Engaging in sexual contact or sexual penetration as **those**
 27 **terms are** defined in section 520a of the Michigan penal code, 1931
 28 PA 328, MCL 750.520a, with a juvenile.

29 (c) Sexual exploitation of a juvenile, which includes, but is

1 not limited to, allowing, permitting, or encouraging a juvenile to
2 engage in prostitution or allowing, permitting, encouraging, or
3 engaging in photographing, filming, or depicting a juvenile engaged
4 in a listed sexual act as **that term is** defined in section 145c of
5 the Michigan penal code, 1931 PA 328, MCL 750.145c.

6 (d) Maltreatment of a juvenile.