



SENATE BILL No. 995

May 1, 1996, Introduced by Senator BERRYMAN and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend section 13a of chapter XIIIA of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

as amended by Act No. 16 of the Public Acts of 1996, being section 712A.13a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 13a of chapter XIIIA of Act No. 288 of
2 the Public Acts of 1939, as amended by Act No. 16 of the Public
3 Acts of 1996, being section 712A.13a of the Michigan Compiled
4 Laws, is amended to read as follows:

5 CHAPTER XIIIA

6 Sec. 13a. (1) As used in this section and sections 18f, 19,
7 19a, 19b, and 19c of this chapter:

8 (a) "Agency" means a public or private organization, insti-
9 tution, or facility responsible ~~pursuant to~~ UNDER court order
10 or contractual arrangement for the care and supervision of a
11 child.

12 (b) "Foster care" means care provided to a child in a foster
13 family home, foster family group home, or child caring institu-
14 tion licensed or approved under Act No. 116 of the Public Acts of
15 1973, being sections 722.111 to 722.128 of the Michigan Compiled
16 Laws, or care provided to a child in a relative's home ~~pursuant~~
17 ~~to~~ UNDER an order by the juvenile division of the probate
18 court.

19 (2) If a child is alleged to come within the provisions of
20 section 2(b) of this chapter, the court may authorize a petition
21 to be filed at the conclusion of the preliminary hearing or
22 inquiry. The petition may be authorized upon a showing of proba-
23 ble cause that 1 or more of the allegations in the petition are
24 true and fall within the provisions of section 2(b) of this
25 chapter. IF A PETITION IS FILED AS REQUIRED IN SECTION 8 OF THE
26 CHILD PROTECTION LAW, ACT NO. 238 OF THE PUBLIC ACTS OF 1975,

1 BEING SECTION 722.628 OF THE MICHIGAN COMPILED LAWS, THE COURT
2 SHALL AUTHORIZE THE PETITION FILING.

3 (3) If a petition under subsection (2) is authorized, the
4 court may release the child in the custody of either of the
5 child's parents, OR THE CHILD'S guardian ~~—~~ or custodian, under
6 ~~such~~ THOSE reasonable terms and conditions as are necessary for
7 either the physical health or mental well-being of the child. IF
8 A PETITION IS FILED AS REQUIRED IN SECTION 8 OF ACT NO. 238 OF
9 THE PUBLIC ACTS OF 1975, THE COURT SHALL INCLUDE IN ITS ORDER
10 PROVISIONS THAT PREVENT CONTACT BETWEEN THE CHILD AND THE INDI-
11 VIDUAL WHO SEXUALLY ABUSED OR SEXUALLY EXPLOITED THE CHILD.

12 (4) If a petition alleging abuse by a parent, guardian, cus-
13 todian, or other ~~person~~ INDIVIDUAL residing in the child's home
14 is authorized under subsection (2) and the court after a hearing
15 finds probable cause to believe the parent, guardian, custodian,
16 or other ~~person~~ INDIVIDUAL committed the abuse, the court may
17 order that parent, guardian, custodian, or other ~~person~~
18 INDIVIDUAL to leave the home and not subsequently return to it,
19 except as the court orders, and may release the child to the
20 other parent or to another guardian or custodian. The court
21 shall not enter an order under this subsection unless the court
22 determines all of the following:

23 (a) The presence in the home of the ~~person~~ INDIVIDUAL who
24 is alleged to have committed the abuse presents a substantial
25 risk of harm to the child's life, physical health, or mental
26 well-being.

1 (b) Removing the ~~person~~ INDIVIDUAL who is alleged to have
2 committed the abuse is necessary to adequately safeguard the
3 child from the risk of harm to the child's life, physical health,
4 or mental well-being.

5 (c) The conditions of custody with the other parent or
6 another guardian or custodian are adequate to safeguard the child
7 from the risk of harm to the child's life, physical health, or
8 mental well-being.

9 (d) It is in the best interests of the child for the child
10 to remain in the home.

11 (5) In determining whether to enter an order under
12 subsection (4), the court may consider whether the parent who is
13 to remain in the child's home is married to the ~~person~~
14 INDIVIDUAL to be removed or has a legal right to retain posses-
15 sion of the home.

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

18 (a) The court may require the alleged abusive parent to pay
19 appropriate support to maintain a suitable home environment for
20 the child during the duration of the order.

21 (b) The court may order the alleged abusive ~~person~~
22 INDIVIDUAL, according to terms the court may set, to surrender to
23 a local law enforcement agency any firearms or other potentially
24 dangerous weapons the alleged abusive ~~person~~ INDIVIDUAL owns,
25 possesses, or uses.

1 (c) The court may include any reasonable term or condition
2 necessary for the child's physical or mental well-being or
3 necessary to protect the child.

4 (7) If a petition under subsection (2) is authorized, the
5 court may order placement of the child with someone other than a
6 parent if the court after hearing determines that both of the
7 following conditions exist:

8 (a) Custody of the child with a parent, guardian, or custo-
9 dian presents a substantial risk of harm to the child's life,
10 physical health, or mental well-being and no provision of service
11 or other arrangement except removal of the child is reasonably
12 available to adequately safeguard the child from such risk.

13 (b) Conditions of custody of the child away from a parent,
14 guardian, or custodian are adequate to safeguard the child's
15 health and welfare.

16 (8) If the court orders placement of the child outside the
17 child's home, the court shall inform the parties of the
18 following:

19 (a) The agency has the responsibility to prepare an initial
20 services plan within 30 days of the child's placement.

21 (b) The general elements of an initial services plan as
22 required by the rules promulgated ~~pursuant to~~ UNDER Act No. 116
23 of the Public Acts of 1973.

24 (c) Without a court order, participation in an initial serv-
25 ices plan is voluntary.

26 (9) In determining A CHILD'S placement ~~of a child~~ pending
27 trial, the court shall order the child placed in the most

1 family-like setting available consistent with the CHILD'S needs.
2 ~~of the child.~~

3 (10) Unless parenting time, even if supervised, would be
4 harmful to the child, the child's parent shall be permitted to
5 have parenting time frequently with the child.

6 (11) Upon the motion of ~~any~~ A party, the court shall
7 review custody and placement orders and initial services plans
8 pending trial and may modify those orders and plans as the court
9 considers under this section are in the best interests of the
10 child.

11 (12) As used in subsection (4), "abuse" means 1 or more of
12 the following:

13 (a) Harm or threatened harm by a person to a child's health
14 or welfare that occurs through nonaccidental physical or mental
15 injury.

16 (b) Engaging in sexual contact or sexual penetration with a
17 child as defined in section 520a of the Michigan penal code, Act
18 No. 328 of the Public Acts of 1931, being section 750.520a of the
19 Michigan Compiled Laws.

20 (c) Sexual exploitation of a child, which includes, but is
21 not limited to, allowing, permitting, or encouraging a child to
22 engage in prostitution, or allowing, permitting, encouraging, or
23 engaging in the photographing, filming, or depicting of a child
24 engaged in a listed sexual act as defined in section 145c of Act
25 No. 328 of the Public Acts of 1931, being section 750.145c of the
26 Michigan Compiled Laws.

1 (d) Maltreatment of a child.

2 Section 2. This amendatory act shall not take effect unless

3 Senate Bill No. 994

4 of the 88th Legislature is enacted into law.