

SENATE BILL No. 436

June 14, 2011, Introduced by Senators EMMONS, PROOS, JANSEN, CASWELL, NOFS and MOOLENAAR and referred to the Committee on Appropriations.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 2a, 19, 19a, and 19c of chapter XIIA (MCL
712A.2a, 712A.19, 712A.19a, and 712A.19c), section 2a as amended by
1998 PA 474, section 19 as amended by 2008 PA 202, section 19a as
amended by 2008 PA 200, and section 19c as amended by 2011 PA 31.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

Sec. 2a. (1) Except as otherwise provided in ~~subsection (2),~~
THIS SECTION, if the court has exercised jurisdiction over a
juvenile under section 2(a) or (b) of this chapter, jurisdiction
shall continue for a period of 2 years beyond the maximum age of
jurisdiction conferred under section 2 of this chapter, unless the
juvenile is released sooner by court order **OR HE OR SHE CONTINUES**

1 UNDER THE COURT'S JURISDICTION AS PROVIDED FOR IN THE YOUNG ADULT
2 VOLUNTARY FOSTER CARE ACT.

3 (2) IF A JUVENILE IS ELIGIBLE FOR FOSTER CARE MAINTENANCE
4 PAYMENTS UNDER PART E OF TITLE IV OF THE SOCIAL SECURITY ACT, 42
5 USC 670 TO 679C, THE COURT SHALL NOT TERMINATE ITS JURISDICTION
6 OVER THE JUVENILE IF HE OR SHE IS AT LEAST 18 BUT LESS THAN 21
7 YEARS OF AGE AND VOLUNTARILY AGREES IN WRITING TO REMAIN UNDER THE
8 COURT'S JURISDICTION. THE JUVENILE MAY REVOKE A VOLUNTARY FOSTER
9 CARE AGREEMENT. THE COURT SHALL THEN TERMINATE ITS JURISDICTION
10 OVER THE JUVENILE.

11 (3) IF A JUVENILE WAS NOT ELIGIBLE FOR FOSTER CARE MAINTENANCE
12 PAYMENTS UNDER PART E OF TITLE IV OF THE SOCIAL SECURITY ACT, 42
13 USC 670 TO 679C, BEFORE THE JUVENILE'S EIGHTEENTH BIRTHDAY BUT WILL
14 MEET ALL ELIGIBILITY REQUIREMENTS FOR FOSTER CARE MAINTENANCE
15 PAYMENTS AFTER BECOMING 18 YEARS OF AGE AND VOLUNTARILY AGREES IN
16 WRITING TO REMAIN UNDER THE COURT'S JURISDICTION, THE COURT SHALL
17 DO ALL OF THE FOLLOWING ON THE JUVENILE'S EIGHTEENTH BIRTHDAY OR AS
18 SOON AS POSSIBLE AFTER THAT:

19 (A) TERMINATE ITS JURISDICTION OVER THE JUVENILE.

20 (B) IMMEDIATELY REESTABLISH JURISDICTION OVER THE JUVENILE
21 ACCORDING TO A VOLUNTARY FOSTER CARE AGREEMENT AS PROVIDED FOR IN
22 THE YOUNG ADULT VOLUNTARY FOSTER CARE ACT.

23 (C) WITHIN 180 DAYS OF REESTABLISHING JURISDICTION OVER THE
24 JUVENILE, DETERMINE WHETHER THE VOLUNTARY FOSTER CARE AGREEMENT
25 CONTINUES TO BE IN THE BEST INTERESTS OF THE JUVENILE.

26 (4) IF THE COURT FINDS UNDER SUBSECTION (3) THAT THE VOLUNTARY
27 FOSTER CARE AGREEMENT CONTINUES TO BE IN THE BEST INTERESTS OF THE

1 JUVENILE, THE COURT SHALL NOT TERMINATE ITS JURISDICTION OVER THE
2 JUVENILE UNTIL THE JUVENILE'S TWENTY-FIRST BIRTHDAY. AT ANY TIME,
3 THE JUVENILE MAY REVOKE THE VOLUNTARY FOSTER CARE AGREEMENT. THE
4 COURT SHALL THEN TERMINATE ITS JURISDICTION OVER THE JUVENILE.

5 (5) IN ORDER TO BE ELIGIBLE FOR FOSTER CARE MAINTENANCE
6 PAYMENTS AS DESCRIBED IN SUBSECTIONS (2) AND (3) AFTER A JUVENILE
7 REACHES 18 YEARS OF AGE, THE JUVENILE MUST MEET THE ELIGIBILITY
8 REQUIREMENTS SET FORTH IN THE YOUNG ADULT FOSTER CARE ACT.

9 (6) ~~(2)~~—If the court has exercised jurisdiction over a
10 juvenile under section 2(a)(1) of this chapter for an offense that,
11 if committed by an adult, would be a violation or attempted
12 violation of section 72, 83, 84, 86, 88, 89, 91, 110a(2), 186a,
13 316, 317, 349, 520b, 520c, 520d, 520g, 529, 529a, 530, or 531 of
14 the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.84,
15 750.86, 750.88, 750.89, 750.91, 750.110a, 750.186a, 750.316,
16 750.317, 750.349, 750.520b, 750.520c, 750.520d, 750.520g, 750.529,
17 750.529a, 750.530, and 750.531, or section 7401(2)(a)(i) or
18 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401
19 and 333.7403, jurisdiction may be continued under section 18d of
20 this chapter until the juvenile is 21 years of age.

21 (7) ~~(3)~~—If the court exercised jurisdiction over a child under
22 section 2(h) of this chapter, jurisdiction of the court continues
23 until the order expires but action regarding the personal
24 protection order after the respondent's eighteenth birthday shall
25 not be subject to this chapter.

26 (8) ~~(4)~~—This section does not apply if the juvenile is
27 sentenced to the jurisdiction of the department of corrections.

1 (9) ~~(5)~~ As used in this chapter, "child", "juvenile", "minor",
2 or any other term signifying a person under the age of 18 applies
3 to a person 18 years of age or older concerning whom proceedings
4 are commenced in the court under section 2 of this chapter and over
5 whom the court has continuing jurisdiction ~~pursuant to~~ **UNDER**
6 subsections (1) ~~and (3)~~ **TO (7)**.

7 Sec. 19. (1) Subject to section 20 of this chapter, if a child
8 remains under the court's jurisdiction, a cause may be terminated
9 or an order may be amended or supplemented, within the authority
10 granted to the court in section 18 of this chapter, at any time as
11 the court considers necessary and proper. An amended or
12 supplemented order shall be referred to as a "supplemental order of
13 disposition". If the agency becomes aware of additional abuse or
14 neglect of a child who is under the court's jurisdiction and if
15 that abuse or neglect is substantiated as provided in the child
16 protection law, 1975 PA 238, MCL 722.621 to 722.638, the agency
17 shall file a supplemental petition with the court.

18 (2) Except as provided in subsections (3) and (4), if a child
19 subject to the court's jurisdiction remains in his or her home, a
20 review hearing shall be held not more than 182 days from the date a
21 petition is filed to give the court jurisdiction over the child and
22 no later than every 91 days after that for the first year that the
23 child is subject to the court's jurisdiction. After the first year
24 that the child is subject to the court's jurisdiction, a review
25 hearing shall be held no later than 182 days from the immediately
26 preceding review hearing before the end of that first year and no
27 later than every 182 days from each preceding review hearing

1 thereafter until the case is dismissed. A review hearing under this
2 subsection shall not be canceled or delayed beyond the number of
3 days required in this subsection, regardless of whether a petition
4 to terminate parental rights or another matter is pending. Upon
5 motion by any party or in the court's discretion, a review hearing
6 may be accelerated to review any element of the case service plan
7 prepared according to section 18f of this chapter.

8 (3) Except as otherwise provided in subsection (4), if, in a
9 proceeding under section 2(b) of this chapter, a child is subject
10 to the court's jurisdiction and removed from his or her home, a
11 review hearing shall be held not more than 182 days after the
12 child's removal from his or her home and no later than every 91
13 days after that for the first year that the child is subject to the
14 court's jurisdiction. After the first year that the child has been
15 removed from his or her home and is subject to the court's
16 jurisdiction, a review hearing shall be held not more than 182 days
17 from the immediately preceding review hearing before the end of
18 that first year and no later than every 182 days from each
19 preceding review hearing thereafter until the case is dismissed. A
20 review hearing under this subsection shall not be canceled or
21 delayed beyond the number of days required in this subsection,
22 regardless of whether a petition to terminate parental rights or
23 another matter is pending. Upon motion by any party or in the
24 court's discretion, a review hearing may be accelerated to review
25 any element of the case service plan prepared according to section
26 18f of this chapter.

27 (4) If a child is under the care and supervision of the agency

1 and is either placed with a relative and the placement is intended
2 to be permanent or is in a permanent foster family agreement, the
3 court shall hold a review hearing not more than 182 days after the
4 child has been removed from his or her home and no later than every
5 182 days after that so long as the child is subject to the
6 jurisdiction of the court, the Michigan children's institute, or
7 other agency. A review hearing under this subsection shall not be
8 canceled or delayed beyond the number of days required in this
9 subsection, regardless of whether a petition to terminate parental
10 rights or another matter is pending. Upon the motion of any party
11 or at the court's discretion, a review hearing may be accelerated
12 to review any element of the case service plan.

13 (5) Written notice of a review hearing under subsection (2),
14 (3), or (4) shall be served upon all of the following:

15 (a) The agency. The agency shall advise the child of the
16 hearing if the child is 11 years of age or older.

17 (b) The child's foster parent or custodian.

18 (c) If the parental rights to the child have not been
19 terminated, the child's parents.

20 (d) If the child has a guardian, the guardian for the child.

21 (e) If the child has a guardian ad litem, the guardian ad
22 litem for the child.

23 (f) A nonparent adult if the nonparent adult is required to
24 comply with the case service plan.

25 (g) If tribal affiliation has been determined, the elected
26 leader of the Indian tribe.

27 (h) The attorney for the child, the attorneys for each party,

1 and the prosecuting attorney if the prosecuting attorney has
2 appeared in the case.

3 (i) If the child is 11 years of age or older, the child.

4 (j) Other persons as the court may direct.

5 (6) ~~At~~ **EXCEPT AS PROVIDED IN SUBSECTION (7), AT** a review
6 hearing under subsection (2), (3), or (4), the court shall review
7 on the record all of the following:

8 (a) Compliance with the case service plan with respect to
9 services provided or offered to the child and the child's parent,
10 guardian, custodian, or nonparent adult if the nonparent adult is
11 required to comply with the case service plan and whether the
12 parent, guardian, custodian, or nonparent adult if the nonparent
13 adult is required to comply with the case service plan has complied
14 with and benefited from those services.

15 (b) Compliance with the case service plan with respect to
16 parenting time with the child. If parenting time did not occur or
17 was infrequent, the court shall determine why parenting time did
18 not occur or was infrequent.

19 (c) The extent to which the parent complied with each
20 provision of the case service plan, prior court orders, and an
21 agreement between the parent and the agency.

22 (d) Likely harm to the child if the child continues to be
23 separated from the child's parent, guardian, or custodian.

24 (e) Likely harm to the child if the child is returned to the
25 child's parent, guardian, or custodian.

26 **(7) IF A CHILD IS UNDER THE COURT'S JURISDICTION AS PROVIDED**
27 **FOR IN THE YOUNG ADULT VOLUNTARY FOSTER CARE ACT, AT A HEARING**

1 UNDER THIS SECTION, THE COURT SHALL REVIEW ON THE RECORD ALL OF THE
2 FOLLOWING:

3 (A) WHETHER THE VOLUNTARY FOSTER CARE AGREEMENT CONTINUES TO
4 BE IN THE CHILD'S BEST INTEREST.

5 (B) THE CHILD'S COMPLIANCE WITH THE VOLUNTARY FOSTER CARE
6 AGREEMENT.

7 (C) THE APPROPRIATENESS OF THE SERVICES THE CHILD IS RECEIVING
8 UNDER THE VOLUNTARY FOSTER CARE AGREEMENT AND WHETHER THE SERVICES
9 THE CHILD IS RECEIVING UNDER THE VOLUNTARY FOSTER CARE AGREEMENT
10 ARE PROMOTING THE CHILD'S SUCCESS IN THE PROGRAM.

11 (D) ANY OTHER INFORMATION THE COURT FINDS RELEVANT TO THE
12 CHILD'S CONTINUED SUCCESS IN THE PROGRAM UNDER THE YOUNG ADULT
13 VOLUNTARY FOSTER CARE ACT.

14 (8) ~~(7)~~—After review of the case service plan, the court shall
15 determine the extent of progress made toward alleviating or
16 mitigating the conditions that caused the child to be placed in
17 foster care or that caused the child to remain in foster care. The
18 court may modify any part of the case service plan including, but
19 not limited to, the following:

20 (a) Prescribing additional services that are necessary to
21 rectify the conditions that caused the child to be placed in foster
22 care or to remain in foster care.

23 (b) Prescribing additional actions to be taken by the parent,
24 guardian, nonparent adult, or custodian, to rectify the conditions
25 that caused the child to be placed in foster care or to remain in
26 foster care.

27 (9) ~~(8)~~—At a review hearing under subsection (2), (3), or (4),

1 the court shall determine the continuing necessity and
2 appropriateness of the child's placement and shall order the return
3 of the child to the custody of the parent, continue the
4 dispositional order, modify the dispositional order, or enter a new
5 dispositional order.

6 (10) ~~(9)~~—If in a proceeding under section 2(b) of this chapter
7 a child is placed in foster care, the court shall determine at the
8 dispositional hearing and each review hearing whether the cause
9 should be reviewed before the next review hearing required by
10 subsection (2), (3), or (4). In making this determination, the
11 court shall consider at least all of the following:

12 (a) The parent's ability and motivation to make necessary
13 changes to provide a suitable environment for the child.

14 (b) Whether there is a reasonable likelihood that the child
15 may be returned to his or her home prior to the next review hearing
16 required by subsection (2), (3), or (4).

17 (11) ~~(10)~~—Unless waived, if not less than 7 days' notice is
18 given to all parties prior to the return of a child to the child's
19 home, and no party requests a hearing within the 7 days, the court
20 may issue an order without a hearing permitting the agency to
21 return the child to the child's home.

22 (12) ~~(11)~~—An agency report filed with the court shall be
23 accessible to all parties to the action and shall be offered into
24 evidence. The court shall consider any written or oral information
25 concerning the child from the child's parent, guardian, custodian,
26 foster parent, child caring institution, relative with whom a child
27 is placed, attorney, lawyer-guardian ad litem, or guardian ad

1 litem, in addition to any other evidence, including the
2 appropriateness of parenting time, offered at the hearing.

3 (13) ~~(12)~~—Reasonable efforts to finalize an alternate
4 permanency plan may be made concurrently with reasonable efforts to
5 reunify the child with the family.

6 (14) ~~(13)~~—Reasonable efforts to place a child for adoption or
7 with a legal guardian, including identifying appropriate in-state
8 or out-of-state options, may be made concurrently with reasonable
9 efforts to reunify the child and family.

10 Sec. 19a. (1) Subject to subsection (2), if a child remains in
11 foster care and parental rights to the child have not been
12 terminated, the court shall conduct a permanency planning hearing
13 within 12 months after the child was removed from his or her home.
14 Subsequent permanency planning hearings shall be held no later than
15 every 12 months after each preceding permanency planning hearing
16 during the continuation of foster care. If proper notice for a
17 permanency planning hearing is provided, a permanency planning
18 hearing may be combined with a review hearing held under section
19 19(2) to (4) of this chapter, **OR A HEARING HELD UNDER SECTION 15(2)**
20 **OF THE YOUNG ADULT VOLUNTARY FOSTER CARE ACT, OR BOTH**, but no later
21 than 12 months from the removal of the child from his or her home,
22 from the preceding permanency planning hearing, or from the number
23 of days required under subsection (2). A permanency planning
24 hearing shall not be canceled or delayed beyond the number of
25 months required by this subsection or days as required under
26 subsection (2), regardless of whether there is a petition for
27 termination of parental rights pending.

1 (2) The court shall conduct a permanency planning hearing
2 within 30 days after there is a judicial determination that
3 reasonable efforts to reunite the child and family are not
4 required. Reasonable efforts to reunify the child and family must
5 be made in all cases except if any of the following apply:

6 (a) There is a judicial determination that the parent has
7 subjected the child to aggravated circumstances as provided in
8 section 18(1) and (2) of the child protection law, 1975 PA 238, MCL
9 722.638.

10 (b) The parent has been convicted of 1 or more of the
11 following:

12 (i) Murder of another child of the parent.

13 (ii) Voluntary manslaughter of another child of the parent.

14 (iii) Aiding or abetting in the murder of another child of the
15 parent or voluntary manslaughter of another child of the parent,
16 the attempted murder of the child or another child of the parent,
17 or the conspiracy or solicitation to commit the murder of the child
18 or another child of the parent.

19 (iv) A felony assault that results in serious bodily injury to
20 the child or another child of the parent.

21 (c) The parent has had rights to the child's siblings
22 involuntarily terminated.

23 (3) A permanency planning hearing shall be conducted to review
24 the status of the child and the progress being made toward the
25 child's return home or to show why the child should not be placed
26 in the permanent custody of the court. The court shall obtain the
27 child's views regarding the permanency plan in a manner that is

1 appropriate to the child's age. In the case of a child who will not
2 be returned home, the court shall consider in-state and out-of-
3 state placement options. In the case of a child placed out-of-
4 state, the court shall determine whether the out-of-state placement
5 continues to be appropriate and in the child's best interests. The
6 court shall ensure that the agency is providing appropriate
7 services to assist a child who will transition from foster care to
8 independent living.

9 (4) Not less than 14 days before a permanency planning
10 hearing, written notice of the hearing and a statement of the
11 purposes of the hearing, including a notice that the hearing may
12 result in further proceedings to terminate parental rights, shall
13 be served upon all of the following:

14 (a) The agency. The agency shall advise the child of the
15 hearing if the child is 11 years of age or older.

16 (b) The foster parent or custodian of the child.

17 (c) If the parental rights to the child have not been
18 terminated, the child's parents.

19 (d) If the child has a guardian, the guardian for the child.

20 (e) If the child has a guardian ad litem, the guardian ad
21 litem for the child.

22 (f) If tribal affiliation has been determined, the elected
23 leader of the Indian tribe.

24 (g) The attorney for the child, the attorneys for each party,
25 and the prosecuting attorney if the prosecuting attorney has
26 appeared in the case.

27 (h) If the child is 11 years of age or older, the child.

1 (i) Other persons as the court may direct.

2 (5) If parental rights to the child have not been terminated
3 and the court determines at a permanency planning hearing that the
4 return of the child to his or her parent would not cause a
5 substantial risk of harm to the child's life, physical health, or
6 mental well-being, the court shall order the child returned to his
7 or her parent. In determining whether the return of the child would
8 cause a substantial risk of harm to the child, the court shall view
9 the failure of the parent to substantially comply with the terms
10 and conditions of the case service plan prepared under section 18f
11 of this chapter as evidence that return of the child to his or her
12 parent would cause a substantial risk of harm to the child's life,
13 physical health, or mental well-being. In addition to considering
14 conduct of the parent as evidence of substantial risk of harm, the
15 court shall consider any condition or circumstance of the child
16 that may be evidence that a return to the parent would cause a
17 substantial risk of harm to the child's life, physical health, or
18 mental well-being.

19 (6) If the court determines at a permanency planning hearing
20 that a child should not be returned to his or her parent, the court
21 may order the agency to initiate proceedings to terminate parental
22 rights. Except as otherwise provided in this subsection, if the
23 child has been in foster care under the responsibility of the state
24 for 15 of the most recent 22 months, the court shall order the
25 agency to initiate proceedings to terminate parental rights. The
26 court is not required to order the agency to initiate proceedings
27 to terminate parental rights if 1 or more of the following apply:

1 (a) The child is being cared for by relatives.

2 (b) The case service plan documents a compelling reason for
3 determining that filing a petition to terminate parental rights
4 would not be in the best interest of the child. Compelling reasons
5 for not filing a petition to terminate parental rights include, but
6 are not limited to, all of the following:

7 (i) Adoption is not the appropriate permanency goal for the
8 child.

9 (ii) No grounds to file a petition to terminate parental rights
10 exist.

11 (iii) The child is an unaccompanied refugee minor as ~~defined~~
12 **DESCRIBED** in 45 CFR 400.11.

13 (iv) There are international legal obligations or compelling
14 foreign policy reasons that preclude terminating parental rights.

15 (c) The state has not provided the child's family, consistent
16 with the time period in the case service plan, with the services
17 the state considers necessary for the child's safe return to his or
18 her home, if reasonable efforts are required.

19 (7) If the agency demonstrates under subsection (6) that
20 initiating the termination of parental rights to the child is
21 clearly not in the child's best interests, or the court does not
22 order the agency to initiate termination of parental rights to the
23 child under subsection (6), then the court shall order 1 or more of
24 the following alternative placement plans:

25 (a) If the court determines that other permanent placement is
26 not possible, the child's placement in foster care shall continue
27 for a limited period to be stated by the court.

1 (b) If the court determines that it is in the child's best
2 interests based upon compelling reasons, the child's placement in
3 foster care may continue on a long-term basis.

4 (c) Subject to subsection (9), if the court determines that it
5 is in the child's best interests, appoint a guardian for the child,
6 which guardianship may continue until the child is emancipated.

7 (8) A guardian appointed under subsection (7)(c) has all of
8 the powers and duties set forth under section 15 of the estates and
9 protected individuals code, 1998 PA 386, MCL 700.5215.

10 (9) If a child is placed in a guardian's or a proposed
11 guardian's home under subsection (7)(c), the court shall order the
12 department of human services to perform an investigation and file a
13 written report of the investigation for a review under subsection
14 (10) and the court shall order the department of human services to
15 do all of the following:

16 (a) Perform a criminal record check within 7 days.

17 (b) Perform a central registry clearance within 7 days.

18 (c) Perform a home study and file a copy of the home study
19 with the court within 30 days unless a home study has been
20 performed within the immediately preceding 365 days, under section
21 13a(9) of this chapter. If a home study has been performed within
22 the immediately preceding 365 days, a copy of that home study shall
23 be submitted to the court.

24 (10) The court's jurisdiction over a juvenile under section
25 2(b) of this chapter shall be terminated after the court appoints a
26 guardian under this section and conducts a review hearing under
27 section 19 of this chapter, unless the juvenile is released sooner

1 by the court.

2 (11) The court's jurisdiction over a guardianship created
3 under this section shall continue until released by court order.

4 The court shall review a guardianship created under this section
5 annually and may conduct additional reviews as the court considers
6 necessary. The court may order the department or a court employee
7 to conduct an investigation and file a written report of the
8 investigation. **IF THE JUVENILE IS ELIGIBLE FOR GUARDIANSHIP**

9 **ASSISTANCE UNDER THE GUARDIANSHIP ASSISTANCE ACT, 2008 PA 260, MCL**
10 **722.871 TO 722.881, MEETS THE ELIGIBILITY REQUIREMENTS PROVIDED**
11 **UNDER THE YOUNG ADULT VOLUNTARY FOSTER CARE ACT, AND NOTIFIES THE**
12 **COURT IN WRITING THAT HE OR SHE WISHES TO REMAIN UNDER COURT**
13 **JURISDICTION AFTER REACHING 18 YEARS OF AGE AS ALLOWED UNDER THE**
14 **YOUNG ADULT VOLUNTARY FOSTER CARE ACT, THE COURT SHALL NOT**
15 **TERMINATE ITS JURISDICTION OVER THE GUARDIANSHIP EXCEPT AS PROVIDED**
16 **FOR UNDER THE YOUNG ADULT VOLUNTARY FOSTER CARE ACT.**

17 (12) In making the determinations under this section, the
18 court shall consider any written or oral information concerning the
19 child from the child's parent, guardian, custodian, foster parent,
20 child caring institution, relative with whom the child is placed,
21 or guardian ad litem in addition to any other evidence, including
22 the appropriateness of parenting time, offered at the hearing.

23 (13) The court may, on its own motion or upon petition from
24 the department of human services or the child's lawyer guardian ad
25 litem, hold a hearing to determine whether a guardianship appointed
26 under this section shall be revoked.

27 (14) A guardian may petition the court for permission to

1 terminate the guardianship. A petition may include a request for
2 appointment of a successor guardian.

3 (15) After notice and hearing on a petition for revocation or
4 permission to terminate the guardianship, if the court finds by a
5 preponderance of evidence that continuation of the guardianship is
6 not in the child's best interests, the court shall revoke or
7 terminate the guardianship and appoint a successor guardian or
8 restore temporary legal custody to the department of human
9 services.

10 (16) IF THE COURT REVOKES OR TERMINATES THE GUARDIANSHIP,
11 APPOINTS A SUCCESSOR GUARDIAN, OR CLOSES THE CASE, THE COURT SHALL
12 IMMEDIATELY NOTIFY THE DEPARTMENT OF HUMAN SERVICES.

13 Sec. 19c. (1) Except as provided in section 19(4) of this
14 chapter and subject to subsection (14), if a child remains in
15 placement following the termination of parental rights to the
16 child, the court shall conduct a review hearing not more than 91
17 days after the termination of parental rights and no later than
18 every 91 days after that hearing for the first year following
19 termination of parental rights to the child. If a child remains in
20 a placement for more than 1 year following termination of parental
21 rights to the child, a review hearing shall be held no later than
22 182 days from the immediately preceding review hearing before the
23 end of the first year and no later than every 182 days from each
24 preceding review hearing ~~thereafter~~ **AFTER THAT** until the case is
25 dismissed. A review hearing under this subsection shall not be
26 canceled or delayed beyond the number of days required in this
27 subsection, regardless of whether any other matters are pending.

1 Upon motion by any party or in the court's discretion, a review
2 hearing may be accelerated to review any element of the case. The
3 court shall conduct the first permanency planning hearing within 12
4 months from the date that the child was originally removed from the
5 home. Subsequent permanency planning hearings shall be held within
6 12 months of the preceding permanency planning hearing. If proper
7 notice for a permanency planning hearing is provided, a permanency
8 planning hearing may be combined with a review hearing held under
9 section 19(2) to (4) of this chapter **OR A HEARING HELD UNDER**
10 **SECTION 15(2) OF THE YOUNG ADULT VOLUNTARY FOSTER CARE ACT, OR**
11 **BOTH.** A permanency planning hearing under this section shall not be
12 canceled or delayed beyond the number of months required in this
13 subsection, regardless of whether any other matters are pending. At
14 a hearing under this section, the court shall review all of the
15 following:

16 (a) The appropriateness of the permanency planning goal for
17 the child.

18 (b) The appropriateness of the child's placement.

19 (c) The reasonable efforts being made to place the child for
20 adoption or in other permanent placement in a timely manner.

21 (2) Subject to subsection (3), if the court determines that it
22 is in the child's best interests, the court may appoint a guardian
23 for the child.

24 (3) The court shall not appoint a guardian for the child
25 without the written consent of the MCI superintendent or his or her
26 designee. The MCI superintendent or his or her designee shall
27 consult with the child's lawyer guardian ad litem when considering

1 whether to grant written consent.

2 (4) If a person believes that the decision to withhold the
3 consent required in subsection (3) is arbitrary or capricious, the
4 person may file a motion with the court. A motion under this
5 subsection shall contain information regarding both of the
6 following:

7 (a) The specific steps taken by the person to obtain the
8 consent required and the results, if any.

9 (b) The specific reasons why the person believes that the
10 decision to withhold consent was arbitrary or capricious.

11 (5) If a motion is filed under subsection (4), the court shall
12 set a hearing date and provide notice to the MCI superintendent,
13 the foster parents, the prospective guardian, the child, and the
14 child's lawyer guardian ad litem.

15 (6) Subject to subsection (8), if a hearing is held under
16 subsection (5) and the court finds by clear and convincing evidence
17 that the decision to withhold consent was arbitrary or capricious,
18 the court may approve the guardianship without the consent of the
19 MCI superintendent.

20 (7) A guardian appointed under this section has all of the
21 powers and duties set forth under section 15 of the estates and
22 protected individuals code, 1998 PA 386, MCL 700.5215.

23 (8) If a child is placed in a guardian's or a proposed
24 guardian's home under subsection (2) or (6), the court shall order
25 the department of human services to perform an investigation and
26 file a written report of the investigation for a review under
27 subsection (10) and the court shall order the department of human

1 services to do all of the following:

2 (a) Perform a criminal record check within 7 days.

3 (b) Perform a central registry clearance within 7 days.

4 (c) Perform a home study and file a copy of the home study
5 with the court within 30 days unless a home study has been
6 performed within the immediately preceding 365 days, under section
7 13a(9) of this chapter. If a home study has been performed within
8 the immediately preceding 365 days, a copy of that home study shall
9 be submitted to the court.

10 (9) The court's jurisdiction over a juvenile under section
11 2(b) of this chapter and the jurisdiction of the Michigan
12 children's institute under section 3 of 1935 PA 220, MCL 400.203,
13 shall be terminated after the court appoints a guardian under this
14 section and conducts a review hearing under section 19 of this
15 chapter, unless the juvenile is released sooner by the court.

16 (10) The court's jurisdiction over a guardianship created
17 under this section shall continue until released by court order.
18 The court shall review a guardianship created under this section
19 annually and may conduct additional reviews as the court considers
20 necessary. The court may order the department or a court employee
21 to conduct an investigation and file a written report of the
22 investigation. **IF THE JUVENILE IS ELIGIBLE FOR GUARDIANSHIP**
23 **ASSISTANCE UNDER THE GUARDIANSHIP ASSISTANCE ACT, 2008 PA 260, MCL**
24 **722.871 TO 722.881, MEETS THE ELIGIBILITY REQUIREMENTS PROVIDED**
25 **UNDER THE YOUNG ADULT VOLUNTARY FOSTER CARE ACT, AND NOTIFIES THE**
26 **COURT IN WRITING THAT HE OR SHE WISHES TO REMAIN UNDER COURT**
27 **JURISDICTION AFTER REACHING 18 YEARS OF AGE AS ALLOWED UNDER THE**

1 YOUNG ADULT VOLUNTARY FOSTER CARE ACT, THE COURT SHALL NOT
2 TERMINATE ITS JURISDICTION OVER THE GUARDIANSHIP EXCEPT AS PROVIDED
3 FOR UNDER THE YOUNG ADULT VOLUNTARY FOSTER CARE ACT.

4 (11) The court may, on its own motion or upon petition from
5 the department of human services or the child's lawyer guardian ad
6 litem, hold a hearing to determine whether a guardianship appointed
7 under this section shall be revoked.

8 (12) A guardian may petition the court for permission to
9 terminate the guardianship. A petition may include a request for
10 appointment of a successor guardian.

11 (13) After notice and hearing on a petition for revocation or
12 permission to terminate the guardianship, if the court finds by a
13 preponderance of evidence that continuation of the guardianship is
14 not in the child's best interests, the court shall revoke or
15 terminate the guardianship and appoint a successor guardian or
16 commit the child to the Michigan children's institute under section
17 3 of 1935 PA 220, MCL 400.203.

18 (14) This section applies only to a child's case in which
19 parental rights to the child were either terminated as the result
20 of a proceeding under section 2(b) of this chapter or a similar law
21 of another state or terminated voluntarily following the initiation
22 of a proceeding under section 2(b) of this chapter or a similar law
23 of another state. This section applies as long as the child is
24 subject to the jurisdiction, control, or supervision of the court
25 or of the Michigan children's institute or other agency.

26 Enacting section 1. This amendatory act does not take effect
27 unless Senate Bill No. 435

1 of the 96th Legislature is enacted into law.