

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

Introduced by Senators Emmons and Jansen

ENROLLED SENATE BILL No. 220

AN ACT to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” by amending section 19c of chapter XIII (MCL 712A.19c), as amended by 2008 PA 203.

The People of the State of Michigan enact:

CHAPTER XIII

Sec. 19c. (1) Except as provided in section 19(4) of this chapter and subject to subsection (14), if a child remains in placement following the termination of parental rights to the child, the court shall conduct a review hearing not more than 91 days after the termination of parental rights and no later than every 91 days after that hearing for the first year following termination of parental rights to the child. If a child remains in a placement for more than 1 year following termination of parental rights to the child, a review hearing shall be held no later than 182 days from the immediately preceding review hearing before the end of the first year and no later than every 182 days from each preceding review hearing thereafter until the case is dismissed. A review hearing under this subsection shall not be canceled or delayed beyond the number of days required in this subsection, regardless of whether any other matters are pending. Upon motion by any party or in the court's discretion, a review hearing may be accelerated to review any element of the case. The court shall conduct the first permanency planning hearing within 12 months from the date that the child was originally removed from the home. Subsequent permanency planning hearings shall be held within 12 months of the preceding permanency planning hearing. If proper notice for a permanency planning hearing is

provided, a permanency planning hearing may be combined with a review hearing held under section 19(2) to (4) of this chapter. A permanency planning hearing under this section shall not be canceled or delayed beyond the number of months required in this subsection, regardless of whether any other matters are pending. At a hearing under this section, the court shall review all of the following:

- (a) The appropriateness of the permanency planning goal for the child.
- (b) The appropriateness of the child's placement.
- (c) The reasonable efforts being made to place the child for adoption or in other permanent placement in a timely manner.

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

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

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

- (a) The specific steps taken by the person to obtain the consent required and the results, if any.
- (b) The specific reasons why the person believes that the decision to withhold consent was arbitrary or capricious.
- (5) If a motion is filed under subsection (4), the court shall set a hearing date and provide notice to the MCI superintendent, the foster parents, the prospective guardian, the child, and the child's lawyer guardian ad litem.
- (6) Subject to subsection (8), if a hearing is held under subsection (5) and the court finds by clear and convincing evidence that the decision to withhold consent was arbitrary or capricious, the court may approve the guardianship without the consent of the MCI superintendent.

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

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

- (a) Perform a criminal record check within 7 days.
- (b) Perform a central registry clearance within 7 days.
- (c) Perform a home study and file a copy of the home study with the court within 30 days unless a home study has been performed within the immediately preceding 365 days, under section 13a(9) of this chapter. If a home study has been performed within the immediately preceding 365 days, a copy of that home study shall be submitted to the court.

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

(10) The court's jurisdiction over a guardianship created under this section shall continue until released by court order. The court shall review a guardianship created under this section annually and may conduct additional reviews as the court considers necessary. The court may order the department or a court employee to conduct an investigation and file a written report of the investigation.

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

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

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

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

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor