

SENATE BILL No. 167

February 17, 2011, Introduced by Senators WARREN, YOUNG, WHITMER, HOPGOOD and BIEDA 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 2004 PA 487 and section 51 as
amended by 1996 PA 409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 24. (1) ~~If a~~ **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. ~~of~~ **IF THE PETITIONER IS MARRIED, THE PETITIONER'S HUSBAND OR**
WIFE MUST JOIN IN THE PETITION. TWO UNMARRIED PERSONS MAY PETITION
TO ADOPT A CHILD BY FILING A PETITION UNDER THIS SECTION.

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

12 (3) ~~(2)~~—In an adoption proceeding in which there is more than
13 1 applicant, the petition for adoption shall be filed with the
14 court of the county where the parent's parental rights were
15 terminated or are pending termination. If both parents' parental
16 rights were terminated at different times and in different courts,
17 a petition filed under this section shall be filed in the court of
18 the county where parental rights were first terminated.

19 (4) ~~(3)~~—If a petition to adopt is filed in a county other than
20 that in which the petitioner resides or the prospective adoptee is
21 found, the chief judge of the court may, upon motion, enter an
22 order transferring jurisdiction of the matter to the court of the
23 county in which the petitioner resides or the prospective adoptee
24 is found.

25 (5) ~~(4)~~—The petition for adoption shall be verified by each
26 petitioner and shall contain the following information:

27 (a) The name, date and place of birth, and place of residence

1 of each petitioner, including the maiden name **OR FORMER NAMES** of
2 the adopting ~~mother~~ **PETITIONER**.

3 (b) Except as otherwise provided in subsection ~~(7)~~ **(8)**, the
4 name, date and place of birth, and place of residence if known of
5 the adoptee.

6 (c) The relationship, if any, of the adoptee to the
7 petitioner.

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

10 (e) The full description of the property, if any, of the
11 adoptee.

12 (f) Unless the rights of the parents have been terminated by a
13 court of competent jurisdiction or except as otherwise provided in
14 subsection ~~(7)~~ **(8)**, the names of the parents of the adoptee and the
15 place of residence of each living parent if known.

16 (g) Except as otherwise provided in subsection ~~(7)~~ **(8)**, the
17 name and place of residence of the guardian of the person or estate
18 of the adoptee, if any has been appointed.

19 **(6)** ~~(5)~~—In a direct placement, the petitioner shall attach to
20 the petition a verified statement certifying that the petitioner
21 has been informed of the availability of counseling services and
22 whether the petitioner has received counseling.

23 **(7)** ~~(6)~~—Except as otherwise provided in this subsection, in a
24 direct placement, the petitioner shall attach a copy of a
25 preplacement assessment of the petitioner completed or updated
26 within 1 year before the petition is filed with a finding that the
27 petitioner is suitable to be a parent of an adoptee, copies of all

1 other preplacement assessments of the petitioner, if any others
2 have been completed, and a verified statement stating that no
3 preplacement assessments of the petitioner have been completed
4 other than those attached to the petition and explaining any
5 preplacement assessments of the petitioner that have been initiated
6 but not completed. If the petitioner is seeking review of a
7 preplacement assessment under section ~~23f(8)~~ **23F(9)** of this
8 chapter, the petitioner may comply with this subsection by
9 attaching a copy of that preplacement assessment and a copy of the
10 application for review, together with copies of all other
11 preplacement assessments and the verified statement required by
12 this section.

13 **(8)** ~~(7)~~—In a direct placement in which the parties have
14 elected not to exchange identifying information, the information
15 required by subsection ~~(4)(f)~~ **(5) (F)** and (g) and the surname and
16 place of residence of the adoptee required under subsection ~~(4)(b)~~
17 **(5) (B)** may be omitted. The attorney or child placing agency
18 assisting in the adoption shall file a verified statement
19 containing the omitted information.

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

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

3 (b) The best interests of the adoptee will be served by the
4 adoption.

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

10 (3) Upon entry of an order terminating rights of parents or
11 persons in loco parentis, a child is a ward of the court and a
12 consent to adoption executed ~~pursuant to~~ **UNDER** section 43 of this
13 chapter shall not be withdrawn after the order is entered. Entry of
14 the order terminates the jurisdiction of the same court or another
15 court over the child in a divorce or separate maintenance action.
16 If the petitioner for adoption is married to the parent having
17 legal custody of the child, the child shall not be made a ward of
18 the court after termination of the rights of the other parent.

19 (4) Without making the child a ward of the court, the court
20 may approve placement of a child if the child is placed for
21 adoption in this state by a public or licensed private agency of
22 another state or country and if the law of the sending state or
23 country prohibits the giving of consent to adoption at the time of
24 placement. Before placement of the child in that instance, the
25 sending agency shall tender evidence as the court requires to
26 demonstrate that the agency possesses the necessary authority to
27 consent to the adoption at the time of entry of the final order of

1 adoption. After the sending agency has given evidence of its
2 ability to consent, the agency shall not do anything to jeopardize
3 its ability to grant the required consent before entry of the final
4 order of adoption. After the sending agency gives its consent for
5 the adoption, that consent shall not be withdrawn.

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

11 (6) If the parents of a child are divorced, or if the parents
12 are unmarried but the father has acknowledged paternity or is a
13 putative father who meets the conditions in section 39(2) of this
14 chapter, and if the parent having legal custody of the child
15 subsequently marries and that ~~parent's~~ **PERSON'S** spouse petitions to
16 adopt the child **OR THE PERSON HAVING LEGAL CUSTODY PETITIONS FOR**
17 **ADOPTION UNDER SECTION 24(1) OF THIS CHAPTER,** the court upon notice
18 and hearing may issue an order terminating the rights of the other
19 parent if both of the following occur:

20 (a) The other parent, having the ability to support, or assist
21 in supporting, the child, has failed or neglected to provide
22 regular and substantial support for the child or if a support order
23 has been entered, has failed to substantially comply with the
24 order, for a period of 2 years or more before the filing of the
25 petition.

26 (b) The other parent, having the ability to visit, contact, or
27 communicate with the child, has regularly and substantially failed

1 or neglected to do so for a period of 2 years or more before the
2 filing of the petition.

3 ~~—— (7) Unless otherwise ordered by the court, the prospective~~
4 ~~adoptive parents with whom a child is placed pursuant to a court~~
5 ~~order approving placement under this section may consent to all~~
6 ~~medical, surgical, psychological, educational, and related services~~
7 ~~for the child.~~