

# SENATE BILL No. 503

September 24, 2015, Introduced by Senators EMMONS, CASPERSON, JONES and PAVLOV 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 3, 7, 13, 15, and 25 of chapter XIIB (MCL 712B.3, 712B.7, 712B.13, 712B.15, and 712B.25), as added by 2012 PA 565.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

CHAPTER XIIB

Sec. 3. As used in this chapter:

(a) "Active efforts" means actions to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and to reunify the **INDIAN** child with the Indian family. Active efforts require more than a referral to a service without actively engaging the Indian child and family. Active efforts include reasonable efforts as required by title IV-E

1 of the social security act, 42 USC 670 to 679c, and also include,  
2 **BUT ARE NOT LIMITED TO**, doing or addressing all of the following:

3 (i) Engaging the Indian child, child's parents, tribe,  
4 extended family members, and individual Indian caregivers through  
5 the utilization of culturally appropriate services and in  
6 collaboration with the parent or child's Indian tribes and Indian  
7 social services agencies.

8 (ii) Identifying appropriate services and helping the parents  
9 to overcome barriers to compliance with those services.

10 (iii) Conducting or causing to be conducted a diligent search  
11 for extended family members for placement.

12 (iv) Requesting representatives designated by the Indian  
13 child's tribe with substantial knowledge of the prevailing social  
14 and cultural standards and child rearing practice within the tribal  
15 community to evaluate the circumstances of the Indian child's  
16 family and to assist in developing a case plan that uses the  
17 resources of the Indian tribe and Indian community, including  
18 traditional and customary support, actions, and services, to  
19 address those circumstances.

20 (v) Completing a comprehensive assessment of the situation of  
21 the Indian child's family, including a determination of the  
22 likelihood of protecting the Indian child's health, safety, and  
23 welfare effectively in the Indian child's home.

24 (vi) Identifying, notifying, and inviting representatives of  
25 the Indian child's tribe to participate in all aspects of the  
26 Indian child custody proceeding at the earliest possible point in  
27 the proceeding and actively soliciting the tribe's advice

1 throughout the proceeding.

2 (vii) Notifying and consulting with extended family members of  
3 the Indian child, including extended family members who were  
4 identified by the Indian child's tribe or parents, to identify and  
5 to provide family structure and support for the Indian child, to  
6 assure cultural connections, and to serve as placement resources  
7 for the Indian child.

8 (viii) Making arrangements to provide natural and family  
9 interaction in the most natural setting that can ensure the Indian  
10 child's safety, as appropriate to the goals of the Indian child's  
11 permanency plan, including, when requested by the tribe,  
12 arrangements for transportation and other assistance to enable  
13 family members to participate in that interaction.

14 (ix) Offering and employing all available family preservation  
15 strategies and requesting the involvement of the Indian child's  
16 tribe to identify those strategies and to ensure that those  
17 strategies are culturally appropriate to the Indian child's tribe.

18 (x) Identifying community resources offering housing,  
19 financial, and transportation assistance and in-home support  
20 services, in-home intensive treatment services, community support  
21 services, and specialized services for members of the Indian  
22 child's family with special needs, and providing information about  
23 those resources to the Indian child's family, and actively  
24 assisting the Indian child's family or offering active assistance  
25 in accessing those resources.

26 (xi) Monitoring client progress and client participation in  
27 services.

1           (iii) Providing a consideration of alternative ways of  
2 addressing the needs of the Indian child's family, if services do  
3 not exist or if existing services are not available to the family.

4           (b) "Child custody proceeding" includes, but is not limited  
5 to, 1 or more of the following:

6           (i) Foster care placement. Any action removing an Indian child  
7 from his or her parent or Indian custodian, and where the parent or  
8 Indian custodian cannot have the **INDIAN** child returned upon demand  
9 but parental rights have not been terminated, for temporary  
10 placement in, and not limited to, 1 or more of the following:

11           (A) Foster home or institution.

12           (B) The home of a guardian or limited guardian under part 2 of  
13 article V of the estates and protected individuals code, 1998 PA  
14 386, MCL 700.5201 to 700.5219.

15           (C) A juvenile guardianship under chapter XIIA.

16           (ii) Termination of parental rights. Any action resulting in  
17 the termination of the parent-child relationship.

18           (iii) Preadoptive placement. Temporary placement of an Indian  
19 child in a foster home or institution after the termination of  
20 parental rights, but before or in lieu of adoptive placement.

21           (iv) Adoptive placement. Permanent placement of an Indian  
22 child for adoption, including an action resulting in a final decree  
23 of adoption.

24           (v) An Indian child is charged with a status offense in  
25 violation of section 2(a)(2) to (4) or (d) of chapter XIIA.

26           (vi) Child custody proceeding does not include a placement  
27 based on an act that, if committed by an adult, would be a crime or

1 based on an award, in a divorce proceeding, of custody to 1 of the  
2 parents.

3 (c) "Court" means the family division of circuit court or the  
4 probate court.

5 (d) "Culturally appropriate services" means services that  
6 enhance an Indian child's and family's relationship to,  
7 identification, and connection with the Indian child's tribe.  
8 Culturally appropriate services should provide the opportunity to  
9 practice the teachings, beliefs, customs, and ceremonies of the  
10 Indian child's tribe so those may be incorporated into the Indian  
11 child's daily life, as well as services that address the issues  
12 that have brought the **INDIAN** child and family to the attention of  
13 the department that are consistent with the tribe's beliefs about  
14 child rearing, child development, and family wellness. Culturally  
15 appropriate services may involve tribal representatives, extended  
16 family members, tribal elders, spiritual and cultural advisors,  
17 tribal social services, individual Indian caregivers, medicine men  
18 or women, and natural healers. If the Indian child's tribe  
19 establishes a different definition of culturally appropriate  
20 services, the court shall follow the tribe's definition.

21 (e) "Department" means the department of **HEALTH AND** human  
22 services or ~~any~~**A** successor department or agency.

23 (f) "Extended family members" means that term as defined by  
24 the law or custom of the Indian child's tribe or, in the absence of  
25 that law or custom, means a person who has reached the age of 18  
26 and who is the Indian child's grandparent, aunt or uncle, brother  
27 or sister, brother-in-law or sister-in-law, niece or nephew, first

1 or second cousin, or stepparent and includes the term "relative" as  
2 that term is defined in section 13a(j) of chapter XIIIA.

3 (g) "Foster home or institution" means a child caring  
4 institution as that term is defined in section 1 of 1973 PA 116,  
5 MCL 722.111.

6 (h) "Guardian" means a person who has qualified as a guardian  
7 of a minor under a parental or spousal nomination or a court order  
8 issued under section 19a or 19c of chapter XIIIA, section 5204 or  
9 5205 of the estates and protected individuals code, 1998 PA 386,  
10 MCL 700.5204 and 700.5205, or sections 600 to 644 of the mental  
11 health code, 1974 PA 258, MCL 330.1600 to 330.1644. Guardian may  
12 also include a person appointed by a tribal court under tribal code  
13 or custom. Guardian does not include a guardian ad litem.

14 (i) "Guardian ad litem" means an individual whom the court  
15 appoints to assist the court in determining the child's best  
16 interests. A guardian ad litem does not need to be an attorney.

17 (j) "Indian" means any member of any Indian tribe, band,  
18 nation, or other organized group or community of Indians recognized  
19 as eligible for the services provided to Indians by the secretary  
20 because of their status as Indians, including any Alaska native  
21 village as defined in section 1602(c) of the Alaska native claims  
22 settlement act, 43 USC 1602.

23 (k) "Indian child" means an unmarried person who is under the  
24 age of 18 and is either of the following:

25 (i) A member of an Indian tribe.

26 (ii) Eligible for membership in an Indian tribe as determined  
27 by that Indian tribe.

1           (l) "Indian child's tribe" means the Indian tribe in which an  
2 Indian child is a member or eligible for membership. In the case of  
3 an Indian child who is a member of or eligible for membership in  
4 more than 1 tribe, the Indian child's tribe is the tribe with which  
5 the Indian child has the most significant contacts.

6           (m) "Indian child welfare act" means the Indian child welfare  
7 act of 1978, 25 USC 1901 to 1963.

8           (n) "Indian custodian" means any Indian person who has custody  
9 of an Indian child under tribal law or custom or under state law or  
10 to whom temporary physical care, custody, and control have been  
11 transferred by the **INDIAN** child's parent.

12           (o) "Indian tribe" or "tribe" means any Indian tribe, band,  
13 nation, or other organized group or community of Indians recognized  
14 as eligible for the services provided to Indians by the secretary  
15 because of their status as Indians, including any Alaska native  
16 village as defined in section 1602(c) of the Alaska native claims  
17 settlement act, 43 USC 1602.

18           (p) "Indian organization" means any group, association,  
19 partnership, corporation, or other legal entity owned or controlled  
20 by Indians, or a majority of whose members are Indians.

21           (q) "Lawyer-guardian ad litem" means an attorney appointed  
22 under section 21 of this chapter. A lawyer-guardian ad litem  
23 represents the child, and has the powers and duties, as set forth  
24 in section 17d of chapter XIIA. The provisions of section 17d of  
25 chapter XIIA also apply to a lawyer-guardian ad litem appointed for  
26 the purposes of this chapter under each of the following:

27           (i) Section 5213 or 5219 of the estates and protected

1 individuals code, 1998 PA 386, MCL 700.5213 and 700.5219.

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

4 (iii) Section 10 of the child protection law, 1975 PA 238, MCL  
5 722.630.

6 (r) "Official tribal representative" means an individual who  
7 is designated by the Indian child's tribe to represent the tribe in  
8 a court overseeing a child custody proceeding. An official tribal  
9 representative does not need to be an attorney.

10 (s) "Parent" means any biological parent or parents of an  
11 Indian child or any person who has lawfully adopted an Indian  
12 child, including adoptions under tribal law or custom. Parent does  
13 not include the putative father if paternity has not been  
14 acknowledged or established.

15 (t) "Reservation" means Indian country as defined in 18 USC  
16 1151 and any lands, not covered under that section, title to which  
17 is either held by the United States in trust for the benefit of any  
18 Indian tribe or individual or held by any Indian tribe or  
19 individual subject to a restriction by the United States against  
20 alienation.

21 (u) "Secretary" means the ~~secretary~~**SECRETARY** of the  
22 ~~interior~~**INTERIOR**.

23 (v) "Tribal court" means a court with jurisdiction over child  
24 custody proceedings that is either a court of Indian offenses, a  
25 court established and operated under the code or custom of an  
26 Indian tribe, or any other administrative body of a tribe that is  
27 vested with authority over child custody proceedings.



1 (w) "Ward of tribal court" means a child over whom an Indian  
2 tribe exercises authority by official action in tribal court or by  
3 the governing body of the tribe.

4 Sec. 7. (1) An Indian tribe has exclusive jurisdiction over  
5 any child custody proceeding involving an Indian child who resides  
6 or is domiciled within the reservation of that tribe. If a child is  
7 a ward of a tribal court, the Indian tribe retains exclusive  
8 jurisdiction, regardless of the residence or domicile, or  
9 subsequent change in his or her residence or domicile.

10 (2) The state court may exercise limited emergency  
11 jurisdiction if an Indian child who resides or is domiciled within  
12 the reservation is temporarily off the reservation and the state  
13 has removed the **INDIAN** child in an emergency situation to prevent  
14 imminent physical damage or harm to the **INDIAN** child. The court  
15 must comply with the emergency removal hearing requirements  
16 outlined in Michigan court rules and sections 13a, 14, and 14a of  
17 chapter XIIIA. The emergency jurisdiction terminates when the  
18 removal or placement is no longer necessary to prevent imminent  
19 physical damage or harm to the **INDIAN** child.

20 (3) In any state court child custody proceeding, for an Indian  
21 child not domiciled or residing within the reservation of the  
22 Indian child's tribe, the court, in the absence of good cause to  
23 the contrary, shall transfer the proceeding to the Indian tribe's  
24 jurisdiction, absent objection by either parent, upon the petition  
25 of either parent or the Indian custodian or the Indian child's  
26 tribe, provided that the transfer is subject to declination by the  
27 tribal court of the Indian tribe.

1 (4) When a court makes a good cause determination under this  
2 section, adequacy of the tribe, tribal court, or tribal social  
3 services shall not be considered.

4 (5) A court may determine that good cause not to transfer a  
5 case to tribal court exists only if the person opposing the  
6 transfer shows by clear and convincing evidence that either of the  
7 following applies:

8 (a) The Indian tribe does not have a tribal court.

9 (b) The requirement of the parties or witnesses to present  
10 evidence in tribal court would cause undue hardship to those  
11 parties or witnesses that the Indian tribe is unable to mitigate.

12 (6) In any state court child custody proceeding ~~—OF~~ an Indian  
13 child, the Indian custodian of the child ~~—and~~ the Indian child's  
14 tribe have a right to intervene at any point in the child custody  
15 proceeding.

16 (7) Official tribal representatives have the right to  
17 participate in any proceeding that is subject to the Indian child  
18 welfare act and this chapter.

19 (8) This state shall give full faith and credit to the public  
20 acts, records, and judicial proceedings of any Indian tribe  
21 applicable to Indian child custody proceedings to the same extent  
22 given to the public acts, records, and judicial proceedings of any  
23 other entity.

24 Sec. 13. (1) If both parents or Indian custodian voluntarily  
25 consent to a petition for guardianship under section 5204 or 5205  
26 of the estates and protected individuals code, 1998 PA 386, MCL  
27 700.5204 and 700.5205, or **IF A PARENT CONSENTS** to adoptive

1 placement or the termination of his or her parental rights for the  
2 express purpose of adoption by executing a release under ~~section~~  
3 **SECTIONS 28 AND 29** of chapter X, or consent under ~~section~~**SECTIONS**  
4 **43 AND 44** of chapter X, the following requirements must be met:

5 (a) To be valid, consent under this section must be executed  
6 on a form approved by the state court administrative office, in  
7 writing, recorded before a judge of a court of competent  
8 jurisdiction, and accompanied by the presiding judge's certificate  
9 that the terms and consequences of the consent were fully explained  
10 in detail and were fully understood by the parent or Indian  
11 custodian. The court shall also certify that either the parent or  
12 Indian custodian fully understood the explanation in English or  
13 that it was interpreted into a language that the parent or Indian  
14 custodian understood. Any consent given before, or within 10 days  
15 after, birth of the Indian child is not valid.

16 (b) Notice of the pending proceeding must be given as  
17 prescribed by Michigan supreme court rule, the Indian child welfare  
18 act, and section 9 of this chapter.

19 (c) The voluntary custody proceeding shall be conducted in  
20 accordance with Michigan supreme court rules and the following  
21 statutes:

22 (i) In a guardianship proceeding under section 5204 or 5205 of  
23 the estates and protected individuals code, 1998 PA 386, MCL  
24 700.5204 and 700.5205, section 25 of this chapter also applies.

25 (ii) In an adoption proceeding, section 27 of this chapter  
26 also applies.

27 (2) Consent described under subsection (1) must contain the

1 following information:

2 (a) The Indian child's name and date of birth.

3 (b) The name of the Indian child's tribe and any identifying  
4 number or other indication of the child's membership in the tribe,  
5 if any.

6 (c) The name and address of the consenting parent or Indian  
7 custodian.

8 (d) A sworn statement from the translator, if any, attesting  
9 to the accuracy of the translation.

10 (e) The signature of the consenting parent, parents, or Indian  
11 custodian recorded before the judge, verifying an oath of  
12 understanding of the significance of the voluntary placement and  
13 the parent's right to ~~petition~~ **FILE A WRITTEN DEMAND** to terminate  
14 the voluntary placement or consent at any time.

15 (f) For consent for voluntary placement of the Indian child in  
16 foster care, the name and address of the person or entity who will  
17 arrange the foster care placement as well as the name and address  
18 of the prospective foster care parents if known at the time.

19 (g) For consent to termination of parental rights or adoption  
20 of an Indian child, in addition to the information in subdivisions  
21 (a) to (f), the name and address of the person or entity that will  
22 arrange the preadoptive or adoptive placement.

23 (3) If the placement is for purposes of adoption, a consent  
24 under subsection (1) of the Indian child's parent ~~or Indian~~  
25 ~~custodian~~ must be executed in conjunction with either a consent to  
26 adopt, as required by ~~section~~ **SECTIONS 43 AND 44** of chapter X, or a  
27 release, as required by ~~section~~ **SECTIONS 28 AND 29** of chapter X. A

1 parent ~~or Indian custodian~~ who executes a consent under this  
2 section may withdraw his or her consent at any time before entry of  
3 a final order of adoption by filing a written demand requesting the  
4 return of the **INDIAN** child. Once a demand is filed with the court,  
5 the court shall order the return of the **INDIAN** child. Withdrawal of  
6 consent under this section constitutes a withdrawal of a release  
7 executed under ~~section~~**SECTIONS 28 AND 29** of chapter X or a consent  
8 to adopt executed under ~~section~~**SECTIONS 43 AND 44** of chapter X.

9 (4) A parent or Indian custodian who executes a consent under  
10 this section for the purpose of guardianship may withdraw his or  
11 her consent at any time by sending written notice to the court  
12 substantially in compliance on a form approved by the state court  
13 administrative office that the parent or Indian custodian revokes  
14 consent and wants his or her **INDIAN** child returned.

15 (5) A release executed under ~~section~~**SECTIONS 28 AND 29** of  
16 chapter X during a pendency of a proceeding under section 2(b) of  
17 chapter XIIIA is subject to section 15 of this chapter. If the  
18 release follows the initiation of a proceeding under section 2(b)  
19 of chapter XIIIA, the court shall make a finding that culturally  
20 appropriate services were offered.

21 (6) A parent who executes a consent to adoption under ~~section~~  
22 **SECTIONS 43 AND 44** of chapter X may withdraw that consent at any  
23 time before entry of a final order for adoption by filing  
24 notification of the withdrawal of consent with the court. In a  
25 direct placement, as defined in section 22(o) of chapter X, a  
26 consent by a parent or guardian shall be accompanied by a verified  
27 statement signed by the parent or guardian that contains all of the

1 following:

2 (a) That the parent or guardian has received a list of  
3 community and federal resource supports and a copy of the written  
4 document described in section 6(1)(c) of the foster care and  
5 adoption services act, 1994 PA 204, MCL 722.956.

6 (b) As required by sections 29 and 44 of chapter X, that the  
7 parent or guardian has received counseling related to the adoption  
8 of his or her **INDIAN** child or waives the counseling with the  
9 signing of the verified statement.

10 (c) That the parent or guardian has not received or been  
11 promised any money or anything of value for the consent to adoption  
12 of the **INDIAN** child, except for lawful payments that are itemized  
13 on a schedule filed with the consent.

14 (d) That the validity and finality of the consent are not  
15 affected by any collateral or separate agreement between the parent  
16 or guardian and the adoptive parent.

17 (e) That the parent or guardian understands that it serves the  
18 welfare of the **INDIAN** child for the parent to keep the child  
19 placing agency, court, or department informed of any health  
20 problems that the parent develops that could affect the **INDIAN**  
21 child.

22 (f) That the parent or guardian understands that it serves the  
23 welfare of the **INDIAN** child for the parent or guardian to keep his  
24 or her address current with the child placing agency, court, or  
25 department in order to permit a response to any inquiry concerning  
26 medical or social history from an adoptive parent of a minor  
27 adoptee or from an adoptee who is 18 years or older.

1           Sec. 15. (1) If an Indian child is the subject of a child  
2 protective proceeding under section 2(b) of chapter XIIIA, including  
3 instances in which the parent ~~or Indian custodian~~ executed a  
4 release under section 28 of chapter X during the pendency of that  
5 proceeding, or a guardianship proceeding under section 5204 or 5205  
6 of the estates and protected individuals code, 1998 PA 386, MCL  
7 700.5204 and 700.5205, **AND** if a parent does not provide consent as  
8 described in section 13 of this chapter, or a guardianship  
9 proceeding under section 19a or 19c of chapter XIIIA, the following  
10 requirements must be met:

11           (a) Notice of the pending proceeding must be given as  
12 prescribed by Michigan supreme court rule, the Indian child welfare  
13 act, and section 9 of this chapter.

14           (b) The proceeding shall be conducted in accordance with  
15 Michigan supreme court rules and subsections (2) to (4).

16           (c) Section 25 of this chapter applies in a guardianship  
17 proceeding under section 5204 or 5205 of the estates and protected  
18 individuals code, 1998 PA 386, MCL 700.5204 and 700.5205.

19           (2) An Indian child may be removed from a parent or Indian  
20 custodian, placed into a foster care placement, or, for an Indian  
21 child already taken into protective custody, remain removed from a  
22 parent or Indian custodian pending further proceedings, only upon  
23 clear and convincing evidence ~~, that includes testimony of at least~~  
24 ~~1 expert witness who has knowledge of child rearing practices of~~  
25 ~~the Indian child's tribe,~~ that active efforts have been made to  
26 provide remedial services and rehabilitative programs designed to  
27 prevent the breakup of the Indian family, that the active efforts

1 were unsuccessful, and that the continued custody of the **INDIAN**  
2 child by the parent or Indian custodian is likely to result in  
3 serious emotional or physical damage to the **INDIAN** child. The  
4 active efforts must take into account the prevailing social and  
5 cultural conditions and way of life of the Indian child's tribe.  
6 **THE EVIDENCE MUST INCLUDE THE TESTIMONY OF AT LEAST 1 QUALIFIED**  
7 **EXPERT WITNESS, WHO HAS KNOWLEDGE OF THE CHILD REARING PRACTICES OF**  
8 **THE INDIAN CHILD'S TRIBE, THAT THE CONTINUED CUSTODY OF THE INDIAN**  
9 **CHILD BY THE PARENT OR INDIAN CUSTODIAN IS LIKELY TO RESULT IN**  
10 **SERIOUS EMOTIONAL OR PHYSICAL DAMAGE TO THE INDIAN CHILD.**

11 (3) A party seeking a termination of parental rights to an  
12 Indian child under state law must demonstrate to the court's  
13 satisfaction that active efforts have been made to provide remedial  
14 services and rehabilitative programs designed to prevent the  
15 breakup of the Indian family and that the active efforts were  
16 unsuccessful.

17 (4) No termination of parental rights may be ordered in a  
18 proceeding described in this section without a determination,  
19 supported by evidence beyond a reasonable doubt, including  
20 testimony of at least 1 qualified expert witness as described in  
21 section 17, that the continued custody of the **INDIAN** child by the  
22 parent or Indian custodian is likely to result in serious emotional  
23 or physical damage to the **INDIAN** child.

24 (5) Any Indian child who is the subject of any action for  
25 termination of parental rights under state law, any parent or  
26 Indian custodian from whose custody the **INDIAN** child was removed,  
27 and the Indian child's tribe may petition any court of competent



1 jurisdiction to invalidate the action upon a showing that the  
2 action violated any provision of this section.

3       Sec. 25. (1) If a petition for a guardianship is filed and is  
4 determined to be involuntary under section 15 of this chapter and  
5 the court knows or has reason to know that the child is an Indian  
6 child, the court may order the department or a court employee to  
7 conduct an investigation of the proposed guardianship and file a  
8 written report of the investigation. In addition to the information  
9 required in section 5204 of the estates and protected individuals  
10 code, 1998 PA 386, MCL 700.5204, the report must include, but is  
11 not limited to, the following information:

12       (a) Whether the child is or is not an Indian child.

13       (b) The identity and location of the **INDIAN** child's parents,  
14 if known.

15       (c) If the child is an Indian child, the report must also  
16 address all of the following:

17       (i) The tribe or tribes of which the **INDIAN** child is a member  
18 or eligible for membership.

19       (ii) If the **INDIAN** child and family need culturally  
20 appropriate and other services to preserve the Indian family.

21       (iii) The identity and location of extended family members and  
22 if no extended family members can be found, what efforts were made  
23 to locate them.

24       (2) Notice of the pending proceeding must be given as  
25 prescribed by Michigan supreme court rule, the Indian child welfare  
26 act, and section 9 of this chapter. If the court knows or has  
27 reason to know that the proceeding involves an Indian child, the

1 court shall conduct a hearing to determine all of the following:

2 (a) If the tribe has exclusive jurisdiction. If so, the court  
3 shall issue an order terminating the guardianship or dismissing the  
4 petition.

5 (b) If the current placement with the guardian meets the  
6 placement requirements in section 23 of this chapter.

7 (c) If it is in the Indian child's best interest to order the  
8 guardianship.

9 (d) If a lawyer-guardian ad litem should be appointed to  
10 represent the Indian child.

11 (3) If a petition for guardianship is filed and is to be  
12 accompanied by a consent to a voluntary placement of an Indian  
13 child, the consent must be executed in accordance with section 13  
14 of this chapter. If the Indian child's parents do not execute a  
15 consent under section 13 of this chapter, the petition is  
16 considered to be for an involuntary guardianship and the  
17 requirements of section 15 of this chapter must be met.

18 (4) A parent or Indian custodian who executes a consent under  
19 this section for the purpose of **VOLUNTARY** guardianship may withdraw  
20 his or her consent at any time by sending written notice to the  
21 court substantially in compliance on a form approved by the state  
22 court administrative office that the parent or Indian custodian  
23 revokes consent and wants his or her **INDIAN** child returned.

24 (5) The **VOLUNTARY** guardianship is terminated when the court  
25 receives from a parent or Indian custodian notice to withdraw  
26 consent to the guardianship, and the **INDIAN** child shall be  
27 immediately returned to the parent or Indian custodian.

1           (6) If the court discovers a child may be an Indian child  
2 after a guardianship is ordered, the court shall provide notice of  
3 the guardianship and the potential applicability of **THIS CHAPTER**  
4 **AND** the Indian child welfare act, in compliance with Michigan court  
5 rules, **THIS CHAPTER**, and the Indian child welfare act, to the  
6 tribe, the parents or Indian custodian, and the current guardian on  
7 a form approved by the state court administrative office.

8           Enacting section 1. This amendatory act takes effect 90 days  
9 after the date it is enacted into law.