PROBATE CODE OF 1939

Act 288 of 1939

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.

History: 1939, Act 288, Eff. Sept. 29, 1939 ;-- Am. 1972, Act 175, Imd. Eff. June 16, 1972 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1982, Act 398, Imd. Eff. Dec. 28, 1982 ;-- Am. 1997, Act 163, Eff. Jan. 1, 1998 ;-- Am. 2000, Act 232, Eff. Jan. 1, 2001

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The People of the State of Michigan enact:

Chapter I
PROBATE COURTS

701.1-701.55 Repealed. 1952, Act 34, Eff. Sept. 18, 1952;—1970, Act 143, Eff. Jan. 1, 1971;—1978, Act 543, Eff. July 1, 1979;—1978, Act 642, Eff. July 1, 1979.

Compiler's Notes: Former MCL 701.19a, deriving from Act 9 of 1969, expired December 31, 1970.

Chapter II
DECEDENTS' ESTATES

702.1-702.117 Repealed. 1978, Act 642, Eff. July 1, 1979.

Chapter III
GUARDIANS AND WARDS

703.1-703.35 Repealed. 1949, Act 125, Eff. Sept. 23, 1949;—1978, Act 642, Eff. July 1, 1979.

Chapter IV
FIDUCIARIES

704.1-704.60 Repealed. 1976, Act 262, Imd. Eff. Oct. 1, 1976;—1978, Act 642, Eff. July 1, 1979.

Chapter V
ESTATES OF DISAPPEARED PERSONS

705.1-705.34 Repealed. 1978, Act 642, Eff. July 1, 1979.

Chapter VI
TESTAMENTARY TRUSTEE OR GUARDIAN

706.1-706.6 Repealed. 1978, Act 642, Eff. July 1, 1979.

Chapter VII
COLLECTION OF ASSETS

707.1-707.20 Repealed. 1978, Act 642, Eff. July 1, 1979.

Chapter VIII
CLAIMS

708.1-708.41 Repealed. 1978, Act 642, Eff. July 1, 1979.

Chapter IX
SALE, MORTGAGE OR LEASE OF PROPERTY

709.1-709.62 Repealed. 1978, Act 642, Eff. July 1, 1979.

Chapter X
MICHIGAN ADOPTION CODE

710.1-710.14 Repealed. 1974, Act 296, Eff. Jan. 1, 1975.

Popular Name: Probate Code

710.21 Short title of act; Michigan adoption code.

Sec. 21.

(1) This act shall be known and may be cited as the "probate code of 1939".
(2) This chapter shall be known and may be cited as the "Michigan adoption code".

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1998, Act 474, Imd. Eff. Jan. 4, 1999
Popular Name: Probate Code

710.21a General purposes of chapter.

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Sec. 21a.

The general purposes of this chapter are:

(a) To provide that each adoptee in this state who needs adoption services receives those services.

(b) To provide procedures and services that will safeguard and promote the best interests of each adoptee in need of adoption and that will protect the rights of all parties concerned. If conflicts arise between the rights of the adoptee and the rights of another, the rights of the adoptee shall be paramount.

(c) To provide prompt legal proceedings to assure that the adoptee is free for adoptive placement at the earliest possible time.

(d) To achieve permanency and stability for adoptees as quickly as possible.

(e) To support the permanency of a finalized adoption by allowing all interested parties to participate in proceedings regarding the adoptee.

History: Add. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004
Popular Name: Probate Code

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710.21b Court order or decree issued in another country; rights and obligations of parties.

Sec. 21b.

A court order or decree establishing the relationship of parent and child by adoption and issued by a court in another country is presumed to be issued in accordance with the laws of that country and shall be recognized in this state. The rights and obligations of the parties as to matters within the jurisdiction of this state shall be determined as though the order or decree were issued by a court of this state.

History: Add. 1994, Act 241, Eff. July 5, 1994
Popular Name: Probate Code

710.22 Definitions.

Sec. 22.

As used in this chapter:

(a) "Adoptee" means the individual who is to be adopted, regardless of whether the individual is a child or an adult.

(b) "Adoption attorney" means an attorney acting as counsel in an adoption proceeding or case.

(c) "Adult former sibling" means an individual who is 18 years of age or older and is related to an adult adoptee either biologically or through adoption by at least 1 common parent, regardless of whether the adult former sibling ever lived in the same household as the adult adoptee.

(d) "Agency placement" means a placement in which a child placing agency, the department, or a court selects the adoptive parent for the child and transfers physical custody of the child to the prospective adoptive parent.

(e) "Applicant" means an individual or individuals who desire to adopt a child and who have submitted an adoption application to a child placing agency.

(f) "Attending practitioner" means a licensed physician or a registered professional nurse certified as a nurse midwife by the Michigan board of nursing.

(g) "Best interests of the adoptee" or "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court to be applied to give the adoptee permanence at the earliest possible date:

(i) The love, affection, and other emotional ties existing between the adopting individual or individuals and the adoptee or, in the case of a hearing under section 39 of this chapter, the putative father and the adoptee.

(ii) The capacity and disposition of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, the putative father to give the adoptee love, affection, and guidance, and to educate and create a milieu that fosters the religion, racial identity, and culture of the adoptee.

(iii) The capacity and disposition of the adopting individual or individuals or, in the case of a hearing under

section 39 of this chapter, the putative father, to provide the adoptee with food, clothing, education, permanence, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.

(iv) The length of time the adoptee has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(v) The permanence as a family unit of the proposed adoptive home, or, in the case of a hearing under section 39 of this chapter, the home of the putative father.

(vi) The moral fitness of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, of the putative father.

(vii) The mental and physical health of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, of the putative father, and of the adoptee.

(viii) The home, school, and community record of the adoptee.

(ix) The reasonable preference of the adoptee, if the adoptee is 14 years of age or less and if the court considers the adoptee to be of sufficient age to express a preference.

(x) The ability and willingness of the adopting individual or individuals to adopt the adoptee's siblings.

(xi) Any other factor considered by the court to be relevant to a particular adoption proceeding, or to a putative father's request for child custody.

(h) "Born out of wedlock" means a child conceived and born to a woman who was not married from the conception to the date of birth of the child, or a child whom the court has determined to be a child born during a marriage but not the issue of that marriage.

(i) "Central adoption registry" means the registry established by the department under section 27b of this chapter to control the release of identifying adoption information.

(j) "Child" means an individual less than 18 years of age.

(k) "Child placing agency" means a private organization licensed under 1973 PA 116, MCL 722.111 to 722.128, to place children for adoption.

(l) "Consent" means a document in which all parental rights over a specific child are voluntarily relinquished to the court for placement with a specific adoptive parent.

(m) "Court" means the family division of circuit court of this state, or if the context requires, the court having jurisdiction over adoption in another state or country.

(n) "Department" means the department of health and human services.

(o) "Direct placement" means a placement in which a parent or guardian selects an adoptive parent for a child, other than a stepparent or an individual related to the child within the fifth degree by marriage, blood, or adoption, and transfers physical custody of the child to the prospective adoptive parent.

(p) "Formal placement" means a placement that is approved by the court under section 51 of this chapter.

(q) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(r) "Petitioner", except as used in section 68b of this chapter, means the individual or individuals who file an adoption petition with the court.

(s) "Placement" or "to place" means selection of an adoptive parent for a child and transfer of physical custody of the child to a prospective adoptive parent in compliance with this chapter.

(t) "Relative" means that term as defined in section 13a of chapter XIIA.

(u) "Release" means a document in which all parental rights over a specific child are voluntarily relinquished to the department or to a child placing agency.

(v) "Rescission petition" means a petition filed by an adult adoptee and his or her parent whose rights have been terminated to rescind the adoption in which a stepparent acquired parental rights and to restore parental rights of that parent according to section 66 of this chapter.

(w) "Suitable to be a parent of an adoptee" means a conclusion that there is no specific concern with respect to an individual that would suggest that placement of any child, or a particular child, in the home of the individual would pose a risk of harm to the physical or psychological well-being of the child.

(x) "Temporary placement" means a placement that occurs before court approval under section 51 of this chapter and that meets the requirements of section 23d of this chapter.

(y) "Within the fifth degree by marriage, blood, or adoption" means any of the following relationships: parent, step-parent, grandparent, step-grandparent, brother, step-brother, sister, step-sister, uncle, step-uncle, aunt, step-aunt, first cousin, step-first cousin, great aunt, step-great aunt, great uncle, step-great uncle, great grandparent, step-great grandparent, first cousin once removed, step-first cousin once removed, great great grandparent, step-great great grandparent, great great uncle, step-great great uncle, great great aunt, step-great great aunt, great great great grandparent, or step-great great great grandparent.

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History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1980, Act 116, Eff. Sept. 12, 1980 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;--

Am. 1990, Act 175, Imd. Eff. July 2, 1990 ;-- Am. 1992, Act 247, Imd. Eff. Nov. 19, 1992 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004 ;-- Am. 2022, Act 209, Imd. Eff. Oct. 7, 2022
Popular Name: Probate Code

710.22a Adoption placement or issuance of order prohibited; convictions.

Sec. 22a.

A child shall not be placed with a prospective adoptive parent and an adoption order shall not be issued if a person authorized to place the child or the court authorized to issue the order has reliable information that the prospective adoptive parent has been convicted under any of the following:

(a) Section 145a or 145c of the Michigan penal code, 1931 PA 328, MCL 750.145a and 750.145c.

(b) Sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g.

(c) A law of another state substantially similar to 1 of the sections included in subdivision (a) or (b).

History: Add. 1994, Act 430, Imd. Eff. Jan. 6, 1995 ;-- Am. 2003, Act 222, Imd. Eff. Dec. 2, 2003
Popular Name: Probate Code

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710.23 Hearing appeal brought under MCL 400.115k; powers of court.

Sec. 23.

The court has jurisdiction to hear an appeal brought under section 115k of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.115k of the Michigan Compiled Laws. The court may set aside, affirm, reverse, or modify a final determination of the department as provided in sections 101 to 106 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.301 to 24.306 of the Michigan Compiled Laws.

History: Add. 1980, Act 288, Eff. Oct. 17, 1980 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995
Popular Name: Probate Code

710.23a Direct placement by parent or guardian of child for adoption; temporary placement; formal placement; selection by parent or guardian not delegated; information to be provided by prospective adoptive parent, adoption attorney, or child placing agency; placement of child with stepparent or relative; attendance of child at hearing.

Sec. 23a.

(1) A parent or guardian having legal and physical custody of a child may make a direct placement of the child for adoption by making a temporary placement under section 23d of this chapter or a formal placement under section 51 of this chapter. A temporary placement becomes a formal placement when the court orders the termination of the rights of the parent or parents or the guardian and approves placement under section 51 of this chapter. A formal placement under section 51 of this chapter is not required to be preceded by a temporary placement.

(2) A parent or guardian shall personally select a prospective adoptive parent in a direct placement. The selection shall not be delegated.

(3) In a direct placement the prospective adoptive parent, an adoption attorney, or a child placing agency shall provide information about a prospective adoptive parent to the parent or guardian before placement. This information shall include the specific information contained in a preplacement assessment as described in section 23f of this chapter, and may include additional information requested by the parent or guardian. The information

does not have to include identifying information described in section 27(3) of this chapter. The parent or guardian and the prospective adoptive parent shall determine whether to exchange identifying information and whether to meet each other.

(4) A parent or guardian having legal and physical custody of a child may make a formal placement of the child for adoption under section 51 of this chapter with a stepparent or a relative.

(5) The court may allow the child to attend his or her adoption hearing held under this act.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004
Popular Name: Probate Code

710.23b Placement of child by child placing agency or department of social services; written authorization from parent or guardian for temporary placement; assistance; involvement of parent or guardian in selection of adoptive parent; validity of authorization.

Sec. 23b.

(1) A child placing agency or the department that acquires legal and physical custody of a child pursuant to section 29 of this chapter or chapter XIIA may formally place a child for adoption under section 51 of this chapter. A child placing agency that acquires written authorization pursuant to subsection (3) from the parent or guardian having legal custody of a child may make a temporary placement of the child under section 23d of this chapter. A child placing agency may assist a parent or guardian to make a direct placement under section 23a of this chapter.

(2) In an agency placement, a child placing agency or the department may involve the parent or guardian of a child in the selection of an adoptive parent and may facilitate the exchange of identifying information or meetings between a biological parent and an adoptive parent.

(3) In a written document signed by a witness and by the parent or guardian in the presence of the witness, a parent or guardian having legal and physical custody of a child may authorize a child placing agency to make a temporary placement of the child under section 23d of this chapter. If the parent of the child being temporarily placed is an unemancipated minor, the authorization is not valid unless it is also signed in the presence of the witness by a parent or guardian of that minor parent.

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History: Add. 1994, Act 222, Eff. Jan. 1, 1995
Popular Name: Probate Code

710.23c Placement of child by court.

Sec. 23c.

A court that acquires legal and physical custody of a child pursuant to chapter XIIA may formally place a child for adoption under section 51 of this chapter.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995
Popular Name: Probate Code

710.23d Temporary placement; procedures.

Sec. 23d.

(1) In a direct placement, a parent or guardian with legal and physical custody of a child may make a temporary placement of the child as prescribed by this section. In an agency placement, a child placing agency with written authorization from the parent or guardian as prescribed by section 23b of this chapter may make a temporary

placement of the child as prescribed by this section. A temporary placement shall meet all of the following requirements:

(a) The prospective adoptive parent with whom a child is temporarily placed has had a preplacement assessment completed within 1 year before the date of the transfer with a finding that the prospective adoptive parent is suitable to be a parent of an adoptee.

(b) In a direct placement, the parent or guardian is assisted by an adoption attorney or a child placing agency.

(c) In the presence of a witness who also signs the document, the parent, guardian, or representative of the child placing agency signs a statement evidencing the transfer of physical custody of the child. If the parent making the temporary placement is an unemancipated minor, the statement is not valid unless it is also signed in the presence of the witness by a parent or guardian of that minor parent. The statement shall contain all of the following:

(i) The date of the transfer of physical custody.

(ii) Language providing that the transfer is for the purpose of adoption by the prospective adoptive parent.

(iii) Language indicating that unless the parent or guardian and the prospective adoptive parent agree otherwise, the prospective adoptive parent has the authority to consent to all medical, surgical, psychological, educational, and related services for the child and language indicating that the parent or guardian otherwise retains full parental rights to the child being temporarily placed and that the temporary placement may be revoked by the filing of a petition under subsection (5).

(iv) Language providing that the person making the transfer has read a preplacement assessment of the prospective adoptive parent completed or updated within 1 year before the date of the transfer with a finding that the prospective adoptive parent is suitable to be a parent of an adoptee. If a child placing agency makes the transfer of physical custody, the statement shall include a verification that the child placing agency has given the parent or guardian who authorized the temporary placement an opportunity to review the preplacement assessment.

(v) Even if only 1 parent is making the temporary placement, the name and address of both parents of the child, including in the case of a child born out of wedlock, the name and the address of each putative father of the child, if known.

(d) In the presence of a witness who also signs the document, the prospective adoptive parent signs a statement setting forth the date of the transfer of physical custody and the name and address of the prospective adoptive parent and attesting to all of the following:

(i) That the prospective adoptive parent understands that the temporary placement will not become a formal placement until the parents consent or release their parental rights and the court orders the termination of parental rights and approves the placement and that the prospective adoptive parent must relinquish custody of the child within 24 hours after being served with an order under section 23e(2) of this chapter.

(ii) That, if the prospective adoptive parent is a Michigan resident, the prospective adoptive parent agrees to reside with the child in Michigan until formal placement occurs.

(iii) That the prospective adoptive parent agrees to obtain approval in compliance with the interstate compact on the placement of children, 1984 PA 114, MCL 3.711 to 3.717, before the child is sent, brought, or caused to be sent or brought into a receiving state as that term is defined in section 1 of the interstate compact on the placement of children, 1984 PA 114, MCL 3.711.

(iv) That the prospective adoptive parent submits to this state's jurisdiction.

(2) Not later than 2 days, excluding weekends and holidays, after a transfer of physical custody of a child in accordance with subsection (1), the adoption attorney or child placing agency who assists with the temporary placement or the child placing agency that makes the temporary placement shall submit to the court in the county in which the child's parent or guardian or the prospective adoptive parent resides, or in which the child is found, a report that contains all of the following:

(a) The date of the transfer of physical custody.

(b) The name and address of the parent or guardian or the child placing agency who made the temporary placement.

(c) The name and address of the prospective adoptive parent with whom the temporary placement was made.

(d) Even if only 1 parent is making the temporary placement, the name and address of both parents of the child, including, in the case of a child born out of wedlock, the name of each putative father, if known.

(e) The documents required under subsection (1)(c) and (d) and, if applicable, the authorization required under section 23b of this chapter.

(3) Not later than 30 days after the transfer of physical custody of a child under this section, the adoption attorney or child placing agency who assists with the temporary placement or the child placing agency that makes the temporary placement shall submit to the court that received the report described in subsection (2) a report indicating whether or not 1 of the following dispositions has occurred:

(a) A petition for adoption of the child has been filed.

(b) The child has been returned to the agency or to a parent or other person having legal custody.

(4) If the court has not received the report required under subsection (3) within 45 days after the transfer of physical custody of a child, the court shall immediately investigate and determine whether an adoption petition has been filed or the child has been returned to a parent or other person having legal custody. If the report required

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under subsection (3) or the court's investigation reveals that neither disposition has occurred, the court shall immediately report to the prosecutor, who shall immediately file a petition in the court that received the report described in subsection (2) for disposition of the child as required by section 23e of this chapter. If a petition has been filed under subsection (5), (6), or (7), the prosecutor is not required to file a petition.

(5) A parent or guardian who wishes to regain custody of a child who has been placed temporarily shall file a petition in the court that received the report described in subsection (2) requesting that the temporary placement be revoked and that the child be returned to the parent or guardian. Upon request of the parent or guardian, the adoption attorney or child placing agency who assisted in making the temporary placement shall assist the parent or guardian in filing the petition to revoke the temporary placement. If the temporary placement was made by a child placing agency under section 23b(3) of this chapter, the child placing agency shall file the petition on behalf of a parent or guardian who wishes to regain custody of the child.

(6) If a prospective adoptive parent with whom a child has been temporarily placed is either unwilling or unable to proceed with the adoption, the prospective adoptive parent may file a petition in the court that received the report described in subsection (2) for disposition of the child as required by section 23e of this chapter.

(7) If a child placing agency that temporarily placed a child is unable to proceed with an adoption because of the unavailability of a parent or guardian to execute a release, or if a child placing agency with legal custody of a child decides not to proceed with the adoption by a prospective adoptive parent with whom the child has been temporarily placed and the prospective adoptive parent refuses upon the agency's request to return the child to the agency, the child placing agency shall file a petition in the court that received the report described in subsection (2) for disposition of the child as required by section 23e of this chapter.

(8) Except as otherwise agreed to by the parties, the prospective adoptive parent with whom a child is temporarily placed under this section may consent to all medical, surgical, psychological, educational, and related services for the child.

(9) A hospital or attending practitioner shall not release a child to an individual or agency not otherwise legally entitled to the physical custody of the child unless all of the requirements of subsection (1) are met.

(10) Except as otherwise provided in this subsection, a parent or guardian who has signed an out-of-court release or out-of-court consent but wishes to request revocation of the out-of-court release or out-of-court consent shall submit a request for revocation to the adoption attorney representing the parent or guardian or the child placing agency that accepted the out-of-court release or witnessed the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court release or out-of-court consent was signed. The request for revocation is timely if delivered to the adoption attorney or the child placing agency not more than 5 days, excluding weekends and holidays, after the out-of-court release or out-of-court consent was signed. Upon receipt of a timely request for revocation, the adoption attorney or the child placing agency receiving the request for revocation shall assist the parent or guardian in filing the petition to revoke the out-of-court release or out-of-court consent with the court as soon as practicable. A parent or guardian may file this petition with the court on his or her own. If the parent or guardian files the petition on his or her own, the petition must be filed with the court not more than 5 days, excluding weekends and holidays, after the out-of-court release or out-of-court consent was signed.

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History: Add. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2004, Act 68, Imd. Eff. Apr. 20, 2004 ;-- Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004 ;-- Am. 2014, Act 117, Eff. Oct. 12, 2014
Popular Name: Probate Code

710.23e Temporary placement; hearing to determine custody; petition; ex parte order to return child to parent or guardian; petition requesting court jurisdiction; temporary disposition; powers of court; act as exclusive remedy.

Sec. 23e.

(1) Not later than 14 days after the filing of a petition by the prosecutor as required by section 23d(4) of this chapter, by a prospective adoptive parent as permitted in section 23d(6) of this chapter, or by a child placing agency as required by section 23d(7) of this chapter, the court shall hold a hearing to determine the custody of a child for whom a temporary placement has been made.

(2) Upon receiving a petition filed under section 23d(5) of this chapter, the court shall immediately issue an ex parte order directing the prospective adoptive parent to return the child to the parent or guardian with legal custody within 24 hours after receipt of the order, unless the court proceeds under subsection (3).

(3) The court may appoint an attorney to represent the child or refer the matter to the department. The attorney or the department may file a petition on the child's behalf requesting the court to take jurisdiction under section 2(b)

of chapter XIIA. If that petition has not been filed within 14 days after the court appoints an attorney or refers the matter to the department under this section, the court shall order the return of the child to the parent or guardian with legal custody. During the period before the petition for jurisdiction under section 2(b) of chapter XIIA is filed and a preliminary hearing is held or the return of custody is ordered, the court shall remove the child from the home of the prospective adoptive parent and make a temporary disposition appropriate for the welfare of the child as authorized by section 18 of chapter XIIA.

(4) Subject to subsection (2), the court may appoint a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, in response to a petition filed by the prospective adoptive parent or another individual interested in the child's welfare, and make a temporary disposition appropriate for the child's welfare as authorized by section 18 of chapter XIIA until an order of guardianship is entered.

(5) The court may order the return of a child to a child placing agency that has obtained legal custody of the child.

(6) The court may appoint a guardian ad litem for the child or for a minor parent of the child.

(7) This act provides the exclusive remedy for all custody disputes arising out of a temporary placement.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 2000, Act 55, Eff. Apr. 1, 2000
Popular Name: Probate Code

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710.23f Preplacement assessment.

Sec. 23f.

(1) In a direct placement, an individual seeking to adopt may request, at any time, that a preplacement assessment be prepared by a child placing agency.

(2) An individual requesting a preplacement assessment does not need to have located a prospective adoptee when the request is made or when the assessment is completed.

(3) An individual may request more than 1 preplacement assessment or may request that an assessment, once initiated, not be completed.

(4) If an individual is seeking to adopt a child from a particular child placing agency, the agency may require the individual to be assessed by its own employee, even if the individual has already had a favorable preplacement assessment completed by another child placing agency.

(5) A preplacement assessment is based upon personal interviews and visits at the residence of the individual being assessed, interviews of others who know the individual, and reports received under this subsection. The assessment shall contain all of the following information about the individual being assessed:

(a) Age, nationality, race or ethnicity, and any religious preference.

(b) Marital and family status and history, including the presence of other children or adults in the household and the relationship of those individuals to the adoptive parent.

(c) Physical and mental health, including any history of substance abuse.

(d) Educational and employment history and any special skills and interests.

(e) Property and income, including outstanding financial obligations as indicated in a current financial report provided by the individual.

(f) Reason for wanting to adopt.

(g) Any previous request for an assessment or involvement in an adoptive placement and the outcome of the assessment or placement.

(h) Whether the individual has ever been the respondent in a domestic violence proceeding or a proceeding concerning a child who was allegedly abused, dependent, deprived, neglected, abandoned, or delinquent, and the outcome of the proceeding.

(i) Whether the individual has ever been convicted of a crime.

(j) Whether the individual has located a parent interested in placing a child with the individual for adoption and a brief description of the parent and the child.

(k) Any fact or circumstance that raises a specific concern about the suitability of the individual as an adoptive parent, including the quality of the environment in the home, the functioning of other children in the household, and any aspect of the individual's familial, social, psychological, or financial circumstances that may be relevant to a determination that the individual is not suitable. A specific concern is one that suggests that placement of any child, or a particular child, in the home of the individual would pose a risk of harm to the physical or psychological well-being of the child.

(6) A child placing agency shall request an individual seeking a preplacement assessment to provide a document from the Michigan state police and the federal bureau of investigation describing all of the individual's criminal

convictions as shown by that agency's records, or stating that the agency's records indicate that the individual has not been convicted of a crime. Upon request of the individual and receipt of a signed authorization, the child placing agency shall obtain the criminal record from the law enforcement agency on the individual's behalf.

(7) A child placing agency shall request an individual seeking a preplacement assessment to undergo a physical examination conducted by a licensed physician, a licensed physician's assistant, or a certified nurse practitioner to determine that the individual is free from any known condition that would affect his or her ability to care for an adoptee. If an individual has had a physical examination within the 12 months immediately preceding his or her request for a preplacement assessment, he or she may submit a medical statement that is signed and dated by the licensed physician, licensed physician's assistant, or certified nurse practitioner verifying that he or she has had a physical examination within the previous 12-month period and is free from any known condition that would affect his or her ability to care for an adoptee. This subsection does not require new or additional third party reimbursement or worker's compensation benefits for services rendered.

(8) A preplacement assessment shall contain a list of the sources of information on which it is based. If the child placing agency determines that the information assessed does not raise a specific concern, the child placing agency shall find that the individual is suited to be an adoptive parent. If the child placing agency determines that the information assessed does raise a specific concern, the child placing agency shall find that the individual is not suitable to be an adoptive parent. The conclusion shall be supported by a written account of how 1 or more specific concerns pose a risk to the physical or psychological well-being of any child or a particular child. If the conclusion of a preplacement assessment regarding the suitability of the individual differs from the conclusion in a prior assessment, the child placing agency shall explain and justify the difference.

(9) An individual who receives a preplacement assessment with a conclusion of unsuitability may seek a review of the assessment by the court after filing an adoption petition. The court may order an agent or employee of the court to make an investigation and report to the court before the hearing. If, at the hearing, the court finds by clear and convincing evidence that the conclusion of unsuitability is not justified, the person with legal custody of the child may place the child with that individual. If the court determines that the conclusion of unsuitability is justified, it shall order that the child shall not be placed with the individual.

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History: Add. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 2006, Act 41, Imd. Eff. Mar. 2, 2006
Popular Name: Probate Code

710.23g Requirement to provide services that conflict with child placing agency's religious beliefs prohibited; adverse action against child placing agency prohibited.

Sec. 23g.

In accordance with sections 14e and 14f of 1973 PA 116, MCL 722.124e and 722.124f, a child placing agency shall not be required to provide adoption services if those adoption services conflict with, or provide adoption services under circumstances that conflict with, the child placing agency's sincerely held religious beliefs contained in a written policy, statement of faith, or other document adhered to by the child placing agency. Also, in accordance with sections 14e and 14f of 1973 PA 116, MCL 722.124e and 722.124f, the state or a local unit of government shall not take an adverse action against a child placing agency on the basis that the child placing agency has declined or will decline to provide adoption services that conflict with, or provide adoption services under circumstances that conflict with, the child placing agency's sincerely held religious beliefs contained in a written policy, statement of faith, or other document adhered to by the child placing agency.

History: Add. 2015, Act 54, Eff. Sept. 9, 2015
Compiler's Notes: Enacting section 1 of Act 54 of 2015 provides:"Enacting section 1. It is the intent of the legislature to protect child placing agencies' free exercise of religion protected by the United States constitution and the state constitution of 1963. This amendatory act is not intended to limit or deny any person's right to adopt a child."

710.24 Petition for adoption; filing; jurisdiction; verification; contents; preplacement assessment; omission of certain identifying information.

Sec. 24.

(1) Except as otherwise provided in this section, if a person 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 or her spouse, if married, shall file a petition with the court of the county in which the petitioner resides, where the adoptee is found or, where the parent's parental rights were terminated or are pending termination. If both parents' parental rights were terminated at different times and in different courts, a petition filed under this section shall be filed in the court of the county where parental rights were first terminated. If there has been a temporary placement of the child, the petition for adoption shall be filed with the court that received the report described in section 23d(2) of this chapter.

(2) Notwithstanding any other provision in this section, the court may allow either of the following to occur:

(a) A married individual to adopt an adult without his or her spouse joining in the petition if all of the interested parties consent.

(b) A married individual to adopt without his or her spouse joining in the petition if the failure of the other spouse to join in the petition or to consent to the adoption is excused by the court for good cause shown or in the best interest of the child.

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

(4) The petition for adoption shall be verified by each petitioner and shall contain the following information:

(a) The name, date and place of birth, and place of residence of each petitioner, including the maiden name of the adopting mother.

(b) Except as otherwise provided in subsection (7), the name, date and place of birth, and place of residence if known of the adoptee.

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

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

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

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

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

(5) In a direct placement, the petitioner shall attach to the petition a verified statement certifying that the petitioner has been informed of the availability of counseling services and whether the petitioner has received counseling.

(6) Except as otherwise provided in this subsection, in a direct placement, the petitioner shall attach a copy of a preplacement assessment of the petitioner completed or updated within 1 year before the petition is filed with a finding that the petitioner is suitable to be a parent of an adoptee, copies of all other preplacement assessments of the petitioner, if any others have been completed, and a verified statement stating that no preplacement assessments of the petitioner have been completed other than those attached to the petition and explaining any preplacement assessments of the petitioner that have been initiated but not completed. If the petitioner is seeking review of a preplacement assessment under section 23f(8) of this chapter, the petitioner may comply with this subsection by attaching a copy of that preplacement assessment and a copy of the application for review, together with copies of all other preplacement assessments and the verified statement required by this section.

(7) In a direct placement in which the parties have elected not to exchange identifying information, the information required by subsection (4)(f) and (g) and the surname and place of residence of the adoptee required under subsection (4)(b) may be omitted. The attorney or child placing agency assisting in the adoption shall file a verified statement containing the omitted information.

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History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004 ;-- Am. 2012, Act 614, Imd. Eff. Jan. 9, 2013 ;-- Am. 2014, Act 531, Imd. Eff. Jan. 14, 2015 ;-- Am. 2016, Act 191, Eff. Sept. 19, 2016
Popular Name: Probate Code

710.24a Interested parties; appointment of guardian to defeat parent's status as interested party.

Sec. 24a.

(1) Interested parties in a petition for adoption are all of the following:

(a) The petitioner or petitioners.
(b) The adoptee, if over 14 years of age.
(c) A minor parent, adult parent, or surviving parent of an adoptee, unless 1 or more of the following apply:
(i) The rights of the parent have been terminated by a court of competent jurisdiction.
(ii) A guardian of the adoptee, with specific authority to consent to adoption, has been appointed.
(iii) A guardian of the parent, with specific authority to consent to adoption, has been appointed.
(iv) The rights of the parent have been released.
(v) The parent has consented to the granting of the petition.
(d) The department or a child placing agency to which the adoptee has been, or for purposes of subsection (3) is proposed to be, released or committed by an order of the court.
(e) A parent, guardian, or guardian ad litem of an unemancipated minor parent of the adoptee.
(f) The court with permanent custody of the adoptee.
(g) A court with continuing jurisdiction over the adoptee.
(h) A child placing agency of another state or country that has authority to consent to adoption.
(i) The guardian or guardian ad litem of an interested party.
(2) Interested parties in a petition for a hearing to identify the father of an adoptee and to determine or terminate his rights are all of the following:
(a) The persons set forth in subsection (1).
(b) A putative father of the adoptee.
(3) Interested parties in a proceeding relating to the execution of a voluntary release are all of the following:
(a) The adoptee, if over 5 years of age.
(b) The department or a child placing agency to which the adoptee is proposed to be released.
(c) The person executing the release of parental rights.
(4) Interested parties in a rescission petition are all of the following:
(a) The petitioners.
(b) The stepparent who adopted the adult adoptee.
(c) The spouse of the parent whose rights were terminated.
(5) Interested parties in a hearing related to temporary placement are all of the following:
(a) The parent or guardian who made or authorized the temporary placement.
(b) The parent or guardian of an unemancipated minor parent of the adoptee.
(c) A child placing agency that was authorized under section 23b of this chapter to make the temporary placement.
(d) If only 1 parent made or authorized the temporary placement, the other parent and each putative father of the adoptee.
(e) The prospective adoptive parent with whom temporary placement was made.
(f) The prosecutor who filed a petition under section 23d of this chapter.
(g) The guardian ad litem of any interested party, if a guardian ad litem has been appointed.
(6) In the interest of justice, the court may require additional parties to be served.
(7) The court shall not appoint a guardian of the adoptee or of a parent solely for the purpose of defeating that parent's status as an interested party under this section.

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History: Add. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1992, Act 247, Imd. Eff. Nov. 19, 1992 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004
Popular Name: Probate Code

710.25 Proceedings; priority; disposition; adjournment or continuance.

Sec. 25.

(1) All proceedings under this chapter shall be considered to have the highest priority and shall be advanced on the court docket so as to provide for their earliest practicable disposition.
(2) An adjournment or continuance of a proceeding under this chapter shall not be granted without a showing of good cause.

History: Add. 1982, Act 72, Imd. Eff. Apr. 14, 1982
Popular Name: Probate Code

710.26 Documentation required; informing adoptee and adoptive parents of MCL 710.27a, 710.27b, 710.68, 710.68a, and 710.68b; applicability of subsection (2); providing adoptee and adoptive parents with list of adoption support groups; applicability of subsection (3).

Sec. 26.

(1) Subsequent to or concurrent with the filing of the adoption petition but before the hearing on the petition by the court, the petitioner, the department, an employee or agent of the court, or a child placing agency, as appropriate, shall file all of the following documentation:

(a) Except in instances of parental consent to adoption, a copy of each release or order terminating parental rights over the child having a bearing upon the authority of a person to execute the consent to adoption.

(b) A copy of the order of commitment, if a commitment was made to a child placing agency or to the department.

(c) Proof of a guardian's appointment and authorization to execute the release or consent to the child's adoption.

(d) A copy of the consent to adoption as required in this chapter. If the consent is required pursuant to section 43(1)(b), (c), or (d) of this chapter, the consent shall be filed concurrently with the filing of the adoption petition unless a motion is filed pursuant to section 45 of this chapter.

(e) A copy of the adoptee's birth certificate, verification of birth, hospital birth registration, or other satisfactory proof of date and place of birth, if obtainable, unless this filing is waived by written order of the judge.

(f) The report of the investigation prepared pursuant to section 46 of this chapter.

(g) If the petition alleges nonsupport and noncommunication by a parent, as described in section 51(6), an affidavit verifying that fact.

(h) Any additional facts considered necessary by the court.

(2) Before or at the time of the hearing on the adoption petition, the court shall inform the adoptee, if he or she is 14 years old or older, and the adoptive parents of the provisions described in sections 27a, 27b, 68, 68a, and 68b. This subsection also applies to a stepparent adoption and the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

(3) Before or at the time of the hearing on the adoption petition, the court shall provide the adoptee, if he or she is 14 years old or older, and the adoptive parents with a list of adoption support groups. This subsection also applies to a stepparent adoption and to the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

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History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1980, Act 509, Imd. Eff. Jan. 26, 1981 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1990, Act 175, Imd. Eff. July 2, 1990 ;-- Am. 1994, Act 239, Eff. July 5, 1994 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998
Popular Name: Probate Code

710.27 Nonidentifying information to be provided prospective adoptive parent; time of submission; supplemental information; compilation; maintenance; transmission; destruction of information as misdemeanor; forwarding adoption records; adoptions to which section applicable; exchanging identifying information.

Sec. 27.

(1) Before placement of a child for adoption, a parent or guardian, a child placing agency, the department, or the court that places the child shall compile and provide to the prospective adoptive parent a written document containing all of the following nonidentifying information that is not made confidential by state or federal law and that is reasonably obtainable from the parents, relatives, or guardian of the child; from any person who has had physical custody of the child for 30 days or more; or from any person who has provided health, psychological, educational, or other services to the child:

(a) Date, time, and place of birth of the child including the hospital, city, county, and state.

(b) An account of the health and genetic history of the child, including an account of the child's prenatal care; medical condition at birth; any drug or medication taken by the child's mother during pregnancy; any subsequent medical, psychological, psychiatric, or dental examination and diagnosis; any psychological evaluation done when the child was under the jurisdiction of the court; any neglect or physical, sexual, or emotional abuse suffered by the child; and a record of any immunizations and health care the child received while in foster or other care.

(c) An account of the health and genetic history of the child's biological parents and other members of the child's family, including any known hereditary condition or disease; the health of each parent at the child's birth; a summary of the findings of any medical, psychological, or psychiatric evaluation of each parent at the time of placement; and, if a parent is deceased, the cause of and the age at death.

(d) A description of the child and the child's family of origin, including all of the following:

(i) Given first name of the child at birth.

(ii) The age and sex of siblings of the child.

(iii) The child's enrollment and performance in school, results of educational testing, and any special educational needs.

(iv) The child's racial, ethnic, and religious background, and a general description of the child's parents, including the age of the child's parents at the time of termination of parental rights, and the length of time the parents had been married at the time of placement.

(v) An account of the child's past and existing relationship with any relative, foster parent, or other individual or facility with whom the child has lived or visited on a regular basis. The account shall not include names and addresses of individuals.

(vi) The levels of educational, occupational, professional, athletic, or artistic achievement of the child's family.

(vii) Hobbies, special interests, and school activities of the child's family.

(viii) The circumstances of any judicial order terminating the parental rights of a parent for abuse, neglect, abandonment, or other mistreatment of the child.

(ix) Length of time between the termination of parental rights and adoptive placement and whether the termination was voluntary or court-ordered.

(x) Any information necessary to determine the child's eligibility for state or federal benefits, including financial, medical, or other assistance.

(2) Information required by subsection (1) that is unobtainable before temporary placement shall be submitted by the time of formal placement if reasonably obtainable. The information required by subsection (1) shall be supplemented by other nonidentifying background information that the parent or guardian, child placing agency, department, or court considers appropriate.

(3) A parent or guardian, the department, a child placing agency, or a court that places an adoptee under this chapter shall compile all of the following identifying information if reasonably obtainable:

(a) Name of the child before placement in adoption.

(b) Name of each biological parent at the time of termination of parental rights.

(c) The most recent name and address of each biological parent.

(d) Names of the biological siblings at the time of termination.

(4) The information required by subsections (1) to (3) shall be maintained by the child placing agency, department, or court that places the child or, in the case of a direct placement by a parent or guardian, by the court that approves the placement. In a direct placement, the parent or guardian shall transmit the information required under subsections (1) to (3) to the court before the termination of parental rights. An employee or agent of a child placing agency, the court, or the department who intentionally destroys information required to be maintained under this section is guilty of a misdemeanor.

(5) If a child placing agency ceases to operate, the agency's adoption records shall be forwarded to the department. A branch or associate agency of a child placing agency that ceases to operate shall forward its records to the central agency of the branch or associate agency.

(6) This section does not apply to a stepparent adoption or to the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

(7) This section does not prevent a parent or guardian and prospective adoptive parent from exchanging identifying information or meeting pursuant to sections 23a and 23b.

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History: Add. 1980, Act 116, Eff. Sept. 12, 1980 ;-- Am. 1988, Act 505, Eff. Mar. 30, 1989 ;-- Am. 1990, Act 175, Imd. Eff. July 2, 1990 ;-- Am. 1994, Act 208, Eff. Jan. 1, 1995

Popular Name: Probate Code

710.27a Statement consenting to or denying release of identifying information; statement providing notice that former parent deceased; statement releasing adult former sibling's name and address; presumption of release of certain identifying information.

Sec. 27a.

(1) A former parent, including a former parent whose parental rights were terminated under chapter XII of this

act, may file with the central adoption registry a statement consenting to or denying the release of the identifying information about that parent specified in section 27(3)(b) and (c). The consent or denial may be filed, updated, or revoked at any time.

(2) An adult former sibling may file a statement with the central adoption registry providing notice that a former parent is deceased. A copy of the former parent's death certificate or other evidence of the former parent's death shall be attached to the statement.

(3) An adult former sibling who knows the birth name of an adoptee may file with the central adoption registry a statement consenting to the release of the adult former sibling's name and address to the adult adoptee. The statement may be filed, updated, or revoked at any time.

(4) At the time of termination of parental rights under this chapter or chapter XIIA, the court shall inform each parent of the provisions described in this section and sections 27b, 68, 68a, and 68b. The court shall inform each parent that the parent's consent to the release of identifying information about that parent specified in section 27(3)(b) and (c) shall be presumed unless the parent files a statement with the central adoption registry denying the release of the information about that parent. The court shall explain the parent's right to file, update, or revoke the denial at any time, and shall provide each parent with the forms prescribed under section 27b.

History: Add. 1994, Act 208, Eff. Jan. 1, 1995 ;-- Am. 2012, Act 385, Imd. Eff. Dec. 19, 2012
Popular Name: Probate Code

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710.27b Central adoption registry; establishment; maintenance; statements to be kept on file; forms; transmission of clearance reply; attachments; transmission of statement releasing former adult sibling's name and address.

Sec. 27b.

(1) The department shall establish and maintain a central adoption registry to control the release of identifying information described in section 27(3).

(2) The central adoption registry shall keep on file the statements of former parents consenting to or denying the release of identifying information and the statements of adult former siblings described in section 27a(2) and (3).

(3) The department shall develop forms for former parents to use to consent to, deny, or revoke a consent to or denial of, the release of identifying information and forms for adult former siblings to use to provide notice of the death of a former parent and to consent to the release of the adult former sibling's name and address to an adult adoptee. The department shall make the forms available to child placing agencies and the court. The forms shall include the current name and address of the former parent or adult former sibling. The denial form shall contain a space for the former parent to indicate, if he or she wishes, the reason why he or she does not wish to be identified or contacted. The department shall also develop and distribute clearance request and reply forms to be used by child placing agencies, the department, and the court to request and receive information from the central adoption registry pursuant to section 68(5) and (8).

(4) Upon receipt of a clearance request form from a child placing agency or the department or court pursuant to section 68(5), the central adoption registry shall transmit to the requester a clearance reply form indicating whether a particular former parent has filed with the registry a statement either denying or consenting to the release of identifying information or whether a former parent is deceased. The central adoption registry shall attach a copy of the statement consenting to or denying the release of identifying information. Once a request for information has been received by the central adoption registry, a subsequent statement submitted by a former parent consenting to the release of identifying information or revoking a previous denial of release of identifying information shall be transmitted to the person who requested the information.

(5) Upon receipt of a clearance request form from a child placing agency or the department or court pursuant to section 68(8), the central adoption registry shall transmit to the requester a statement from an adult former sibling consenting to the release of the adult former sibling's name and address to an adult adoptee. Once a request for information has been received by the central adoption registry, a subsequent statement submitted by an adult former sibling consenting to the release of the adult former sibling's name and address shall be transmitted to the person who requested the information.

History: Add. 1994, Act 208, Eff. Jan. 1, 1995
Popular Name: Probate Code

710.28 Release; persons authorized to execute; release to child placing agency or department; advising parent or guardian of child placing agencies; advising agencies of child's availability for adoption; release of child by agency to department; child as state ward; proof accompanying release.

Sec. 28.

(1) Subject to this section and section 29 of this chapter, a release shall be executed:
(a) By each parent of a child to be adopted or the surviving parent, except under the following circumstances:
(i) The rights of the parent have been terminated by a court of competent jurisdiction.
(ii) A guardian of the child has been appointed.
(iii) A guardian of a parent has been appointed.
(b) By the authorized representative of a child placing agency to whom the child has been committed by an order of the court.
(c) By the authorized representative of the child placing agency to whom the child has been released.
(d) By the guardian of the child, subject to subsection (3), if a guardian has been appointed.
(e) By the guardian of a parent, subject to subsection (4), if a guardian has been appointed.
(2) If the parent of the child to be adopted is an unemancipated minor, that parent's release is not valid unless a parent, guardian, or guardian ad litem of that minor parent has also executed the release.
(3) The guardian of the child to be adopted may not execute a release of the child pursuant to subsection (1) unless the guardian has first obtained authority to execute the release from the court that appointed the guardian.
(4) The guardian of a parent may not execute a release of the parent's child pursuant to subsection (1) unless the guardian has first obtained authority to execute the release from the court that appointed the guardian. Such a release shall have the same effect as if the release were executed by the parent.
(5) A release shall be given only to a child placing agency or to the department.
(6) Before the department arranges a release from a parent or guardian, a representative of the department shall advise the parent or guardian about child placing agencies serving the county and, upon the parent's or guardian's request, shall refer the parent or guardian to a child placing agency. After the release of a child by a parent or guardian to the department, the department shall advise the child placing agencies serving the county that the child is available for adoption.
(7) If a child was released for adoption or committed to a child placing agency, that agency may release that child to the department and the department shall accept the release.
(8) Upon release of a child to the department pursuant to this section, the child becomes a state ward.
(9) Where applicable under this section, proof of the termination of parental rights, release of parental rights, appointment, authorization, or commitment shall accompany the release.

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History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1990, Act 175, Imd. Eff. July 2, 1990 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998
Popular Name: Probate Code

710.29 Release; separate instrument; persons before whom release executed and acknowledged; execution in another state or country; out-of-court release; verified statement; investigation; explaining legal rights to parent or guardian; order terminating rights; order committing child to child placing agency or department; foster care funding; termination of jurisdiction; hearing to consider revocation of release.

Sec. 29.

(1) Except as otherwise provided in subsections (5) to (11), a release shall be by a separate instrument executed before a judge of the court or a juvenile court referee. If a parent's or guardian's release is executed before a judge or referee as provided in this subsection, a verbatim record of testimony related to execution of the release shall be made.
(2) If the person from whom a release is required is in the armed services or is in prison, the release may be executed and acknowledged before an individual authorized by law to administer oaths.
(3) If the release is to be given by an authorized representative of a child placing agency that has jurisdiction of the child to be adopted, the release may be executed and acknowledged before an individual authorized by law to administer oaths.
(4) If the release is executed in another state or country, the court having jurisdiction over the adoption

proceeding in this state shall determine whether the release was executed in accordance with the laws of that state or country or the laws of this state and shall not proceed unless it finds that the release was so executed.

(5) A parent or guardian may sign an out-of-court release in front of and witnessed by an adoption attorney representing the parent or guardian and a child placing agency caseworker. An out-of-court release signed under this subsection must comply with all of the following:

(a) The out-of-court release shall not be signed until after a 72-hour waiting period that begins at the time of the child's birth has expired.

(b) If the parent signing the out-of-court release is an unemancipated minor, the out-of-court release is not valid unless it is also signed by a parent or guardian of that unemancipated minor parent in the presence of the witnesses described in this subsection.

(c) An out-of-court release must be accompanied by the verified statement described in subsection (6) and a statement regarding relinquishment of parental rights that includes all of the following:

(i) The right to have or to seek care and custody of the child.

(ii) The right to have or to seek parenting time with the child.

(iii) The right to inherit from the child or have the child inherit from the parent.

(iv) The right to services and earnings of the child.

(v) The right to determine the child's schooling, religious training, and parenting practices.

(d) In separate paragraphs with sufficient space in the margin for a parent to place his or her initials beside each paragraph, the out-of-court release must state the following:

(i) I have read or had read to me each of my rights as a parent described in section 29(5)(c) of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.29, and I understand these rights.

(ii) I am signing the out-of-court release as a free and voluntary act on my part, and I have been advised that I cannot be forced to sign the out-of-court release for any reason.

(iii) I have not been given or promised any money or other thing of value in exchange for signing the out-of-court release.

(iv) If I sign the out-of-court release, I understand that I am giving up all of my parental rights and authorizing the court to permanently terminate all of my parental rights, unless the court allows me to revoke my out-of-court release.

(v) It has been explained to me and I understand all of the following:

(A) I am not required to sign an out-of-court release.

(B) I may make a temporary placement of my child with the prospective adoptive parent or parents, if I have not already done so, or I may continue the temporary placement I have already made, until I choose to sign a release in court or sign an out-of-court release.

(C) I may request revocation of the out-of-court release I have signed by submitting a timely written request for revocation.

(D) If I request a revocation of the out-of-court release, I must appear before the court so the court may consider whether to grant the revocation.

(vi) I have been advised that I may submit a request for revocation in writing to the adoption attorney or child placing agency that accepted the out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed or I may petition the court on my own for revocation of the out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed.

(vii) If I submit a timely request for revocation, the court may grant the request or deny the request depending on my fitness and immediate ability to properly care for the child and whether the best interests of the child would be served by the revocation.

(e) The out-of-court release must contain the contact information for both the adoption attorney representing the parent or guardian and the child placing agency that accepted the out-of-court release specifying where a written request for revocation may be submitted, including a postal mailing address, overnight carrier address, fax number, and electronic mail address. A request for revocation may not be submitted to the adoption attorney representing the parent or guardian or the child placing agency that accepted the out-of-court release by telephone or text message.

(f) The following statement must appear immediately above the signature of the parent or guardian executing the out-of-court release: "I acknowledge that I am signing this out-of-court release freely and voluntarily, after my parental rights have been explained to me and any questions I may have about it have been fully answered. I understand the rights I am giving up and that an order terminating my parental rights, when entered by the court, is a permanent termination of all of my parental rights.".

(6) A release by a parent or guardian shall be accompanied by a verified statement signed by the parent or guardian that contains all of the following:

(a) That the parent or guardian has received a list of support groups and, if the release is to a child placing agency, a copy of the written document described in section 6(1)(c) of the foster care and adoption services act, 1994 PA 203, MCL 722.956.

(b) That the parent or guardian has received counseling related to the adoption of his or her child or waives the

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counseling with the signing of the verified statement.

(c) That the parent or guardian has not received or been promised any money or anything of value for the release of the child, except for lawful payments that are itemized on a schedule filed with the release.

(d) That the validity and finality of the release is not affected by any collateral or separate agreement between the parent or guardian and the child placing agency, or the parent or guardian and the prospective adoptive parent.

(e) That the parent or guardian understands that it serves the child's welfare for the parent to keep the child placing agency or department informed of any health problems that the parent develops that could affect the child.

(f) That the parent or guardian understands that it serves the child's welfare for the parent or guardian to keep his or her address current with the child placing agency or department in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years of age or older.

(7) A release by a parent or a guardian of the child shall not be executed until after the investigation the court considers proper and until after the judge, referee, or other individual authorized in subsection (2) has fully explained to the parent or guardian the legal rights of the parent or guardian and the fact that the parent or guardian by virtue of the release voluntarily relinquishes permanently his or her rights to the child; and, if the child is over 5 years of age, the court has determined that the child is best served by the release. If an out-of-court release is signed under subsection (5), the adoption attorney representing the parent or guardian who witnessed the out-of-court release and a caseworker from the child placing agency that accepted the out-of-court release shall fully explain to the parent or guardian his or her legal rights and the fact that the parent or guardian by virtue of the out-of-court release voluntarily relinquishes permanently his or her rights to the child.

(8) Except as otherwise provided in this subsection, upon the release of a child by a parent or guardian, the court immediately shall issue an order terminating the rights of that parent or guardian to that child. If an out-of-court release has been signed under subsection (5), not sooner than 5 days, excluding weekends and holidays, after the out-of-court release was signed, the court shall issue an order terminating the rights of the parent or guardian to that child. If the rights of both parents, the surviving parent, or the guardian have been terminated, the court shall issue an order committing the child to the child placing agency or department to which the release was given.

(9) The court shall authorize foster care funding pending expiration of the period of appeal or rehearing as provided in sections 64 and 65 of this chapter, and pending disposition of any appeal or rehearing, for all persons committed to a child placing agency. Foster care funding authorized under this subsection shall exclude the administrative costs of the child placing agency. The costs of foster care shall be paid through the use of the child care fund as provided by section 117c of the social welfare act, 1939 PA 280, MCL 400.117c, or by any successor statute. When foster care funding is authorized according to this subsection, the court shall send a copy of the order to the department. Upon receiving a copy of this order, the department shall reimburse the court child care fund of the county where the court order for foster care funding was made in the total amount of the court ordered payment. The reimbursement shall be made monthly.

(10) Entry of an order terminating the rights of both parents under subsection (8) terminates the jurisdiction of the circuit court over the child in any divorce or separate maintenance action.

(11) Except as otherwise provided in subsection (12), upon petition of the same person or persons who executed the release and of the department or child placing agency to which the child was released, the court with which the release was filed may grant a hearing to consider whether the release should be revoked. A release may not be revoked if the child has been placed for adoption unless the child is placed as provided in section 41(2) of this chapter and a petition for rehearing or claim of appeal is filed within the time required. A verbatim record of testimony related to a petition to revoke a release shall be made.

(12) Except as otherwise provided in this subsection, a parent or guardian who has signed an out-of-court release but wishes to request revocation of the out-of-court release shall submit a request for revocation to the adoption attorney representing the parent or guardian or the child placing agency that accepted the out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed. The request for revocation from the parent or guardian must be submitted in writing by the parent or guardian who signed the out-of-court release to the adoption attorney representing the parent or guardian or a caseworker from the child placing agency that accepted the out-of-court release. The request for revocation is timely if delivered to the adoption attorney or the child placing agency not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed. Upon receipt of a timely request for revocation, the adoption attorney or the child placing agency receiving the request for revocation shall assist the parent or guardian in filing the petition to revoke the out-of-court release with the court as soon as practicable. A parent or guardian may file this petition with the court on his or her own. If the parent or guardian files the petition on his or her own, the petition must be filed with the court not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed.

(13) The court in which the out-of-court release was filed may deny the request for revocation under subsection (14).

(14) If a petition to revoke an out-of-court release is filed with the court, timely notice of revocation does not immediately result in the return of the child to the parent or guardian. A hearing before a judge is required to determine all of the following unless a child placing agency accepting the out-of-court release or the adoptive

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parent or parents agree to the revocation:

(a) Whether the request for revocation was given in a timely and proper manner.

(b) Whether good cause exists to determine that the out-of-court release was not signed voluntarily. If the court finds that the out-of-court release was not signed voluntarily, the out-of-court release is invalid and custody of the child shall be returned to the parent or guardian. If the court finds that the out-of-court release was signed voluntarily, the court shall proceed under subdivision (c).

(c) Whether the best interest of the child will be served by any of the following:

(i) Returning custody of the child to the parent or guardian.

(ii) Continuing the adoption proceeding commenced or intended to be commenced by the adoptive parent or parents.

(iii) Disposition appropriate to the child's welfare as authorized by section 18 of chapter XIIA under an ex parte order entered by the court.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1976, Act 382, Imd. Eff. Dec. 28, 1976 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2014, Act 117, Eff. Oct. 12, 2014
Popular Name: Probate Code

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710.31 Child born out of wedlock; inability to obtain release or consent of natural father; release by mother; petition of dependency or neglect; order authorizing temporary care; delaying formal execution of mother's release.

Sec. 31.

(1) Except as provided in section 23d of this chapter, if a child is born out of wedlock and the release or consent of the biological father cannot be obtained, the child shall not be placed for adoption until the parental rights of the father are terminated by the court as provided in section 37 or 39 of this chapter, by the court pursuant to chapter XIIA, or by a court of competent jurisdiction in another state or country.

(2) Pending the termination or other disposition of the rights of the father of a child born out of wedlock, the mother may execute a release terminating her rights to the child. If the mother releases the child, the child placing agency or department to which the child is released may file a petition of dependency or neglect pursuant to chapter XIIA. Pending disposition of the dependency or neglect petition, the court may enter an order authorizing temporary care of the child.

(3) At the request of the mother, her formal execution of a release or consent shall be delayed until after court determination of the status of the putative father's request for custody of the child.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995
Popular Name: Probate Code

710.33 Notice of intent to claim paternity.

Sec. 33.

(1) Before the birth of a child born out of wedlock, a person claiming under oath to be the father of the child may file a verified notice of intent to claim paternity with the court in any county of this state. The form of the notice shall be prescribed by the director of the department of public health and provided to the court. The notice shall include the claimant's address. On the next business day after receipt of the notice the court shall transmit the notice to the vital records division of the department of public health. If the mother's address is stated on the notice, the vital records division shall send a copy of the notice by first-class mail to the mother of the child at the stated address.

(2) A person filing a notice of intent to claim paternity shall be presumed to be the father of the child for purposes of this chapter unless the mother denies that the claimant is the father. Such a notice is admissible in a paternity proceeding under Act No. 205 of the Public Acts of 1956, as amended, being sections 722.711 to 722.730 of the Michigan Compiled Laws, and shall create a rebuttable presumption as to the paternity of that child for

purposes of that act. Such a notice shall create a rebuttable presumption as to paternity of the child for purposes of dependency or neglect proceedings under chapter 12a.

(3) A person who timely files a notice of intent to claim paternity shall be entitled to notice of any hearing involving that child to determine the identity of the father of the child and any hearing to determine or terminate his paternal rights to the child.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975
Popular Name: Probate Code

710.34 Ex parte petition evidencing intent to release or consent; notice of intent to release or consent; form.

Sec. 34.

(1) In order to provide due notice at the earliest possible time to a putative father who may have an interest in the custody of an expected child or in the mother's intended release of an expected child for adoption or consent to adoption of the expected child, and in order to facilitate early placement of a child for adoption, a woman pregnant out of wedlock may file with the court an ex parte petition which evidences her intent to release her expected child for adoption or to consent to the child's adoption, which indicates the approximate date and location of conception and the expected date of her confinement, which alleges that a particular person is the putative father of her expected child, and which requests the court to notify the putative father about his rights to file a notice of intent to claim paternity pursuant to section 33. The petition may allege more than 1 putative father where circumstances warrant. The petition shall be verified. Upon the filing of the petition, the court shall issue a notice of intent to release or consent, which notice shall be served upon the putative father by any officer or person authorized to serve process of the court. Proof of service shall be filed with the court.

(2) A notice of intent to release or consent shall:

(a) Indicate the approximate date and location of conception of the child and the expected date of confinement of the mother.

(b) Inform the putative father of his right under section 33(1) to file a notice of intent to claim paternity before the birth of the child.

(c) Inform the putative father of the rights to which his filing of a notice of intent to claim paternity will entitle him under section 33(3).

(d) Inform the putative father that his failure to file a notice of intent to claim paternity before the expected date of confinement or before the birth of the child, whichever is later, shall constitute a waiver of his right to receive the notice to which he would otherwise be entitled under section 33(3) and shall constitute a denial of his interest in custody of the child, which denial shall result in the court's termination of his rights to the child.

(3) The form of the notice of intent to release or consent shall be approved by the supreme court administrator and shall be consistent with this section.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998
Popular Name: Probate Code

710.36 Hearing to determine whether child born out of wedlock and to determine identity and rights of father; filing proof of service of notice of intent or acknowledgment; copy of notice of intent to claim paternity; notice of hearing; contents; filing proof of service of notice of hearing; waiver; evidence of identity; affidavit or verified written declaration; finding; adjournment of proceedings.

Sec. 36.

(1) If a child is claimed to be born out of wedlock and the mother executes or proposes to execute a release or consent relinquishing her rights to the child or joins in a petition for adoption filed by her spouse, and the release or consent of the natural father cannot be obtained, the judge shall hold a hearing as soon as practical to determine whether the child was born out of wedlock, to determine the identity of the father, and to determine or terminate the rights of the father as provided in this section and sections 37 and 39 of this chapter.

(2) Proof of service of a notice of intent to release or consent or the putative father's verified acknowledgment of

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notice of intent to release or consent shall be filed with the court, if the notice was given to the putative father. The court shall request the vital records division of the department to send to the court a copy of any notice of intent to claim paternity of the particular child that the division has received.

(3) Notice of the hearing shall be served upon the following:

(a) A putative father who has timely filed a notice of intent to claim paternity as provided in section 33 or 34 of this chapter.

(b) A putative father who was not served a notice of intent to release or consent at least 30 days before the expected date of confinement specified in the notice of intent to release or consent.

(c) Any other male who was not served according to section 34(1) of this chapter with a notice of intent to release or consent and who the court has reason to believe may be the child's father.

(4) The notice of hearing shall inform the putative father that his failure to appear at the hearing constitutes a denial of his interest in custody of the child, which denial shall result in the court's termination of his rights to the child.

(5) Proof of service of the notice of hearing required by subsection (3) shall be filed with the court. A verified acknowledgment of service by the party to be served is proof of personal service. Notice of the hearing shall not be required if the putative father is present at the hearing. A waiver of notice of hearing by a person entitled to receive it is sufficient.

(6) The court shall receive evidence as to the identity of the father of the child. In lieu of the mother's live testimony, the court shall receive an affidavit or a verified written declaration from the mother as evidence of the identity and whereabouts of the child's father. If the court determines that the affidavit or verified written declaration is insufficient, the court shall allow amendment of the affidavit or verified written declaration. If the court determines that the amendment of the affidavit or verified written declaration is insufficient, the court may receive live testimony from the mother. Based upon the evidence received, the court shall enter a finding identifying the father or declaring that the identity of the father cannot be determined.

(7) If the court finds that the child's father is a person who did not receive either a timely notice of intent to release or consent according to section 34(1) of this chapter or a notice required under subsection (3), and who has neither waived his right to notice of hearing nor is present at the hearing, the court shall adjourn further proceedings until that person is served with a notice of hearing.

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History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1980, Act 288, Eff. Oct. 17, 1980 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2016, Act 191, Eff. Sept. 19, 2016 ;-- Am. 2016, Act 325, Eff. Feb. 20, 2017
Popular Name: Probate Code

710.37 Termination of rights of putative father.

Sec. 37.

(1) If the court has proof that the person whom it determines pursuant to section 36 to be the father of the child was timely served with a notice of intent to release or consent pursuant to section 34(1) or was served with or waived the notice of hearing required by section 36(3), the court may permanently terminate the rights of the putative father under any of the following circumstances:

(a) The putative father submits a verified affirmation of his paternity and a denial of his interest in custody of the child.

(b) The putative father files a disclaimer of paternity. For purposes of this section the filing of the disclaimer of paternity shall constitute a waiver of notice of hearing and shall constitute a denial of his interest in custody of the child.

(c) The putative father was served with a notice of intent to release or consent in accordance with section 34(1), at least 30 days before the expected date of confinement specified in that notice but failed to file an intent to claim paternity either before the expected date of confinement or before the birth of the child.

(d) The putative father is given proper notice of hearing in accordance with section 36(3) or 36(5) but either fails to appear at the hearing or appears and denies his interest in custody of the child.

(2) If the identity of the father cannot be determined, or if the identity of the father is known but his whereabouts cannot be determined, the court shall take evidence to determine the facts in the matter. The court may terminate the rights of the putative father if the court finds from the evidence that reasonable effort has been made to identify and locate the father and that any of the following circumstances exist:

(a) The putative father, whose identity is not known, has not made provision for the child's care and did not provide support for the mother during her pregnancy or during her confinement.

(b) The putative father, whose identity is known but whose whereabouts are unknown, has not provided support

for the mother, has not shown any interest in the child, and has not made provision for the child's care, for at least 90 days preceding the hearing required under section 36.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975
Popular Name: Probate Code

710.39 Inquiry into fitness of putative father; determining best interests of child; termination of rights of putative father; determination that rights of putative father not be terminated; use of mother or guardian release or consent relinquishing rights to child; order granting custody to putative father and legitimating child; fee; report.

Sec. 39.

(1) If the putative father does not come within the provisions of subsection (2), and if the putative father appears at the hearing and requests custody of the child, the court shall inquire into his fitness and his ability to properly care for the child and shall determine whether the best interests of the child will be served by granting custody to him. If the court finds that it would not be in the best interests of the child to grant custody to the putative father, the court shall terminate his rights to the child.

(2) If the putative father has established a custodial relationship with the child or has provided substantial and regular support or care in accordance with the putative father's ability to provide support or care for the mother during pregnancy or for either mother or child after the child's birth during the 90 days before notice of the hearing was served upon him, the rights of the putative father shall not be terminated except by proceedings in accordance with section 51(6) of this chapter or section 2 of chapter XIIA.

(3) If the court determines that the parental rights of the putative father will not be terminated under subsection (1), the court shall do all of the following:

(a) Terminate the temporary placement made under section 23d of this chapter.

(b) Return custody of the child to the mother or the guardian unless the mother's parental rights have been terminated under this chapter or other law and are not restored under section 62 of this chapter.

(c) Deny the order of adoption and dismiss the pending adoption proceeding.

(4) The fact that the mother or guardian executed or proposed to execute a release or consent relinquishing the mother's parental rights or the guardian's rights to the child and sought termination of the putative father's parental rights under section 36, 37, or 39 of this chapter shall not be used against the mother or guardian in any proceeding under the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31, after the court has completed the provisions in subsection (3).

(5) If the mother's parental rights are terminated under this chapter or other law and are not restored under section 62 of this chapter and if the court awards custody of a child born out of wedlock to the putative father, the court shall enter an order granting custody to the putative father and legitimating the child for all purposes. Upon entry of an order granting custody and legitimating the child, the clerk of the court shall collect a fee of $35.00 from the putative father. The clerk shall retain $9.00 of the fee and remit the $26.00 balance, along with a written report of the order granting custody and legitimating the child, to the director of the department of community health. The report shall be on a form prescribed by or in a manner approved by the director of the department of community health. Regardless of whether the fee required by this section is collected, the clerk shall transmit and the department of community health shall receive the report of the order granting custody and legitimating the child.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1980, Act 288, Eff. Oct. 17, 1980 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1994, Act 202, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 94, Eff. Sept. 1, 1998 ;-- Am. 2014, Act 119, Eff. Oct. 12, 2014
Popular Name: Probate Code

710.41 Conditions to placing child in home for purpose of adoption; adoption by foster parent or by petitioner married to parent having legal custody.

Sec. 41.

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(1) Except as provided in section 23d of this chapter, a child shall not be placed in a home for the purpose of adoption until an order terminating parental rights has been entered pursuant to this chapter or chapter XIIA and the court has formally approved placement under section 51 of this chapter. After an order terminating parental rights has been entered, the court shall enter any appropriate orders pursuant to sections 45, 46, and 51 of this chapter. Such orders shall not be withheld because the period specified for a rehearing or an appeal as of right has not expired, or because of the pendency of any rehearing or appeal as of right.

(2) If an order terminating parental rights is entered pursuant to this chapter or chapter XIIA, the child may be placed in a home for the purpose of adoption during the period specified for a rehearing or an appeal as of right and the period during which a rehearing or appeal as of right is pending. When a child placing agency, the court, or the department formally places a child or the court approves placement of a child pursuant to this subsection, the child placing agency, court, or department shall inform the person or persons in whose home the child is placed that an adoption will not be ordered until 1 of the following occurs:

(a) The petition for rehearing is granted, at the rehearing the order terminating parental rights is not modified or set aside, and subsequently the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(b) The petition for rehearing is denied and the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(c) There is a decision of the court of appeals affirming the order terminating parental rights.

(3) This section shall not be construed to prevent a child residing in a licensed foster home from being adopted by the foster parent or parents.

(4) This section does not apply if the petitioner for adoption is married to a parent having legal custody of the child.

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History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1980, Act 116, Eff. Sept. 12, 1980 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995
Popular Name: Probate Code

710.43 Consent to adoption; persons authorized to execute.

Sec. 43.

(1) Subject to this section and sections 44 and 51 of this chapter, consent to adoption of a child shall be executed:

(a) By each parent of a child to be adopted or the surviving parent, except under the following circumstances:

(i) The rights of the parent have been terminated by a court of competent jurisdiction.

(ii) The child has been released for the purpose of adoption to a child placing agency or to the department.

(iii) A guardian of the child has been appointed.

(iv) A guardian of a parent has been appointed.

(v) A parent having legal custody of the child is married to the petitioner.

(b) By the authorized representative of the department or his or her designee or of a child placing agency to whom the child has been permanently committed by an order of the court.

(c) By the court or by a tribal court having permanent custody of the child.

(d) By the authorized representative of the department or his or her designee or of a child placing agency to whom the child has been released.

(e) By the guardian of the child, subject to subsection (5), if a guardian has been appointed.

(f) By the guardian of a parent, subject to subsection (6), if a guardian has been appointed.

(g) By the authorized representative of a court or child placing agency of another state or country that has authority to consent to adoption.

(2) If the child to be adopted is over 14 years of age, that child's consent is necessary before the court may enter an order of adoption.

(3) If the individual to be adopted is an adult, the individual's consent is necessary before the court may enter an order of adoption, but consent by any other individual is not required.

(4) If the parent of the child to be adopted is an unemancipated minor, that parent's consent is not valid unless a parent, guardian, or guardian ad litem of that minor parent has also executed the consent.

(5) The guardian of the child to be adopted shall not execute a consent to that child's adoption according to subsection (1) unless the guardian has first obtained authority to execute the consent from the court that appointed the guardian.

(6) The guardian of a parent shall not execute a consent to the adoption of the parent's child according to

subsection (1) unless the guardian has first obtained authority to execute the consent from the court that appointed the guardian. The consent shall have the same effect as if the consent were executed by the parent.

(7) If the petitioner for adoption is married to the parent having legal custody of the child and that parent has joined the petitioner in filing the petition for adoption, that parent shall not execute a consent to the adoption. The consent of the parent who does not have legal custody of the child and whose parental rights have not been terminated shall be executed before the court may enter an order of adoption under section 56 of this chapter.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1980, Act 116, Eff. Sept. 12, 1980 ;-- Am. 1980, Act 509, Imd. Eff. Jan. 26, 1981 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1990, Act 175, Imd. Eff. July 2, 1990 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2011, Act 32, Imd. Eff. May 24, 2011
Popular Name: Probate Code

710.44 Consent to adoption; separate instrument; persons before whom consent executed and acknowledged; execution in another state or country; verified statement; investigation; explaining legal rights of parent or guardian; conditions to execution of adoptee's consent to adoption; out-of-court consent.

Sec. 44.

(1) Except as otherwise provided in this section, the consent required by section 43 of this chapter shall be by a separate instrument executed before the judge having jurisdiction or, at the court's direction, before another judge of the family division of circuit court in this state. A consent may be executed before a juvenile court referee. The consent hearing shall be held within 7 days after it is requested. If the consent of a parent or guardian is executed before a judge or referee as provided in this subsection, a verbatim record of testimony related to execution of the consent shall be made.

(2) If the individual whose consent is required is in any of the armed services or is in prison, the consent may be executed and acknowledged before any individual authorized by law to administer oaths.

(3) If the child to be adopted is legally a ward of the department or of a child placing agency, the consent required to be made under section 43 of this chapter by the authorized representative of the department or agency may be executed and acknowledged before an individual authorized by law to administer oaths.

(4) If the consent is executed in another state or country, the court having jurisdiction over the adoption proceeding in this state shall determine whether the consent was executed in accordance with the laws of that state or country or the laws of this state and shall not proceed unless it finds that the consent was so executed.

(5) In a direct placement, a consent by a parent or guardian shall be accompanied by a verified statement signed by the parent or guardian that contains all of the following:

(a) That the parent or guardian has received a list of support groups and a copy of the written document described in section 6(1)(c) of the foster care and adoption services act, 1994 PA 203, MCL 722.956.

(b) That the parent or guardian has received counseling related to the adoption of his or her child or waives the counseling with the signing of the verified statement.

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

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

(e) That the parent or guardian understands that it serves the child's welfare for the parent to keep the child placing agency, court, or department informed of any health problems that the parent develops that could affect the child.

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

(6) If a parent's consent to adoption is required under section 43 of this chapter or if a guardian's consent is required under section 43(1)(e) of this chapter, the consent shall not be executed until after the investigation the court considers proper and until after the judge, referee, or other individual authorized in subsection (2) has fully explained to the parent or guardian the legal rights of the parent or guardian and the fact that the parent or guardian by virtue of the consent voluntarily relinquishes permanently his or her rights to the child. If an out-of-court consent is signed under subsection (8), the adoption attorney representing the parent or guardian who witnessed the out-of-court consent and a caseworker from the child placing agency that witnessed the out-of-court consent shall fully explain to the parent or guardian his or her legal rights and the fact that the parent or guardian by virtue of the out-of-court consent voluntarily relinquishes permanently his or her rights to the child. If an out-of-court consent has

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been signed under subsection (8), not sooner than 5 days, excluding weekends and holidays, after the out-of-court consent was signed, the court shall issue an order terminating the rights of the parent or guardian to that child.

(7) If the adoptee's consent to adoption is required under section 43 of this chapter, the consent shall not be executed until after the investigation the court considers proper and until after the judge or referee has fully explained to the adoptee the fact that he or she is consenting to acquire permanently the adopting parent or parents as his or her legal parent or parents as though the adoptee had been born to the adopting parent or parents.

(8) In a direct placement, a parent or guardian may sign an out-of-court consent after the child's birth. An out-of-court consent signed under this subsection must comply with all of the following:

(a) The out-of-court consent shall not be signed until after a 72-hour waiting period that begins at the time of the child's birth has expired.

(b) If the parent signing the out-of-court consent is an unemancipated minor, the out-of-court consent is not valid unless it is also signed by a parent or guardian of that unemancipated minor parent in the presence of the witnesses described in this subsection.

(c) An out-of-court consent must be accompanied by the verified statement from subsection (5) and a statement regarding relinquishment of parental rights that includes all of the following:

(i) The right to have or to seek care and custody of the child.

(ii) The right to have or to seek parenting time with the child.

(iii) The right to inherit from the child or have the child inherit from the parent.

(iv) The right to services and earnings of the child.

(v) The right to determine the child's schooling, religious training, and parenting practices.

(d) In separate paragraphs with sufficient space in the margin for a parent to place his or her initials beside each paragraph, the out-of-court consent must state all of the following:

(i) I have read or had read to me each of my rights as a parent described in section 44(8)(c) of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.44, and I understand these rights.

(ii) I am signing the out-of-court consent as a free and voluntary act on my part, and I have been advised that I cannot be forced to sign the out-of-court consent for any reason.

(iii) I have not been given or promised any money or other thing of value in exchange for signing the out-of-court consent.

(iv) If I sign the out-of-court consent, I understand that I am giving up all of my parental rights and authorizing the court to permanently terminate all of my parental rights, unless the court allows me to revoke my out-of-court consent.

(v) It has been explained to me and I understand all of the following:

(A) I am not required to sign an out-of-court consent.

(B) I may make a temporary placement of my child with the prospective adoptive parent or parents, if I have not already done so, or I may continue the temporary placement I have already made, until I choose to sign a consent in court or sign an out-of-court consent.

(C) I may request revocation of the out-of-court consent I have signed by submitting a timely written request for revocation.

(D) If I request a revocation of the out-of-court consent, I must appear before the court so the court may consider whether to grant the revocation.

(vi) I have been advised that I may submit a request for revocation in writing to the adoption attorney or child placing agency that witnessed the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed or I may petition the court on my own for revocation of the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed.

(vii) If I submit a timely request for revocation, the court may grant the request or deny the request for revocation depending on my fitness and immediate ability to properly care for the child and whether the best interests of the child would be served by the revocation.

(e) The out-of-court consent must contain the contact information for both the adoption attorney representing the parent or guardian and the child placing agency that witnessed the out-of-court consent specifying where a written request for revocation may be submitted, including a postal mailing address, overnight carrier address, fax number, and electronic mail address. A request for revocation may not be submitted to the adoption attorney representing the parent or guardian or the child placing agency that witnessed the out-of-court consent by telephone or text message.

(f) The following statement must appear immediately above the signature of the parent or guardian executing the out-of-court consent: "I acknowledge that I am signing this out-of-court consent freely and voluntarily, after my parental rights have been explained to me and any questions I may have about it have been fully answered. I understand the rights I am giving up and that an order terminating my parental rights, when entered by the court, is a permanent termination of all of my parental rights.".

(g) The out-of-court consent may be signed before filing a petition for adoption.

(9) Except as otherwise provided in this subsection, a parent or guardian who has signed an out-of-court consent but wishes to request revocation of the out-of-court consent shall submit a request for revocation to the adoption

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attorney representing the parent or guardian or the child placing agency that witnessed the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed. The request for revocation from the parent or guardian must be submitted in writing by the parent or guardian who signed the out-of-court consent to the adoption attorney representing the parent or guardian or a caseworker from the child placing agency that witnessed the out-of-court consent. The request for revocation is timely if delivered to the adoption attorney or a caseworker from the child placing agency not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed. Upon receipt of a timely request for revocation, the adoption attorney or the child placing agency receiving the request for revocation shall assist the parent or guardian in filing the petition to revoke the out-of-court consent with the court as soon as practicable. A parent or guardian may file this petition with the court on his or her own. If the parent or guardian files the petition on his or her own, the petition must be filed with the court not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed.

(10) The court in which the out-of-court consent was filed may deny the request for revocation under subsections (11) and (12).

(11) If a petition to revoke an out-of-court consent has been filed with the court, timely notice of revocation does not immediately result in the return of the child to the parent or guardian. A hearing before a judge is required to determine all of the following unless the adoptive parent or parents agree to the revocation:

(a) Whether the request for revocation was given in a timely and proper manner.

(b) Whether good cause exists to determine that the out-of-court consent was not signed voluntarily. If the court finds that the out-of-court consent was not signed voluntarily, the out-of-court consent is invalid and custody of the child shall be returned to the parent or guardian. If the court finds that the out-of-court consent was signed voluntarily, the court shall proceed under subdivision (c).

(c) Whether the best interest of the child will be served by any of the following:

(i) Returning custody of the child to the parent or guardian.

(ii) Continuing the adoption proceeding commenced or intended to be commenced by the adoptive parent or parents.

(iii) Disposition appropriate to the child's welfare as authorized by section 18 of chapter XIIA under an ex parte order entered by the court.

(12) In determining the best interest of the child under subsection (11)(c), if a parent or guardian is seeking revocation of an out-of-court consent, the court shall determine if the parent or guardian seeking revocation is fit and immediately able to properly care for the child if the court returned the child to the parent or guardian. If the court determines that the parent or guardian is not fit and immediately able to properly care for the child, the court shall deny the revocation. If the court finds that the parent or guardian is fit and immediately able to properly care for the child, the court shall determine the best interest of the child. The "best interest of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court:

(a) The child's age and length of time the parent or guardian seeking revocation has had physical custody of the child so that significant love, affection, and other emotional ties exist between the parent or guardian and the child and whether during that time the child has lived in a stable, satisfactory environment.

(b) The capacity and disposition of the prospective adopting individual or individuals and the parent or guardian seeking revocation to give the child love, affection, and guidance, and to educate and create a milieu that fosters the child's religion, racial identity, and culture.

(c) The capacity and disposition of the prospective adopting individual or individuals and the parent or guardian seeking revocation to provide the child with food, clothing, education, permanence, medical care or other remedial care recognized and permitted under the state law in place of medical care, and other material needs.

(d) The permanence as a family unit of the prospective adopting individual or individuals and the parent or guardian seeking revocation.

(e) The moral fitness of the prospective adopting individual or individuals and the parent or guardian seeking revocation.

(f) The mental and physical health of the prospective adopting individual or individuals and the parent or guardian seeking revocation.

(g) The home, school, and community record of the child.

(h) The child's reasonable preference, if the child is 14 years of age or less and if the court considers the child to be of sufficient age to express a preference.

(i) The ability and willingness of the prospective adopting individual or individuals to adopt the child's siblings.

(j) Any other factor considered by the court to be relevant to a particular prospective adoptive placement or to a revocation of an out-of-court consent.

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History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2014, Act 117, Eff. Oct. 12, 2014

Popular Name: Probate Code

710.45 Withholding of consent by representative or court; motion by petitioner; decision by court; termination of rights; entering orders; appeal.

Sec. 45.

(1) A court shall not allow the filing of a petition to adopt a child if the consent of a representative or court is required by section 43(1)(b), (c), or (d) of this chapter unless the petition is accompanied by the required consent or a motion as provided in subsection (2).

(2) If an adoption petitioner has been unable to obtain the consent required by section 43(1)(b), (c), or (d) of this chapter, the petitioner may file a motion with the court alleging that the decision to withhold consent was arbitrary and capricious. A motion under this subsection shall contain information regarding both of the following:

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

(b) The specific reasons why the petitioner believes the decision to withhold consent was arbitrary and capricious.

(3) If consent has been given to another petitioner and if the child has been placed with that other petitioner according to an order under section 51 of this chapter, a motion under this section shall not be brought after either of the following:

(a) Fifty-six days following the entry of the order placing the child.

(b) Entry of an order of adoption.

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

(5) The court shall provide notice of a motion brought under this section to all interested parties as described in section 24a(1) of this chapter, the guardian ad litem of the prospective adoptee if one has been appointed during a child protection proceeding, and the applicant who received consent to adopt.

(6) Upon the filing of a petition to adopt a child and the motion described in subsection (2), the court may waive or modify the full investigation of the petition provided in section 46 of this chapter. The court shall decide the motion within 91 days after the filing of the motion unless good cause is shown.

(7) Unless the petitioner establishes by clear and convincing evidence that the decision to withhold consent was arbitrary and capricious, the court shall deny the motion described in subsection (2) and dismiss the petition to adopt.

(8) If the court finds by clear and convincing evidence that the decision to withhold consent was arbitrary and capricious, the court shall issue a written decision and may terminate the rights of the appropriate court, child placing agency, or department and may enter further orders in accordance with this chapter or section 18 of chapter XIIA as the court considers appropriate. In addition, the court may grant to the petitioner reimbursement for petitioner's costs of preparing, filing, and arguing the motion alleging the withholding of consent was arbitrary and capricious, including a reasonable allowance for attorney fees.

(9) If the consent at issue is that required of the court under section 43(1)(c) of this chapter, the motion shall be heard by a visiting judge assigned according to section 8212 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8212.

(10) The court's decision on a motion brought under this section is appealable by right to the court of appeals.

History: Add. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1994, Act 239, Eff. July 5, 1994 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2004, Act 486, Imd. Eff. Dec. 28, 2004
Popular Name: Probate Code

710.46 Investigation; considerations; report; waiver.

Sec. 46.

(1) Upon the filing of an adoption petition, the court shall direct a full investigation by an employee or agent of the court, a child placing agency, or the department. The court may use the preplacement assessment described in section 23f of this chapter and may order an additional investigation by an employee or agent of the court or a child

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placing agency. The following shall be considered in the investigation:

(a) The best interests of the adoptee.

(b) The adoptee's family background, including names and identifying data regarding the parent or parents, if obtainable.

(c) The reasons for the adoptee's placement away from his or her parent or parents.

(2) A written report of the investigation shall be filed within 3 months after the order for investigation.

(3) If the adoptee has been placed for foster care with the petitioner for 12 months or longer and the foster family study was completed or updated not more than 12 months before the petition was filed, the court, upon motion by the petitioner, may waive the full investigation required by this section. The foster family study, with information added as necessary to update or supplement the original study, may be substituted for the written report required under subsection (2).

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995
Popular Name: Probate Code

710.48 Repealed. 1980, Act 288, Eff. Oct. 17, 1980.

Compiler's Notes: The repealed section pertained to subsidies.
Popular Name: Probate Code

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710.51 Order terminating rights of parents or person in loco parentis; placement of child with petitioner; extension of time; conditions; child as ward of court; termination of jurisdiction; marriage of petitioner to parent having legal custody; placement without making child ward of court; evidence; order terminating rights of divorced or unmarried parent not having legal custody; conditions; consent to services for child by prospective adoptive parents.

Sec. 51.

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

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

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

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

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

(4) Without making the child a ward of the court, the court may approve placement of a child if the child is placed for adoption in this state by a public or licensed private agency of another state or country and if the law of the sending state or country prohibits the giving of consent to adoption at the time of placement. Before placement of the child in that instance, the sending agency shall tender evidence as the court requires to demonstrate that the agency possesses the necessary authority to consent to the adoption at the time of entry of the final order of adoption. After the sending agency has given evidence of its ability to consent, the agency shall not do anything to jeopardize its ability to grant the required consent before entry of the final order of adoption. After the sending agency gives its consent for the adoption, that consent shall not be withdrawn.

(5) If a parent having legal custody of the child is married to the petitioner for adoption, the judge shall not enter an order terminating the rights of that parent.

(6) If the parents of a child are divorced, or if the parents are unmarried but the father has acknowledged

paternity or is a putative father who meets the conditions in section 39(2) of this chapter, and if a parent having custody of the child according to a court order subsequently marries and that parent's spouse petitions to adopt the child, the court upon notice and hearing may issue an order terminating the rights of the other parent if both of the following occur:

(a) The other parent, having the ability to support, or assist in supporting, the child, has failed or neglected to provide regular and substantial support for the child or if a support order has been entered, has failed to substantially comply with the order, for a period of 2 years or more before the filing of the petition. A child support order stating that support is $0.00 or that support is reserved shall be treated in the same manner as if no support order has been entered.

(b) The other parent, having the ability to visit, contact, or communicate with the child, has regularly and substantially failed or neglected to do so for a period of 2 years or more before the filing of the petition.

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

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1980, Act 116, Eff. Sept. 12, 1980 ;-- Am. 1980, Act 509, Imd. Eff. Jan. 26, 1981 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2016, Act 143, Eff. Sept. 5, 2016
Popular Name: Probate Code

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710.52 Supervision of child; reports.

Sec. 52.

(1) Subject to subsection (2), during the period before entry of the order of adoption, the child shall be supervised at the direction of the court by an employee or agent of the court, a child placing agency, or the department, who shall make reports regarding the adjustment of the child in the home as the court orders. The investigations shall be made under reasonable circumstances and at reasonable intervals.

(2) In a direct placement, the child shall be supervised during the period before entry of the order of adoption by the child placing agency that investigated the placement under section 46 of this chapter or, in the court's discretion, by another child placing agency.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995
Popular Name: Probate Code

710.54 Prohibitions as to money or other consideration or thing of value; statement; compensation for certain activities prohibited; payment of charges; documents filed with court; assuring compliance; approval of fees and expenses; violation.

Sec. 54.

(1) Except for charges and fees approved by the court, a person shall not pay or give, offer to pay or give, or request, receive, or accept any money or other consideration or thing of value, directly or indirectly, in connection with any of the following:

(a) The placing of a child for adoption.

(b) The registration, recording, or communication of the existence of a child available for adoption.

(c) A release.

(d) A consent.

(e) A petition.

(2) Except for a child placing agency's preparation of a preplacement assessment described in section 23f of this chapter or investigation under section 46 of this chapter, a person shall not be compensated for the following activities:

(a) Assisting a parent or guardian in evaluating a potential adoptive parent.

(b) Assisting a potential adoptive parent in evaluating a parent or guardian or adoptee.

(c) Referring a prospective adoptive parent to a parent or guardian of a child for purposes of adoption.

(d) Referring a parent or guardian of a child to a prospective adoptive parent for purposes of adoption.

(3) An adoptive parent may pay the reasonable and actual charge for all of the following:

(a) The services of a child placing agency in connection with an adoption.

(b) Medical, hospital, nursing, or pharmaceutical expenses incurred by the birth mother or the adoptee in connection with the birth or any illness of the adoptee, if not covered by the birth parent's private health care payment or benefits plan or by Medicaid.

(c) Counseling services related to the adoption for a parent, a guardian, or the adoptee.

(d) Living expenses of a mother before the birth of the child and for no more than 6 weeks after the birth.

(e) Expenses incurred in ascertaining the information required under this chapter about an adoptee and the adoptee's biological family.

(f) Legal fees charged for consultation and legal advice, preparation of papers, and representation in connection with an adoption proceeding, including legal services performed for a biological parent or a guardian and necessary court costs in an adoption proceeding.

(g) Traveling expenses necessitated by the adoption.

(4) An adoptive parent shall pay the reasonable and actual charge for preparation of the preplacement assessment and any additional investigation ordered pursuant to section 46 of this chapter.

(5) A prospective adoptive parent shall pay for counseling for the parent or guardian related to the adoption, unless the parent or guardian waives the counseling pursuant to section 29 or 44.

(6) A payment authorized by subsection (3) shall not be made contingent on the placement of the child for adoption, release of the child, consent to the adoption, or cooperation in the completion of the adoption. If the adoption is not completed, an individual who has made payments authorized by subsection (3) may not recover them.

(7) At least 7 days before formal placement of a child under section 51 of this chapter, the following documents shall be filed with the court:

(a) A verified accounting signed by the petitioner itemizing all payments or disbursements of money or anything of value made or agreed to be made by or on behalf of the petitioner in connection with the adoption. The accounting shall include the date and amount of each payment or disbursement made, the name and address of each recipient, and the purpose of each payment or disbursement. Receipts shall be attached to the accounting.

(b) A verified statement of the attorney for each petitioner itemizing the services performed and any fee, compensation, or other thing of value received by, or agreed to be paid to, the attorney for, or incidental to, the adoption of the child. If the attorney is an adoption attorney representing a party in a direct placement adoption, the verified statement shall contain the following statements:

(i) The attorney meets the requirements for an adoption attorney under section 22 of this chapter.

(ii) The attorney did not request or receive any compensation for services described in section 54(2) of this chapter.

(c) A verified statement of the attorney for each parent of the adoptee itemizing the services performed and any fee, compensation, or other thing of value received by, or agreed to be paid to, the attorney for, or incidental to, the adoption of the child. If the attorney is an adoption attorney representing a party in a direct placement adoption, the verified statement shall contain the following statements:

(i) The attorney meets the requirements for an adoption attorney under section 22 of this chapter.

(ii) The attorney did not request or receive any compensation for services described in section 54(2) of this chapter.

(d) A verified statement of the child placing agency or the department itemizing the services performed and any fee, compensation, or other thing of value received by, or agreed to be paid to, the child placing agency or the department for, or incidental to, the adoption of the child, and containing a statement that the child placing agency or the department did not request or receive any compensation for services described in section 54(2) of this chapter.

(8) At least 21 days before the entry of the final order of adoption, the documents described in subsection (7) shall be updated and filed with the court.

(9) To assure compliance with limitations imposed by this section and section 55 of this chapter and by section 14 of Act No. 116 of the Public Acts of 1973, being section 722.124 of the Michigan Compiled Laws, the court may require sworn testimony from persons who were involved in any way in informing, notifying, exchanging information, identifying, locating, assisting, or in any other way participating in the contracts or arrangements that, directly or indirectly, led to placement of the individual for adoption.

(10) The court shall approve or disapprove all fees and expenses. Acceptance or retention of amounts in excess of those approved by the court constitutes a violation of this section.

(11) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both, for the first violation, and of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both, for each subsequent violation. The court may enjoin from further violations any person who violates this section.

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History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995
Popular Name: Probate Code

710.55 Persons authorized to place child for adoption or advertise for, solicit, or recruit biological or adoptive parents or guardians; violation as misdemeanor; penalty; "advertise for, solicit, or recruit" defined.

Sec. 55.

(1) Only a person specified in sections 23a(1), 23b(1), and 23c of this chapter may place a child for adoption. A prospective adoptive parent may advertise for, solicit, or recruit biological parents or guardians of potential adoptees for the purposes of a court-supervised adoption. A biological parent or guardian, the court, department, or child placing agency with authority to place a child may advertise for, solicit, or recruit potential adoptive parents only to fulfill the purposes of a court-supervised adoption of that child. No other person or entity may advertise for, solicit, or recruit prospective parents for the purpose of facilitating the transfer, adoption, or other permanent placement of a child.

(2) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both, for the first violation, and of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both, for each subsequent violation. The court may enjoin from further violations any person who violates this section.

(3) As used in this section, "advertise for, solicit, or recruit" means to communicate in person, in writing, or via any medium, public or private, for the purpose of locating a previously unknown person or entity with whom to temporarily or permanently place a child. Advertise for, solicit, or recruit does not include disseminating information about the availability of an attorney's legal services, including an advertisement or website as allowed under the Michigan rules of professional conduct.

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History: Add. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 2016, Act 481, Eff. Apr. 6, 2017 ;-- Am. 2020, Act 183, Imd. Eff. Oct. 8, 2020
Popular Name: Probate Code

710.55a Representation by attorney.

Sec. 55a.

(1) An attorney shall not represent a party in a direct placement adoption unless the attorney is an adoption attorney. An attorney or law firm shall not serve as the attorney for, or provide legal services to, both a parent or guardian and a prospective adoptive parent.

(2) In a direct placement or agency placement adoption, if the minor parent of a child who is a potential adoptee is not represented by an attorney, the adoption attorney or child placing agency that is providing adoption services involving that minor parent shall provide the minor parent with an opportunity to discuss with an attorney who is not associated with the adoption attorney or child placing agency the legal ramifications of a consent or release, or of the termination of parental rights, before the execution of a consent or release or the termination of parental rights.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995
Popular Name: Probate Code

710.56 Order of adoption; time; waiver; extension of time; hearing; effect of filing petition for rehearing or appeal from order terminating parental rights; conditions; adoption of adult.

Sec. 56.

(1) Except as otherwise provided in this subsection, 6 months after formal placement under section 51 of this chapter, unless the court determines that circumstances have arisen that make adoption undesirable, the court may enter an order of adoption. Upon the motion of the petitioner, the court may waive the 6-month period, or any portion of that period, if the waiver is in the adoptee's best interests. If, after a hearing, the court finds that the adoptee's best interests will be served, it may extend the 6-month period for an additional period of time not exceeding 18 months from the time of formal placement for adoption. In an adoption proceeding for which an adoption order is not entered within 18 months after formal placement, the court shall hold a hearing and determine whether an order of adoption shall be entered or the petition denied. If a child is formally placed according to section 41(2) of this chapter, the court may extend the 6-month period for an additional period, that may exceed 18 months from the time of formal placement, until an order for adoption may be entered under subsection (2). For an adoptee who is less than 1 year old at the time of filing, 3 months after formal placement under section 51 of this chapter, unless the court determines that circumstances have arisen that make adoption undesirable, the court may enter an order of adoption. Upon the motion of the petitioner, the court may waive the 3-month period, or any portion of that period, if the waiver is in the adoptee's best interests.

(2) Except as provided in subsection (3), if a petition for rehearing or an appeal as of right from an order terminating parental rights has been filed, the court shall not order an adoption until 1 of the following occurs:

(a) The petition for rehearing is granted, and at the rehearing the order terminating parental rights is not modified or set aside, and subsequently the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(b) The petition for rehearing is denied and the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(c) The court of appeals affirms the order terminating parental rights.

(3) If an application for leave to appeal has been filed with the supreme court, the court shall not order an adoption until 1 or more of the following occurs:

(a) The application for leave to appeal is denied.

(b) The supreme court affirms the order terminating parental rights.

(4) If a motion brought under section 45 of this chapter has been filed, the court shall not order an adoption until 1 of the following occurs:

(a) The motion is decided and subsequently the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(b) The motion is decided, an appeal as of right to the court of appeals has been filed, the court of appeals issues an opinion, and subsequently the period for filing an application for leave to the supreme court has expired without an application being filed.

(c) The supreme court denies an application for leave or, if an application is granted, the supreme court issues an opinion.

(5) If the person to be adopted is an adult, the court may enter an order of adoption after all of the following occur:

(a) The person to be adopted consents to the adoption according to section 43(3) of this chapter.

(b) The written report of investigation required by section 46(2) of this chapter is filed.

(c) Notice has been served upon interested parties described in section 24a of this chapter.

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History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1980, Act 288, Eff. Oct. 17, 1980 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1992, Act 247, Imd. Eff. Nov. 19, 1992 ;-- Am. 1994, Act 240, Eff. July 5, 1994 ;-- Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004 ;-- Am. 2014, Act 118, Eff. Oct. 12, 2014 ;-- Am. 2016, Act 325, Eff. Feb. 20, 2017
Popular Name: Probate Code

710.56a Repealed. 2008, Act 331, Eff. Dec. 18, 2008.

Constitutionality: The repealed section pertained to entry of adoption order.
Popular Name: Probate Code

710.58 Order of adoption; certified copies.

Sec. 58.

When the court enters an order of adoption, certified copies shall be given to the adopting parent or parents. If the consent to the adoption was given by a duly authorized representative of the department, of a child placing agency, or of a public or licensed private agency of another state or country, a certified copy of the order of adoption shall be furnished by the court to the department or agency.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975
Popular Name: Probate Code

710.58a Information to be forwarded by court; "primary adoption facilitator" and "public information form" defined.

Sec. 58a.

(1) Beginning on the effective date of section 14c of Act No. 116 of the Public Acts of 1973, being section 722.124c of the Michigan Compiled Laws, the court shall forward to the department, not later than 15 days after the entry of an order of adoption pursuant to section 56 of this chapter, either of the following:

(a) A public information form filled out and filed with the court by the primary adoption facilitator and completed by the court as provided in subsection (2).

(b) If the primary adoption facilitator has not filed a form, a public information form completed by the court that consists only of the name of the primary adoption facilitator and the confidential information as prescribed by section 14d of Act No. 116 of the Public Acts of 1973, being section 722.124d of the Michigan Compiled Laws.

(2) If the primary adoption facilitator has filed a public information form with the court and has indicated that he or she does not have access to certain information required on the public portion of the form, the court shall complete the form by filling in missing information that is contained in court records to which the primary adoption facilitator does not have access. The court shall complete all public information forms filed with the court by filling in the information required on the confidential portion of the form.

(3) As used in this section, "primary adoption facilitator" and "public information form" mean those terms as defined in section 14b of Act No. 116 of the Public Acts of 1973, being section 722.124b of the Michigan Compiled Laws.

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History: Add. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998
Popular Name: Probate Code

710.59 Changing name of adopted child; effect on order of adoption and exemplification of record.

Sec. 59.

Where the parents or surviving parent has given consent to an adoption and the petitioner desires to change the name of the adopted child, the order of adoption and exemplification of record shall not contain the name of the child's natural parents or the name bestowed upon the child before the adoption.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975
Popular Name: Probate Code

710.60 Adoptee to be known and called by new name; status and liability of persons adopting adoptee; rights and duties of adopted person; adopted person as heir at law; order for grandparenting time.

Sec. 60.

(1) After the entry of an order of adoption, if the adoptee's name is changed, the adoptee shall be known and called by the new name. The person or persons adopting the adoptee then become the parent or parents of the adoptee under the law as though the adopted person had been born to the adopting parents and are liable for all the duties and entitled to all the rights of parents.

(2) After entry of the order of adoption, there is no distinction between the rights and duties of natural progeny and adopted persons, and the adopted person becomes an heir at law of the adopting parent or parents and an heir at law of the lineal and collateral kindred of the adopting parent or parents. After entry of the order of adoption, except as provided in section 2114(2) of the estates and protected individuals code, 1998 PA 386, MCL 700.2114, an adopted child is no longer an heir at law of a parent whose rights have been terminated under this chapter or chapter XIIA or the lineal or collateral kindred of that parent, nor is an adopted adult an heir at law of a person who was his or her parent at the time the order of adoption was entered or the lineal or collateral kindred of that person, except that a right, title, or interest that has vested before entry of the final order of adoption is not divested by that order.

(3) This section does not prohibit the filing of an action or entry of an order for grandparenting time as provided in section 7b of the child custody act of 1970, 1970 PA 91, MCL 722.27b.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1980, Act 116, Eff. Sept. 12, 1980 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1982, Act 341, Imd. Eff. Dec. 17, 1982 ;-- Am. 1996, Act 16, Eff. June 1, 1996 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2006, Act 352, Imd. Eff. Sept. 18, 2006
Popular Name: Probate Code

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710.62 Effect of denying order of adoption.

Sec. 62.

If the court denies an order of adoption, the court may return the child to the parents or original custodian and restore their rights, or make a disposition appropriate for the welfare of the ward as is authorized by section 18 of chapter 12a by an ex parte order entered in the court.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975
Popular Name: Probate Code

710.63 Denial of petition or motion or failure to issue order; statement by court.

Sec. 63.

A court that denies a petition or motion, or fails to issue an order under this chapter shall state the reason for that action on the record or in writing.

History: Add. 1982, Act 72, Imd. Eff. Apr. 14, 1982
Popular Name: Probate Code

710.64 Rehearing; modifying or setting aside order; entering order with respect to original hearing or rehearing of contested matters.

Sec. 64.

(1) Upon the filing of a petition in court within 21 days after entry of any order under this chapter, and after due notice to all interested parties, the judge may grant a rehearing and may modify or set aside the order.

(2) The court shall enter an order with respect to the original hearing or rehearing of contested matters within 21 days after the termination of the hearing or rehearing.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1994, Act 244, Eff. July 5, 1994 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998
Popular Name: Probate Code

710.65 Appeal to court of appeals; staying court order pending appeal; priority.

Sec. 65.

(1) A party aggrieved by an order that is entered by the court under this chapter, including an order entered after a rehearing, may appeal the order to the court of appeals as of right not later than 21 days after the order is entered by the court or not later than 21 days after a petition for a rehearing is denied.

(2) An order of the court entered under this chapter shall not be stayed pending appeal unless ordered by the court of appeals upon motion for good cause shown and on such terms as are deemed just.

(3) An appeal from an order entered under this chapter shall be given priority in the court of appeals and shall take precedence over all other matters, except for other matters that are given priority by specific statutory provision or rule of the supreme court.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1994, Act 244, Eff. July 5, 1994
Popular Name: Probate Code

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710.66 Adult adoptee; rescinding adoption by stepparent and restoring parental rights of parent; rescission petition; filing new certificate of birth; hearing; certified copies; effect of entry of order of rescission.

Sec. 66.

(1) If an adult adoptee who was adopted by a stepparent and the adult adoptee's parent whose rights have been terminated desire to rescind the adoption by the stepparent and restore the parental rights of that parent, they shall file a rescission petition with the court of the county in which the adoption by the stepparent was confirmed. This section applies to an adult adoptee who was adopted by a stepparent regardless of whether the adoptee was a minor at the time of adoption.

(2) The rescission petition shall be verified by both the adult adoptee and the parent whose rights were terminated, and shall contain the following information:

(a) The present name of each petitioner, the name of the adoptee at the time of birth and immediately after an adoption if different from the adoptee's present name, the name of the parent at the time of termination of parental rights, the date and place of the adoptee's birth, and the present place of residence of each petitioner.

(b) The name, date and place of birth, and address of the parent whose rights were not terminated and whose spouse adopted the adoptee, if known to either of the petitioners.

(c) The name of the stepparent at the time of the order of adoption, including the maiden name of the stepparent if applicable and if known, and the stepparent's date and place of birth.

(3) Subsequent to or concurrent with the filing of the rescission petition but before the hearing on the rescission petition by the court, the petitioners shall file with the court a copy of the adoptee's new certificate of live birth if a new certificate was established by the department of public health.

(4) Upon receipt of a rescission petition, the court shall conduct a hearing after notice is served by petitioners on the interested parties. The court may order an investigation by an employee or agent of the court and may enter an order of rescission of the adoption that restores the parental rights of the parent who filed the petition. The rescission of the adoption shall be effective from the date of the order of rescission.

(5) Certified copies of the order of rescission shall be given to each petitioner, and a copy shall be sent to the department of public health together with any other information required by section 2829 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.2829 of the Michigan Compiled Laws.

(6) After entry of an order of rescission, the adult adoptee becomes an heir at law of the parent whose parental rights have been restored and of the lineal and collateral kindred of that parent. After entry of the order of rescission, the adult adoptee is no longer an heir at law of a person who was his or her stepparent at the time of the order of rescission or an heir at law of the lineal or collateral kindred of that person, except that a right, title, or interest vesting before entry of the order of rescission shall not be divested by that order.

History: Add. 1992, Act 247, Imd. Eff. Nov. 19, 1992 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998
Popular Name: Probate Code

710.67 Disposition of adoption records; copying or inspecting records; petition; notice and hearing; granting or denying petition; disclosing names of biological or adoptive parents; certified copy of new birth certificate; powers and duties of children's ombudsman.

Sec. 67.

(1) Except as otherwise provided in subsection (4) or in section 68 of this chapter, records of proceedings in adoption cases, including a notice filed under section 33(1) of this chapter, and a petition filed under section 34(1) of this chapter, and the papers and books relating to the proceedings shall be kept in separate locked files and are not open to inspection or copy except upon order of a court of record for good cause shown expressly permitting inspection or copy. Except as otherwise provided in subsection (4) or in section 68 of this chapter, the court, after 21 days following entry of the final order of adoption, shall not permit copy or inspection of the adoption proceedings, except upon a sworn petition setting forth the purpose of the inspection or copy. The court may order notice and a hearing on the petition. The court shall grant or deny the petition in writing within 63 days after the petition is filed, except that for good cause the court may grant or deny the petition after the 63-day period but not later than 182 days after the petition is filed.

(2) A person in charge of adoption records shall not disclose the names of the biological or adoptive parents of an adopted person, unless ordered to do so by a court of record or as provided in subsection (4) or in section 68 of this chapter, except to meet requirements of the director of health and human services for the purpose of creating a new certificate of birth in the adoptive name and sealing the original certificate of birth.

(3) The director of health and human services shall furnish to the adopting parent or parents a certified copy of the new birth certificate that shall not disclose the adoption of the person. A birth certificate issued to an adopted person shall not refer to adoption and shall conform as nearly as possible to the appearance of birth certificates issued in other cases.

(4) After an order of adoption has been entered under section 56 of this chapter, the court shall permit the child advocate to inspect closed adoption records in connection with an investigation authorized under the office of the child advocate act, 1994 PA 204, MCL 722.921 to 722.932. The child advocate shall not disclose information obtained by an inspection under this subsection. If the child advocate requires further information from an individual whose identity is protected in closed adoption records, the child advocate shall contact the individual discreetly and confidentially. The child advocate shall inform the individual that the individual's participation in the child advocate's investigation is confidential, is strictly voluntary, and will not alter or constitute a challenge to the adoption. The child advocate shall honor the individual's request not to be contacted further. As used in this subsection, "child advocate" means the child advocate appointed pursuant to section 3 of the child advocate act, 1994 PA 204, MCL 722.923.

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History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1980, Act 116, Eff. Sept. 12, 1980 ;-- Am. 1988, Act 505, Eff. Mar. 30, 1989 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 2023, Act 295, Eff. Feb. 13, 2024
Popular Name: Probate Code

710.68 Nonidentifying and identifying information; request; availability; release; request for adoption record information; identity of court or child placing agency; counseling; list of adoption support groups; transmitting information of medical or genetic condition; return of information undelivered; placement of information in adoption files; releasing or transmitting copies; information returned undelivered; notice to department of community health; sealing original and preparing new birth certificate; release of identifying information as misdemeanor; adoptions to which section applicable; "adult adoptee" defined; fees; waiver; powers and duties of children's ombudsman.

Sec. 68.

(1) Within 63 days after a request for nonidentifying information is received, a child placing agency, a court, or the department shall provide in writing to the adoptive parent, adult adoptee, former parent, or adult former sibling requesting the information all of the nonidentifying information described in section 27(1) and (2) of this chapter.

(2) Within 63 days after a request for identifying information about an adult adoptee is received, a child placing agency or court or the department shall provide in writing to the former parent or adult former sibling requesting the information the adult adoptee's most recent name and address if the adult adoptee has given written consent to release of the information according to this chapter. If the adult adoptee has not given written consent to the release of information, the child placing agency, the court, or the department shall, upon presentation of a certified copy of the order of appointment, give the adult adoptee's name and address to a confidential intermediary appointed under section 68b of this chapter, together with any other information in its possession that would help the confidential intermediary locate the adult adoptee. At the option of the child placing agency or the department, the information may be released to the court for release to the confidential intermediary.

(3) If the department or a child placing agency receives a request for adoption record information in its possession from an adult adoptee, former parent, or adult former sibling, the department or child placing agency shall provide the individual requesting the information with the identity of the court that confirmed the adoption within 28 days after receipt of the request. If a court receives such a request, the court shall provide the individual requesting the information with the identity of the child placing agency that handled the adoption.

(4) If the court that terminated parental rights receives from the former parents or adult former siblings of the adult adoptee a request for the identity of the child placing agency, court, or department to which the child was committed, the court shall provide in writing the name of that child placing agency, court, or department, if known, within 28 days after receipt of the request.

(5) Upon receipt of a written request for identifying information from an adult adoptee, a child placing agency, a court, or the department, if it maintains the adoption file for that adoptee, shall submit a clearance request form to the central adoption registry. Within 28 days after receipt of a clearance reply form from the central adoption registry, the child placing agency, court, or department shall notify the adoptee in writing of the identifying information to which the adoptee is entitled under subsection (6) or (7), or, if the identifying information cannot be released under those subsections, the reason why the information cannot be released. The child placing agency, court, or department shall retain a copy of the notice sent to the adult adoptee.

(6) For adoptions in which the former parents' rights were terminated on or after May 28, 1945 and before September 12, 1980, a child placing agency, a court, or the department shall release to an adult adoptee or to a confidential intermediary appointed under section 68b of this chapter the identifying information described in section 27(3) of this chapter and other identifying information on file with the central adoption registry as specified in section 27b of this chapter, in the following manner:

(a) All of the identifying information described in section 27(3) of this chapter shall be released to the adult adoptee, if both former parents have on file with the central adoption registry a statement consenting to release of the identifying information.

(b) The identifying information described in section 27(3)(b) and (c) of this chapter about 1 of the former parents and the identifying information described in section 27(3)(a) and (d) of this chapter shall be released to the adult adoptee if that former parent has on file with the central adoption registry a statement consenting to release of identifying information.

(c) The identifying information described in section 27(3)(b) and (c) of this chapter about 1 of the former parents and the identifying information described in section 27(3)(a) and (d) of this chapter shall be released to the adult adoptee if that parent is deceased.

(d) All of the identifying information described in section 27(3) of this chapter on both former parents shall be released to the adult adoptee, if both former parents are deceased.

(e) Upon presentation of a certified copy of the order of appointment, all of the identifying information described in section 27(3) of this chapter shall be released to a confidential intermediary appointed under section 68b of this chapter, together with additional information to assist the confidential intermediary to locate former family members. At the option of the child placing agency or the department, the information may be released to the court for release to the confidential intermediary.

(7) For all adoptions in which the former parents' rights were terminated before May 28, 1945 or on or after September 12, 1980, a child placing agency, a court, or the department shall release to an adult adoptee the identifying information described in section 27(3) of this chapter and any additional information on file with the central adoption registry as specified in section 27b of this chapter, except that if a former parent has filed a statement currently in effect with the central adoption registry denying consent to have identifying information released, the identifying information specified in section 27(3)(b) and (c) of this chapter shall not be released about that parent. For purposes of this subsection, a denial of consent is not effective after the death of the former parent. This subsection does not apply to adoptions in which the former parents' rights were terminated under chapter XII of this act unless the former parent has filed a statement with the central adoption registry consenting to the release of identifying information.

(8) Upon receipt of a written request from an adult adoptee for the name and address of an adult former sibling,

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a child placing agency, a court, or the department, if it maintains the adoption file for that adoptee, shall submit a clearance request form to the central adoption registry. Within 28 days after receipt of a clearance reply form from the central adoption registry, the child placing agency, court, or department shall notify the adoptee in writing of the name and address of an adult former sibling whose statement was forwarded by the central adoption registry.

(9) If a child placing agency, court, or the department requests information from the central adoption registry and if the clearance reply form from the central adoption registry indicates that neither of the former parents has on file with the central adoption registry a statement currently in effect denying consent to have identifying information released, the child placing agency, court, or department shall deliver to the adult adoptee a copy of the clearance reply form it received from the central adoption registry. The clearance reply form may be used by the adult adoptee to obtain a copy of the adult adoptee's original certificate of live birth under section 2882 of the public health code, 1978 PA 368, MCL 333.2882. Except for adoptions in which the former parents' parental rights were terminated under chapter XII of this act, this subsection applies to all adoptions in which the parents' rights were terminated before May 28, 1945 or on or after September 12, 1980.

(10) If a child placing agency, a court, or the department receives written information concerning a physician-verified medical or genetic condition of an individual biologically related to an adoptee and a request that the information be transmitted to the adoptee because of the serious threat it poses to the adoptee's life, the child placing agency, court, or department shall send a written copy of the information by first-class mail within 7 days after the request is received to the adoptee at the adoptee's last known address. If the adoptee is less than 18 years of age, the information shall be sent by first-class mail within 7 days after the request is received to the adoptive parents at their last known address.

(11) If the information described in subsection (10) is returned undelivered, the child placing agency, court, or department shall make a reasonable effort to find the most recent address of the adoptee or minor adoptee's parents and shall again send the information by first-class mail within 21 days after receiving the returned letter.

(12) If a child placing agency, a court, or the department receives written information concerning a physician-verified medical or genetic condition of a person biologically related to an adoptee, and the condition is not life-threatening to the adoptee, the child placing agency, court, or department shall place the information in its adoption files. If the child placing agency, court, or department receives a written request for the information from the adult adoptee or minor adoptee's adoptive parents, it shall release a written copy of the information to the adult adoptee or to the minor adoptee's adoptive parents within 63 days after the request for the information was made.

(13) If a child placing agency, a court, or the department receives written information concerning a physician-verified medical or genetic condition that threatens the life of an adoptee and for which a biologically related person could give life-saving aid, and receives a request from or on behalf of the adoptee that the information be transmitted, the child placing agency, court, or department shall send a written copy of the information by first-class mail within 7 days after the request is received to the biological parents or adult biological siblings of the adoptee at their last known address.

(14) If the information described in subsection (13) is returned undelivered, the child placing agency, court, or department shall make a reasonable effort to find the most recent address of the biological parents or adult biological siblings and shall again send the information by first-class mail within 21 days after receiving the returned letter.

(15) If a child placing agency, a court, or the department provides an adoptee with the name of 1 of the adoptee's former parents, that child placing agency, court, or department shall notify the department of health and human services of that fact. Upon receipt of notification by the child placing agency, court, or department, the department of health and human services shall ensure that the original birth certificate on file for the adoptee has been sealed and that a new birth certificate has been prepared in conformance with section 67 of this chapter.

(16) An employee or agent of a child placing agency, a court, or the department, who intentionally releases identifying information in violation of this section, is guilty of a misdemeanor.

(17) This section also applies to a stepparent adoption and to the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

(18) A child placing agency, a court, and the department may require a fee for supplying information under this section. The fee shall be $60.00 or the actual cost of supplying the information, whichever is less. The child placing agency, court, or department may waive a part or all of the fee in case of indigency or hardship.

(19) A direct descendant of a deceased adult adoptee may request information under this section. All information to which an adult adoptee is entitled under this section shall be released to the adult adoptee's direct descendants if the adult adoptee is deceased.

(20) A child placing agency, a court or the department shall permit the child advocate to inspect adoption records in its possession in connection with an investigation authorized under the child advocate act, 1994 PA 204, MCL 722.921 to 722.932. The child advocate shall not disclose information obtained by an inspection under this section. If the child advocate requires further information from an individual whose identity is protected in closed adoption records, the child advocate shall contact the individual discreetly and confidentially. The child advocate shall inform the individual that the individual's participation in the investigation is confidential, is strictly voluntary, and will not alter or constitute a challenge to the adoption. The child advocate shall honor the individual's request

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not to be contacted further.

(21) As used in this section:

(a) "Adult adoptee" means an individual who was adopted as a child who is now 18 years of age or older or an individual who was 18 years of age or older at the time of adoption.

(b) "Child advocate" means the child advocate appointed under section 3 of the child advocate act, 1994 PA 204, MCL 722.923, or the child advocate's designee.

History: Add. 1980, Act 116, Eff. Sept. 12, 1980 ;-- Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982 ;-- Am. 1988, Act 505, Eff. Mar. 30, 1989 ;-- Am. 1990, Act 175, Imd. Eff. July 2, 1990 ;-- Am. 1994, Act 202, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995 ;-- Am. 2012, Act 385, Imd. Eff. Dec. 19, 2012 ;-- Am. 2023, Act 295, Eff. Feb. 13, 2024
Popular Name: Probate Code

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710.68a Providing information pamphlet, list of adoption support groups, and information about MCL 710.27a, 710.27b, 710.68 and 710.68b; placement of requester's current address in adoption files.

Sec. 68a.

(1) The department, in cooperation with adoption support groups, shall develop and publish an information pamphlet explaining the release of information from adoption records pursuant to this act.

(2) Within 14 days after it is contacted by an adoptee, adult former sibling, former parent, or adoptive parent, a child placing agency or court or the department shall provide the adoptee, adult former sibling, former parent, or adoptive parent with all of the following:

(a) A copy of the information pamphlet described in subsection (1).

(b) A list of adoption support groups.

(c) Information about the provisions described in this section and sections 27a, 27b, 68, and 68b of this chapter.

(3) If a child placing agency, a court, or the department receives a written request from an adoptee, adult former sibling, former parent, adoptive parent, or any other person biologically related to an adoptee that the requester's current address be placed in its adoption files, the child placing agency, court, or department shall place the information in its adoption files.

History: Add. 1988, Act 505, Eff. Mar. 30, 1989 ;-- Am. 1990, Act 175, Imd. Eff. July 2, 1990 ;-- Am. 1994, Act 222, Eff. Jan. 1, 1995 ;-- 1994, Act 373, Eff. Jan. 1, 1995
Popular Name: Probate Code

710.68b Definitions; petition to appoint confidential intermediary to search for and contact former family member; approval; training; oath of confidentiality; duties of confidential intermediary; acceptance of money or other value; failure to contact former family member.

Sec. 68b.

(1) As used in this section:

(a) "Former family member" means a parent, grandparent, or adult sibling related to the adult adoptee through birth or adoption by at least 1 common parent, regardless of whether the adult adoptee ever lived in the same household as the former family member.

(b) "Petitioner" means an individual on whose behalf a confidential intermediary is appointed pursuant to subsection (2).

(2) An adult adoptee, an adoptive parent of a minor adoptee, or an adult child of a deceased adoptee may petition the court in which the final order of adoption was entered to appoint a confidential intermediary to search for and contact a former family member. A former family member may petition the court in which the final order of adoption was entered to appoint a confidential intermediary to search for and contact an adult adoptee or an adult child of a deceased adoptee. Upon receipt of a petition under this section, the court shall contact the central adoption registry to determine whether there is currently on file a statement from the individual being sought that

denies consent to the release of identifying information. If no denial of consent is currently on file for that individual, the court shall by written order appoint as confidential intermediary an individual who meets the requirements of subsection (3). The court shall provide the confidential intermediary with a certified copy of the order of appointment. The court may dismiss an intermediary if the intermediary engages in conduct that violates professional or ethical standards.

(3) An individual may serve as a confidential intermediary if he or she is approved by the court after completing training and files an oath of confidentiality with the court. The oath of confidentiality shall be substantially as follows:

"I, ..., signing under penalty of perjury, affirm all of the following:

(a) I will not disclose to a petitioner, directly or indirectly, any identifying information in sealed records without written consent of the individual to whom the information pertains.

(b) I will conduct a reasonable search for an individual being sought. I will make a discreet and confidential inquiry as to whether the individual consents to the release of information to the petitioner, or to meeting or communicating with the petitioner, and I will report to the petitioner and the court the results of my search and inquiry.

(c) If the petitioner and the individual being sought consent in writing to meet or communicate with each other, I will act in accordance with the instructions of those persons and, if applicable, the instructions of the court to facilitate any meeting or communication between them.

(d) I will not charge or accept any fee for my services except for reimbursement from the petitioner for actual expenses incurred in performing my services, or as authorized by the court.

(e) I recognize that I may be subject to contempt of court sanctions and dismissal by the court if I permit the release of confidential information without authorization.".

(4) A confidential intermediary shall make a reasonable search for an individual whose identity is sought by a petitioner under this section. The confidential intermediary shall first search the court records. If it is necessary to obtain information from an agency or the department, the confidential intermediary shall provide a certified copy of the order of appointment to the agency or the department before requesting the records. If the confidential intermediary locates the individual being sought, the intermediary shall discreetly and confidentially contact the individual to ascertain whether the individual is willing to release information to the petitioner or to meet or communicate with the petitioner. If the individual consents in writing to the release of information, the intermediary shall release the information to the petitioner. Upon the mutual written consent of the petitioner and the individual, the intermediary may facilitate a meeting or other communication between the petitioner and the individual. If the individual refuses to authorize the release of information sought by the petitioner, the intermediary shall report the refusal to the petitioner and the court. If an individual sought under this section is deceased, the intermediary shall report that fact to the petitioner and the court.

(5) Except for a reasonable fee approved by the court and reimbursement for actual expenses incurred in performing services, a confidential intermediary shall not request or accept any money or other thing of value for serving as a confidential intermediary.

(6) If a confidential intermediary appointed under this section has failed to contact a former family member within 6 months after his or her appointment, the adult adoptee may petition the court for release of information described in section 27(3) and any additional information obtained by the confidential intermediary. Before a hearing on the petition, the confidential intermediary shall submit a written report to the court describing all efforts made to locate the former family member and all information obtained. After the hearing, the court shall do 1 of the following:

(a) Order the confidential intermediary to search for another 6-month period.

(b) Appoint a new confidential intermediary to search for a 6-month period.

(c) Release to the adult adoptee the identifying information described in section 27(3) and any other information that the court considers appropriate, if the court finds that a diligent search has been made and that there is good cause to release the information. The court's finding shall be made on the record.

History: Add. 1994, Act 202, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995
Popular Name: Probate Code

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710.69 Violation of MCL 710.41 as felony.

Sec. 69.

A person who violates section 41 of this chapter is, upon conviction, guilty of a misdemeanor, and upon any subsequent conviction, is guilty of a felony.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995
Popular Name: Probate Code

710.70 Prior adoption proceedings or orders of adoption.

Sec. 70.

(1) Adoption proceedings commenced before January 1, 1975, shall be consummated according to the provisions of this chapter which were in effect at the time the petition was filed, except that sections 64 and 65 shall apply to orders entered after January 1, 1975.

(2) An order of adoption entered before January 1, 1975, in conformity with the law then in effect is not affected or impaired by the repeal of sections 1 to 14 of this chapter, as amended.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975
Popular Name: Probate Code

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Chapter XI
CHANGE OF NAME OF ADULT OR MINOR

711.1 Order changing name of adult, minor, or spouse and minor children.

Sec. 1.

(1) The family division of the circuit court for a county may enter an order to change the name of an individual who has been a resident of the county for not less than 1 year, petitions in writing to the court for that purpose, and shows that a sufficient reason for the proposed change exists and that the change is not sought with a fraudulent intent. If the petitioner has a criminal record, including, but not limited to, a charge pending against the petitioner, the petitioner shall include the criminal record in the petition. If the petitioner does not have a criminal record, the petitioner shall state, in the petition, that the petitioner does not have a criminal record. The court may use L.E.I.N. or ICHAT to determine whether there is a criminal record. The court shall bear any cost associated with the court's use of L.E.I.N. or ICHAT, not the petitioner. As used in this subsection:

(a) "ICHAT" means the internet criminal history access tool maintained by the department of state police.

(b) "L.E.I.N." means the law enforcement information network regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(2) Except as provided in subsection (7), the court may, in its discretion, enter an order under this section with or without a hearing. If the court decides to proceed with a hearing, the court shall set a time and place for hearing. Except as provided in section 3 of this chapter, the court shall also order publication as provided by supreme court rule.

(3) If the court enters an order to change the name of an individual who has a criminal record, the court shall forward the order to the central records division of the department of state police and to all of the following, as applicable:

(a) The department of corrections, if the individual named in the order is in prison or on parole or has been imprisoned or released from parole in the immediately preceding 2 years.

(b) The sheriff of the county in which the individual named in the order was last convicted, if the individual was incarcerated in a county jail or released from a county jail within the immediately preceding 2 years.

(c) The court that has jurisdiction over the individual named in the order, if the individual named in the order is under the jurisdiction of the family division of the circuit court or has been discharged from the jurisdiction of that court within the immediately preceding 2 years.

(4) The court may permit an individual that has the same name, or a similar name, to that which the petitioner proposes to assume, to intervene in the proceeding to show fraudulent intent.

(5) Except as provided in subsection (7), if a petitioner under this section is a minor, the petition must be signed by the minor's parents, jointly; by the surviving parent, if 1 parent is deceased; by the guardian of the minor; or by 1 of the minor's parents, if there is only 1 parent with legal custody available to give consent. If either parent has been declared mentally incompetent, the petition may be signed by the guardian for that parent. If the minor is 14 years of age or older, written consent to the minor's name change must be signed by the minor and filed with the court

before an order to change the name of the minor is entered, but the minor is not required to sign the consent in the presence of the court. If the court considers the minor to be of sufficient age to express a preference, the court shall consult the minor, if the minor is less than 14 years of age, as to a change in the minor's name, and the court shall consider the minor's wishes.

(6) If a petitioner under this section is married, the court, in its order to change the name of the petitioner, may include the name of the spouse, if the spouse consents, and the names of minor children of the petitioner of whom the petitioner has legal custody. If a minor described in this subsection is 14 years of age or older, written consent to the minor's name change must be signed by the minor and filed with the court before the court includes the minor in its order, but the minor is not required to sign the consent in the presence of the court. Except as provided in subsection (7), if a minor described in this subsection is less than 14 years of age, the minor's name must not be changed unless the minor is a natural or adopted child of the petitioner and consent is obtained from the minor's parents, jointly; from the surviving parent, if 1 parent is deceased; or from 1 of the minor's parents, if there is only 1 parent with legal custody available to give consent. If the court considers the minor to be of sufficient age to express a preference, the court shall consult the minor, if the minor is less than 14 years of age, as to a change in the minor's name, and the court shall consider the minor's wishes.

(7) The name of a minor may be changed under subsection (5) or (6) with the consent or signature of the custodial parent upon notice to the noncustodial parent as provided in supreme court rule and after a hearing in any of the following circumstances:

(a) If both of the following occur:

(i) The other parent, having the ability to support or assist in supporting the minor, has failed or neglected to provide regular and substantial support for the minor or, if a support order has been entered, has failed to substantially comply with the order, for 2 years or more before the filing of the petition.

(ii) The other parent, having the ability to visit, contact, or communicate with the minor, has regularly and substantially failed or neglected to do so for 2 years or more before the filing of the petition.

(b) The other parent has been convicted of a violation of section 136b, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.520b to 750.520e, and 750.520g, and the minor or a sibling of the minor is a victim of the crime.

(c) The other parent has been convicted of a violation of section 316 or 317 of the Michigan penal code, 1931 PA 328, MCL 750.316 and 750.317.

(8) A false statement that is intentionally included in a petition for a name change constitutes perjury under section 422 of the Michigan penal code, 1931 PA 328, MCL 750.422.

CAUTION! This document is from an archive and may contain outdated information.

History: 1939, Act 288, Eff. Sept. 29, 1939 ;-- CL 1948, 711.1 ;-- Am. 1955, Act 89, Eff. Oct. 14, 1955 ;-- Am. 1956, Act 131, Eff. Aug. 11, 1956 ;-- Am. 1975, Act 47, Imd. Eff. May 16, 1975 ;-- Am. 1988, Act 370, Eff. Mar. 30, 1989 ;-- Am. 1996, Act 106, Eff. Mar. 31, 1997 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1996, Act 495, Eff. Mar. 31, 1997 ;-- Am. 2000, Act 111, Imd. Eff. May 24, 2000 ;-- Am. 2020, Act 40, Eff. June 1, 2020 ;-- Am. 2024, Act 229, Eff. Apr. 2, 2024
Former Law: See section 6 of Ch. 64 of Act 314 of 1915.

711.2 Fee; certified copy of order.

Sec. 2.

The judge of the family division of circuit court shall require the person making a petition under section 1 of this chapter to pay to the court to be remitted to the county treasurer for the use of the county a fee of $10.00, and shall furnish to the petitioner, if desired, a certified copy of the order made in the matter, upon payment of the required statutory fee.

History: 1939, Act 288, Eff. Sept. 29, 1939 ;-- CL 1948, 711.2 ;-- Am. 1955, Act 49, Imd. Eff. Apr. 29, 1955 ;-- Am. 1963, Act 131, Eff. Sept. 6, 1963 ;-- Am. 1972, Act 264, Eff. Oct. 1, 1972 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998
Former Law: See section 7 of Ch. 64 of Act 314 of 1915, being CL 1915, § 14144; CL 1929, § 15957.

711.3 Publication or availability of record of proceeding; violation as misdemeanor; exemption from

disclosure; definitions.

Sec. 3.

(1) In a proceeding under section 1 of this chapter, all of the following apply:

(a) If the court receives a petition that shows good cause, the court must order that no publication of the proceeding take place and that the record of the proceeding be confidential.

(b) A petition that shows good cause must state the reason or reasons why the petitioner or the endangered individual fears the publication or availability of the record of the proceeding, and the court must presume that a petition shows good cause if any of the following reasons are included in the statement:

(i) The petitioner or the endangered individual is a victim of an assaultive crime, domestic violence, harassment, human trafficking, or stalking.

(ii) The petitioner or the endangered individual seeks to affirm their gender identity.

(c) The court shall not require proof of an arrest or prosecution to find that a petition shows good cause.

(2) A court officer, employee, or agent that divulges, uses, or publishes, beyond the scope of the court officer's, employee's, or agent's duties with the court, information from a record made confidential under this section is guilty of a misdemeanor. This subsection does not apply to a disclosure under a court order.

(3) A confidential record created under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) As used in this section:

(a) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(b) "Domestic violence" means the occurrence of any of the following acts by a person that is not an act of self-defense:

(i) Causing or attempting to cause physical or mental harm to a family or household member.

(ii) Placing a family or household member in fear of physical or mental harm.

(iii) Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress.

(iv) Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(c) "Family or household member" includes any of the following:

(i) A spouse or former spouse.

(ii) An individual with whom the person resides or has resided.

(iii) An individual with whom the person has or has had a dating relationship.

(iv) An individual with whom the person is or has engaged in a sexual relationship.

(v) An individual to whom the person is related or was formerly related by marriage.

(vi) An individual with whom the person has a child in common.

(vii) The minor child of an individual described in subparagraphs (i) to (vi).

(d) "Gender identity" means an individual's gender-related self-identity, regardless of whether the self-identity is associated with the individual's assigned sex at birth.

(e) "Good cause" includes, but is not limited to, evidence that the publication or availability of the record of a proceeding under section 1 of this chapter could place the petitioner or another individual in physical danger, at an increased likelihood of physical danger, or at risk of unlawful discrimination or retaliation.

(f) "Human trafficking" means a violation of chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

(g) "Stalking" means that term as defined in sections 411h to 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h to 750.411i.

History: Add. 2000, Act 111, Imd. Eff. May 24, 2000 ;-- Am. 2024, Act 229, Eff. Apr. 2, 2024

Chapter XII
SAFE DELIVERY OF NEWBORNS

712.1 Short title of chapter; definitions.

Sec. 1.

CAUTION! This document is from an archive and may contain outdated information.

(1) This chapter shall be known and may be cited as the "safe delivery of newborns law".

(2) As used in this chapter:

(a) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(b) "Court" means the family division of circuit court.

(c) "Department" means the department of human services.

(d) "DNA identification profile" and "DNA identification profiling" mean those terms as defined in section 1 of the paternity act, 1956 PA 205, MCL 722.711.

(e) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(f) "Emergency service provider" means a uniformed or otherwise identified employee or contractor of a fire department, hospital, or police station when that individual is inside the premises and on duty. Emergency service provider also includes a paramedic or an emergency medical technician when either of those individuals is responding to a 9-1-1 emergency call.

(g) "Fire department" means an organized fire department as that term is defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(h) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(i) "Hospital" means a hospital that is licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(j) "Lawyer-guardian ad litem" means an attorney appointed under section 2 of this chapter. A lawyer-guardian ad litem represents the newborn, and has the powers and duties, as set forth in section 17d of chapter XIIA.

(k) "Newborn" means a child who a physician reasonably believes to be not more than 72 hours old.

(l) "Police station" means that term as defined in section 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

(m) "Preplacement assessment" means an assessment of a prospective adoptive parent as described in section 23f of chapter X.

(n) "Surrender" means to leave a newborn with an emergency service provider without expressing an intent to return for the newborn.

CAUTION! This document is from an archive and may contain outdated information.

History: Add. 2000 Act 232, Eff. Jan. 1, 2001 ;-- Am. 2006, Act 488, Eff. Jan. 1, 2007

Compiler's Notes: Enacting section 1 of Act 232 of 2000 provides:"Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."The heading to Chapter XII added by 2000 PA 232 ("SAFE DELIVERY OF NEWBORNS") was incorrectly referenced in 2000 PA 235 as "SURRENDERED NEWBORNS." The chapter heading evidently should read "SAFE DELIVERY OF NEWBORNS."

Popular Name: Baby Abandonment

Popular Name: Baby Drop Off

712.2 Newborn surrendered to emergency service provider; court jurisdiction; effect of other provisions of law; immunity from civil action.

Sec. 2.

(1) The court has jurisdiction over a newborn who is surrendered to an emergency service provider as provided in section 3 of this chapter. The court may appoint a lawyer-guardian ad litem to represent a newborn in proceedings under this chapter.

(2) Except as provided in section 5 of this chapter, the reporting requirement of section 3 of the child protection law, 1975 PA 238, MCL 722.623, does not apply regarding a child surrendered to an emergency service provider as provided in section 3 of this chapter.

(3) Unless this chapter specifically provides otherwise, a provision in another chapter of this act does not apply to a proceeding under this chapter. Unless this chapter specifically provides otherwise, the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.30, does not apply to a proceeding under this chapter.

(4) A hospital and a child placing agency, and their agents and employees, are immune in a civil action for damages for an act or omission in accepting or transferring a newborn under this chapter, except for an act or omission constituting gross negligence or willful or wanton misconduct. To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, an employee or contractor of a fire department or police station has the same immunity that this subsection provides to a hospital's or child placing agency's agent or employee.

History: Add. 2000 Act 232, Eff. Jan. 1, 2001
Compiler's Notes: Enacting section 1 of Act 232 of 2000 provides:"Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."
Popular Name: Baby Abandonment
Popular Name: Baby Drop Off

712.2a Confidentiality.

Sec. 2a.

(1) A hearing under this chapter is closed to the public. A record of a proceeding under this chapter is confidential, except that the record is available to any individual who is a party to that proceeding.

(2) All child placing agency records created under this chapter are confidential except as otherwise provided in the provisions of this chapter.

(3) An individual who discloses information made confidential under subsection (1) or (2) without a court order or specific authorization under federal or state law is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both. An individual who discloses information made confidential under subsection (1) or (2) without a court order or specific authorization under federal or state law is civilly liable for damages proximately caused by disclosure of that information.

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History: Add. 2006, Act 488, Eff. Jan. 1, 2007
Popular Name: Baby Abandonment
Popular Name: Baby Drop Off

712.3 Conduct of emergency service provider.

Sec. 3.

(1) If a parent surrenders a child who may be a newborn to an emergency service provider, the emergency service provider shall comply with the requirements of this section under the assumption that the child is a newborn. The emergency service provider shall, without a court order, immediately accept the newborn, taking the newborn into temporary protective custody. The emergency service provider shall make a reasonable effort to do all of the following:

(a) Take action necessary to protect the physical health and safety of the newborn.

(b) Inform the parent that by surrendering the newborn, the parent is releasing the newborn to a child placing agency to be placed for adoption.

(c) Inform the parent that the parent has 28 days to petition the court to regain custody of the newborn.

(d) Provide the parent with written material approved by or produced by the department that includes, but is not limited to, all of the following statements:

(i) By surrendering the newborn, the parent is releasing the newborn to a child placing agency to be placed for adoption.

(ii) The parent has 28 days after surrendering the newborn to petition the court to regain custody of the newborn.

(iii) After the 28-day period to petition for custody elapses, there will be a hearing to determine and terminate parental rights.

(iv) There will be public notice of this hearing, and the notice will not contain the parent's name.

(v) The parent will not receive personal notice of this hearing.

(vi) Information the parent provides to an emergency service provider will not be made public.

(vii) A parent can contact the safe delivery line established under section 20 of this chapter for more information.

(2) After providing a parent with the information described in subsection (1), an emergency service provider shall make a reasonable attempt to do all of the following:

(a) Encourage the parent to provide any relevant family or medical information.

(b) Provide the parent with the pamphlet produced under section 20 of this chapter and inform the parent that he or she can receive counseling or medical attention.

(c) Inform the parent that information that he or she provides will not be made public.

(d) Ask the parent to identify himself or herself.

(e) Inform the parent that in order to place the newborn for adoption the state is required to make a reasonable attempt to identify the other parent, and then ask the parent to identify the other parent.

(f) Inform the parent that the child placing agency that takes temporary protective custody of the newborn can provide confidential services to the parent.

(g) Inform the parent that the parent may sign a release for the newborn that may be used at the parental rights termination hearing under this chapter.

(3) A newborn whose birth is described in the born alive infant protection act, 2002 PA 687, MCL 333.1071 to 333.1073, and who is in a hospital setting or transferred to a hospital under section 3(1) of the born alive infant protection act, 2002 PA 687, MCL 333.1073, is a newborn surrendered as provided in this chapter. An emergency service provider who has received a newborn under the born alive infant protection act, 2002 PA 687, MCL 333.1071 to 333.1073, shall do all of the following:

(a) Comply with the requirements of subsections (1) and (2) to obtain information from or supply information to the surrendering parent by requesting the information from or supplying the information to the attending physician who delivered the newborn.

(b) Make no attempt to directly contact the parent or parents of the newborn.

(c) Provide humane comfort care if the newborn is determined to have no chance of survival due to gestational immaturity in light of available neonatal medical treatment or other condition incompatible with life.

History: Add. 2000 Act 232, Eff. Jan. 1, 2001 ;-- Am. 2002, Act 688, Eff. Mar. 31, 2003 ;-- Am. 2006, Act 488, Eff. Jan. 1, 2007
Compiler's Notes: Enacting section 1 of Act 232 of 2000 provides:"Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."
Popular Name: Baby Abandonment
Popular Name: Baby Drop Off

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712.5 Transfer of newborn to hospital; physician report of abuse, neglect, or child not a newborn; notice to child placing agency.

Sec. 5.

(1) An emergency service provider that is not a hospital and that takes a newborn into temporary protective custody under section 3 of this chapter shall transfer the newborn to a hospital. The hospital shall accept a newborn who an emergency service provider transfers to the hospital in compliance with this chapter, taking the newborn into temporary protective custody.

(2) A hospital that takes a newborn into temporary protective custody under this chapter shall have the newborn examined by a physician. If a physician who examines the newborn either determines that there is reason to suspect the newborn has experienced child abuse or child neglect, other than being surrendered to an emergency service provider under section 3 of this chapter, or comes to a reasonable belief that the child is not a newborn, the physician shall immediately report to the department as required by section 3 of the child protection law, 1975 PA 238, MCL 722.623.

(3) If a physician is not required to report to the department as provided in subsection (2), the hospital shall notify a child placing agency that the hospital has taken a newborn into temporary protective custody under this chapter.

History: Add. 2000 Act 232, Eff. Jan. 1, 2001
Compiler's Notes: Enacting section 1 of Act 232 of 2000 provides:"Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."
Popular Name: Baby Abandonment
Popular Name: Baby Drop Off

712.7 Duties of child placing agency.

Sec. 7.

Upon receipt of notice from a hospital under section 5 of this chapter, the child placing agency shall do all of the following:

(a) Immediately assume the care, control, and temporary protective custody of the newborn.

(b) If a parent is known and willing, immediately meet with the parent.

(c) Unless otherwise provided in this subdivision, make a temporary placement of the newborn with a prospective adoptive parent who has an approved preplacement assessment. If a petition for custody is filed under section 10 of this chapter, the child placing agency may make a temporary placement of the newborn with a licensed foster parent.

(d) Unless the birth was witnessed by the emergency service provider, immediately request assistance from law enforcement officials to investigate and determine, through the missing children information clearinghouse, the national center for missing and exploited children, and any other national and state resources, whether the newborn is a missing child.

(e) Not later than 48 hours after a transfer of physical custody to a prospective adoptive parent, petition the court in the county in which the prospective adoptive parent resides to provide authority to place the newborn and provide care for the newborn. The petition shall include all of the following:

(i) The date of the transfer of physical custody.

(ii) The name and address of the emergency service provider to whom the newborn was surrendered.

(iii) Any information, either written or verbal, that was provided by and to the parent who surrendered the newborn. The emergency service provider that originally accepted the newborn as required by section 3 of this chapter shall provide this information to the child placing agency.

(f) Within 28 days, make reasonable efforts to identify, locate, and provide notice of the surrender of the newborn to the nonsurrendering parent. The child placing agency shall file a written report with the court that issued the order placing the child. The report shall state the efforts the child placing agency made in attempting to identify and locate the nonsurrendering parent and the results of those efforts. If the identity and address of the nonsurrendering parent are unknown, the child placing agency shall provide notice of the surrender of the newborn by publication in a newspaper of general circulation in the county where the newborn was surrendered.

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History: Add. 2000 Act 232, Eff. Jan. 1, 2001 ;-- Am. 2006, Act 488, Eff. Jan. 1, 2007

Compiler's Notes: Enacting section 1 of Act 232 of 2000 provides:"Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."

Popular Name: Baby Abandonment

Popular Name: Baby Drop Off

712.10 Custody action by surrendering or nonsurrendering parent; filing; hearing; determination of paternity or maternity.

Sec. 10.

(1) If a surrendering parent wants custody of a newborn who was surrendered under section 3 of this chapter, the parent shall, within 28 days after the newborn was surrendered, file a petition with the court for custody. Not later than 28 days after notice of surrender of a newborn has been published, an individual claiming to be the nonsurrendering parent of that newborn may file a petition with the court for custody. The surrendering parent or nonsurrendering parent shall file the petition for custody in 1 of the following counties:

(a) If the parent has located the newborn, the county where the newborn is located.

(b) If subdivision (a) does not apply and the parent knows the location of the emergency service provider to whom the newborn was surrendered, the county where the emergency service provider is located.

(c) If neither subdivision (a) nor (b) applies, the county where the parent is located.

(2) If the court in which the petition for custody is filed did not issue the order placing the newborn, the court in which the petition for custody is filed shall locate and contact the court that issued the order and shall transfer the proceedings to that court.

(3) Before holding a custody hearing on a petition filed under this section and not later than 7 days after a petition for custody under this section has been filed, the court shall conduct a hearing to make the determinations of paternity or maternity as described in section 11.

History: Add. 2000 Act 232, Eff. Jan. 1, 2001 ;-- Am. 2006, Act 488, Eff. Jan. 1, 2007

Compiler's Notes: Enacting section 1 of Act 232 of 2000 provides:"Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."
Popular Name: Baby Abandonment
Popular Name: Baby Drop Off

712.11 Blood or tissue typing or DNA identification profiling; presumption; costs; dismissal of custody petition.

Sec. 11.

(1) In a petition for custody filed under this chapter, the court shall order the child and each party claiming paternity to submit to blood or tissue typing determinations or DNA identification profiling, as described in section 16 of the paternity act, 1958 PA 205, MCL 722.716.

(2) Unless the birth was witnessed by the emergency service provider and sufficient documentation exists to support maternity, in a petition for custody filed under this chapter, the court shall order the child and each party claiming maternity to submit to blood or tissue typing determinations or DNA identification profiling, as described in section 16 of the paternity act, 1958 PA 205, MCL 722.716.

(3) If the probability of paternity or maternity determined by the blood or tissue typing or DNA identification profiling is 99% or higher and the DNA identification profile and summary report are admissible, paternity or maternity is presumed and the petitioner may move for summary disposition on the issue of paternity or maternity.

(4) The court may order the petitioner to pay all or part of the cost of the paternity or maternity testing.

(5) If the result of the paternity or maternity testing is admissible and establishes that the petitioner could not be the parent of the newborn, the court shall dismiss the petition for custody.

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History: Add. 2000, Act 232, Eff. Jan. 1, 2001 ;-- Am. 2006, Act 488, Eff. Jan. 1, 2007
Compiler's Notes: Enacting section 1 of Act 232 of 2000 provides:"Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."
Popular Name: Baby Abandonment
Popular Name: Baby Drop Off

712.12, 712.13 Repealed. 2006, Act 488, Eff. Jan. 1, 2007.

Compiler's Notes: The repealed sections pertained to blood or tissue typing or DNA identification profile and disclosure of information.
Popular Name: Baby Abandonment
Popular Name: Baby Drop Off

712.14 Determination of custody; basis; newborn's best interest; factors.

Sec. 14.

(1) In a custody action under this chapter, the court shall determine custody of the newborn based on the newborn's best interest. The court shall consider, evaluate, and make findings on each factor of the newborn's best interest with the goal of achieving permanence for the newborn at the earliest possible date.

(2) A newborn's best interest in a custody action under this chapter is all of the following factors regarding a parent claiming parenthood of the newborn:

(a) The love, affection, and other emotional ties existing between the newborn and the parent.

(b) The parent's capacity to give the newborn love, affection, and guidance.

(c) The parent's capacity and disposition to provide the newborn with food, clothing, medical care, or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.

(d) The permanence, as a family unit, of the existing or proposed custodial home.
(e) The parent's moral fitness.
(f) The parent's mental and physical health.
(g) Whether the parent has a history of domestic violence.
(h) If the parent is not the parent who surrendered the newborn, the opportunity the parent had to provide appropriate care and custody of the newborn before the newborn's birth or surrender.
(i) Any other factor considered by the court to be relevant to the determination of the newborn's best interest.

History: Add. 2000 Act 232, Eff. Jan. 1, 2001
Compiler's Notes: Enacting section 1 of Act 232 of 2000 provides:"Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."
Popular Name: Baby Abandonment
Popular Name: Baby Drop Off

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712.15 Court order.

Sec. 15.

Based on the court's finding under section 14 of this chapter, the court may issue an order that does 1 of the following:
(a) Grants legal or physical custody, or both, of the newborn to the parent and either retains or relinquishes jurisdiction.
(b) Determines that the best interests of the newborn are not served by granting custody to the petitioner parent and orders the child placing agency to petition the court for jurisdiction under section 2(b) of chapter XIIA.
(c) Dismisses the petition.

History: Add. 2000 Act 232, Eff. Jan. 1, 2001 ;-- Am. 2006, Act 488, Eff. Jan. 1, 2007 ;-- Am. 2010, Act 349, Imd. Eff. Dec. 22, 2010
Compiler's Notes: Enacting section 1 of Act 232 of 2000 provides:"Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."
Popular Name: Baby Abandonment
Popular Name: Baby Drop Off

712.17 Release or termination of parental rights to newborn.

Sec. 17.

(1) A parent who surrenders a newborn under section 3 of this chapter and who does not file a custody action under section 10 of this chapter is presumed to have knowingly released his or her parental rights to the newborn.
(2) If the surrendering parent has not filed a petition for custody of the newborn within 28 days of the surrender, the child placing agency with authority to place the newborn shall immediately file a petition with the court to determine whether the release shall be accepted and whether the court shall enter an order terminating the rights of the surrendering parent.
(3) If the nonsurrendering parent has not filed a petition for custody of the newborn within 28 days of notice of surrender of a newborn under section 10 of this chapter, the child placing agency with authority to place the newborn shall immediately file a petition with the court to determine whether the court shall enter an order terminating the rights of the nonsurrendering parent.
(4) The court shall schedule a hearing on the petition from the child placing agency within 14 days of receipt of that petition. At the hearing, the child placing agency shall present evidence that demonstrates that the surrendering parent released the newborn and that demonstrates the efforts made by the child placing agency to identify, locate, and provide notice to the nonsurrendering parent.
(5) If the court finds by a preponderance of the evidence that the surrendering parent has knowingly released his or her rights to the child and that reasonable efforts were made to locate the nonsurrendering parent and a custody action has not been filed, the court shall enter an order terminating parental rights of the surrendering parent and

the nonsurrendering parent under this chapter.

History: Add. 2000 Act 232, Eff. Jan. 1, 2001 ;-- Am. 2006, Act 488, Eff. Jan. 1, 2007 ;-- Am. 2010, Act 348, Imd. Eff. Dec. 22, 2010
Compiler's Notes: Enacting section 1 of Act 232 of 2000 provides:"Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."
Popular Name: Baby Abandonment
Popular Name: Baby Drop Off

712.20 Safe delivery program; establishment.

Sec. 20.

The department of community health in conjunction with the department shall establish a safe delivery program. The safe delivery program shall include, but is not limited to, both of the following:

(a) A toll-free, 24-hour telephone line. The information provided with this telephone line shall include, but is not limited to, all of the following:

(i) Information on prenatal care and the delivery of a newborn.

(ii) Names of health agencies that can assist in obtaining services and supports that provide for the pregnancy-related health of the mother and the health of the baby.

(iii) Information on adoption options and the name and telephone number of a child placing agency that can assist a parent or expecting parent in obtaining adoption services.

(iv) Information that, in order to safely provide for the health of the mother and her newborn, the best place for the delivery of a child is in a hospital, hospital-based birthing center, or birthing center that is accredited by the commission for the accreditation of birth centers.

(v) An explanation that, to the extent of the law, prenatal care and delivery services are routinely confidential within the health care system, if requested by the mother.

(vi) Information that a hospital will take into protective custody a newborn that is surrendered as provided for in this chapter and, if needed, provide emergency medical assistance to the mother, the newborn, or both.

(vii) Information regarding legal and procedural requirements related to the voluntary surrender of a child as provided for in this chapter.

(viii) Information regarding the legal consequences for endangering a child, including child protective service investigations and potential criminal penalties.

(ix) Information that surrendering a newborn for adoption as provided in this chapter is an affirmative defense to charges of abandonment as provided in section 135 of the Michigan penal code, 1931 PA 328, MCL 750.135.

(x) Information about resources for counseling and assistance with crisis management.

(b) A pamphlet that provides information to the public concerning the safe delivery program. The department of community health and the department shall jointly publish and distribute the pamphlet. The pamphlet shall prominently display the toll-free telephone number prescribed by subdivision (a).

History: Add. 2000, Act 235, Eff. Jan. 1, 2001 ;-- Am. 2003, Act 245, Imd. Eff. Dec. 29, 2003
Popular Name: Baby Abandonment
Popular Name: Baby Drop Off

Chapter XIIA
JURISDICTION, PROCEDURE, AND DISPOSITION INVOLVING MINORS

712A.1 Definitions; proceedings not as criminal proceedings; construction of chapter.

Sec. 1.

(1) As used in this chapter:

(a) "Civil infraction" means that term as defined in section 113 of the revised judicature act of 1961, 1961 PA 236, MCL 600.113.

(b) "Competency evaluation" means a court-ordered examination of a juvenile directed to developing information relevant to a determination of his or her competency to proceed at a particular stage of a court proceeding

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involving a juvenile who is the subject of a delinquency petition.

(c) "Competency hearing" means a hearing to determine whether a juvenile is competent to proceed.

(d) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.

(e) "Court" means the family division of circuit court.

(f) "Department" means the department of health and human services. A reference in this chapter to the "department of social welfare" or the "family independence agency" means the department of health and human services.

(g) "Foreign protection order" means that term as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.

(h) "Incompetent to proceed" means that a juvenile, based on age-appropriate norms, lacks a reasonable degree of rational and factual understanding of the proceeding or is unable to do 1 or more of the following:

(i) Consult with and assist his or her attorney in preparing his or her defense in a meaningful manner.

(ii) Sufficiently understand the charges against him or her.

(i) Until September 30, 2021, "juvenile" means a person who is less than 17 years of age who is the subject of a delinquency petition. Beginning October 1, 2021, "juvenile" means a person who is less than 18 years of age who is the subject of a delinquency petition.

(j) "Least restrictive environment" means a supervised community placement, preferably a placement with the juvenile's parent, guardian, relative, or a facility or conditions of treatment that is a residential or institutional placement only utilized as a last resort based on the best interest of the juvenile or for reasons of public safety.

(k) "Licensed child caring institution" means a child caring institution as defined and licensed under 1973 PA 116, MCL 722.111 to 722.128.

(l) "MCI" means the Michigan children's institute created and established by 1935 PA 220, MCL 400.201 to 400.214.

(m) "Mental health code" means the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(n) "Personal protection order" means a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, and includes a valid foreign protection order.

(o) "Public agency" means the department, a local unit of government, the family division of the circuit court, the juvenile division of the probate court, or a county juvenile agency.

(p) "Qualified juvenile forensic mental health examiner" means 1 of the following who performs forensic mental health examinations for the purposes of sections 1062 to 1074 of the mental health code, MCL 330.2062 to 330.2074, but does not exceed the scope of his or her practice as authorized by state law:

(i) A psychiatrist or psychologist who possesses experience or training in the following:

(A) Forensic evaluation procedures for juveniles.

(B) Evaluation, diagnosis, and treatment of children and adolescents with emotional disturbance, mental illness, or developmental disabilities.

(C) Clinical understanding of child and adolescent development.

(D) Familiarity with competency standards in this state.

(ii) A mental health professional other than a psychiatrist or psychologist who has completed a juvenile competency training program for forensic mental health examiners that is endorsed by the department under section 1072 of the mental health code, MCL 330.2072, and who possesses experience or training in all of the following:

(A) Forensic evaluation procedures for juveniles.

(B) Evaluation, diagnosis, and treatment of children and adolescents with emotional disturbance, mental illness, or developmental disabilities.

(C) Clinical understanding of child and adolescent development.

(D) Familiarity with competency standards in this state.

(q) "Qualified restoration provider" means an individual who the court determines, as a result of the opinion provided by the qualified forensic mental health examiner, has the skills and training necessary to provide restoration services. The court shall take measures to avoid any conflict of interest among agencies or individuals who may provide evaluation and restoration.

(r) "Reasonable and prudent parenting standard" means decisions characterized by careful and sensible parental decisions that maintain a child's health, safety, and best interest while encouraging the emotional and developmental growth of the child when determining whether to allow a child in foster care to participate in extracurricular, enrichment, cultural, and social activities.

(s) "Restoration" means the process by which education or treatment of a juvenile results in that juvenile becoming competent to proceed.

(t) "Secure facility" means any public or private licensed child caring institution identified by the department as designed to physically restrict the movements and activities of the alleged or adjudicated juvenile offender that has the primary purpose of serving juveniles who have been alleged or adjudicated delinquent, other than a juvenile alleged or adjudicated under section 2(a)(2) to (4) of this chapter.

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(u) "Serious misdemeanor" means that term as defined in section 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.811.

(v) "Valid foreign protection order" means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

(2) Except as otherwise provided, proceedings under this chapter are not criminal proceedings.

(3) This chapter shall be liberally construed so that each juvenile coming within the court's jurisdiction receives the care, guidance, and control, preferably in his or her own home, conducive to the juvenile's welfare and the best interest of the state. If a juvenile is removed from the control of his or her parents, the juvenile shall be placed in care as nearly as possible equivalent to the care that should have been given to the juvenile by his or her parents.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.1 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1996, Act 250, Eff. Jan. 1, 1997 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999 ;-- Am. 2000, Act 46, Imd. Eff. Mar. 27, 2000 ;-- Am. 2001, Act 211, Eff. Apr. 1, 2002 ;-- Am. 2012, Act 541, Eff. Mar. 28, 2013 ;-- Am. 2014, Act 533, Imd. Eff. Jan. 14, 2015 ;-- Am. 2016, Act 496, Eff. Apr. 6, 2017 ;-- Am. 2019, Act 109, Eff. Oct. 1, 2021 ;-- Am. 2020, Act 389, Eff. Apr. 4, 2021
Former Law: See sections 1 and 7 of Ch. XII of Act 288 of 1939, and CL 1929, § 12835.
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.2 Authority and jurisdiction of court.

Sec. 2.

The court has the following authority and jurisdiction:

(a) Exclusive original jurisdiction superior to and regardless of the jurisdiction of another court in proceedings concerning a juvenile under 18 years of age who is found within the county if 1 or more of the following apply:

(1) Except as otherwise provided in this sub-subdivision, the juvenile has violated any municipal ordinance or law of the state or of the United States. If the court enters into an agreement under section 2e of this chapter, the court has jurisdiction over a juvenile who committed a civil infraction as provided in that section. The court has jurisdiction over a juvenile 14 years of age or older who is charged with a specified juvenile violation only if the prosecuting attorney files a petition in the court instead of authorizing a complaint and warrant. As used in this sub-subdivision, "specified juvenile violation" means 1 or more of the following:

(A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

(B) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used in this paragraph, "dangerous weapon" means 1 or more of the following:

(i) A loaded or unloaded firearm, whether operable or inoperable.

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

(C) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(i) A high-security or medium-security facility operated by the department or a county juvenile agency.

(ii) A high-security facility operated by a private agency under contract with the department or a county juvenile agency.

(D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

(E) An attempt to commit a violation described in paragraphs (A) to (D).

(F) Conspiracy to commit a violation described in paragraphs (A) to (D).

(G) Solicitation to commit a violation described in paragraphs (A) to (D).

(H) A lesser included offense of a violation described in paragraphs (A) to (G) if the individual is charged with a

violation described in paragraphs (A) to (G).

(I) Another violation arising out of the same transaction as a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(2) The juvenile has deserted his or her home without sufficient cause, and the court finds on the record that the juvenile has been placed or refused alternative placement or the juvenile and the juvenile's parent, guardian, or custodian have exhausted or refused family counseling.

(3) The juvenile is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian, and the court finds on the record by clear and convincing evidence that court-accessed services are necessary.

(4) The juvenile willfully and repeatedly absents himself or herself from school or other learning program intended to meet the juvenile's educational needs, or repeatedly violates rules and regulations of the school or other learning program, and the court finds on the record that the juvenile, the juvenile's parent, guardian, or custodian, and school officials or learning program personnel have met on the juvenile's educational problems and educational counseling and alternative agency help have been sought. As used in this sub-subdivision only, "learning program" means an organized educational program that is appropriate, given the age, intelligence, ability, and psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(b) Jurisdiction in proceedings concerning a juvenile under 18 years of age found within the county:

(1) Whose parent or other person legally responsible for the care and maintenance of the juvenile, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, who is subject to a substantial risk of harm to his or her mental well-being, who is abandoned by his or her parents, guardian, or other custodian, or who is without proper custody or guardianship. As used in this sub-subdivision:

(A) "Education" means learning based on an organized educational program that is appropriate, given the age, intelligence, ability, and psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(B) "Neglect" means that term as defined in section 2 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.602.

(C) "Without proper custody or guardianship" does not mean a parent has placed the juvenile with another person who is legally responsible for the care and maintenance of the juvenile and who is able to and does provide the juvenile with proper care and maintenance.

(2) Whose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, nonparent adult, or other custodian, is an unfit place for the juvenile to live in. As used in this sub-subdivision, "neglect" means that term as defined in section 2 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.602.

(3) If the juvenile is dependent and is in danger of substantial physical or psychological harm. The juvenile may be found to be dependent when any of the following occurs:

(A) The juvenile is homeless or not domiciled with a parent or other legally responsible person.

(B) The juvenile has repeatedly run away from home and is beyond the control of a parent or other legally responsible person.

(C) The juvenile is alleged to have committed a commercial sexual activity as that term is defined in section 462a of the Michigan penal code, 1931 PA 328, MCL 750.462a or a delinquent act that is the result of force, fraud, coercion, or manipulation exercised by a parent or other adult.

(D) The juvenile's custodial parent or legally responsible person has died or has become permanently incapacitated and no appropriate parent or legally responsible person is willing and able to provide care for the juvenile.

(4) Whose parent has substantially failed, without good cause, to comply with a limited guardianship placement plan described in section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, regarding the juvenile.

(5) Whose parent has substantially failed, without good cause, to comply with a court-structured plan described in section 5207 or 5209 of the estates and protected individuals code, 1998 PA 386, MCL 700.5207 and 700.5209, regarding the juvenile.

(6) If the juvenile has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and the juvenile's parent meets both of the following criteria:

(A) The parent, having the ability to support or assist in supporting the juvenile, has failed or neglected, without good cause, to provide regular and substantial support for the juvenile for 2 years or more before the filing of the petition or, if a support order has been entered, has failed to substantially comply with the order for 2 years or more before the filing of the petition. As used in this sub-subdivision, "neglect" means that term as defined in section 2 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.602.

(B) The parent, having the ability to visit, contact, or communicate with the juvenile, has regularly and substantially failed or neglected, without good cause, to do so for 2 years or more before the filing of the petition.

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As used in this sub-subdivision, "neglect" means that term as defined in section 2 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.602.

If a petition is filed in the court alleging that a juvenile is within the provisions of this subdivision and the custody of that juvenile is subject to the prior or continuing order of another court of record of this state, the manner of notice to the other court of record and the authority of the court to proceed is governed by rule of the supreme court.

(c) Jurisdiction over juveniles under 18 years of age, jurisdiction of whom has been waived to the family division of circuit court by a circuit court under a provision in a temporary order for custody of juveniles based upon a complaint for divorce or upon a motion related to a complaint for divorce by the prosecuting attorney, in a divorce judgment dissolving a marriage between the juvenile's parents, or by an amended judgment relative to the juvenile's custody in a divorce.

(d) If the court finds on the record that voluntary services have been exhausted or refused, concurrent jurisdiction in proceedings concerning a juvenile between the ages of 17 and 18 found within the county who is 1 or more of the following:

(1) Repeatedly addicted to the use of drugs or the intemperate use of alcoholic liquors.

(2) Repeatedly associating with criminal, dissolute, or disorderly persons.

(3) Found of his or her own free will and knowledge in a house of prostitution, assignation, or ill-fame.

(4) Repeatedly associating with thieves, prostitutes, pimps, or procurers.

(5) Willfully disobedient to the reasonable and lawful commands of his or her parents, guardian, or other custodian and in danger of becoming morally depraved.

If a juvenile is brought before the court in a county other than that in which the juvenile resides, before a hearing and with the consent of the judge of the court in the county of residence, the court may enter an order transferring jurisdiction of the matter to the court of the county of residence. Consent to transfer jurisdiction is not required if the county of residence is a county juvenile agency and satisfactory proof of residence is furnished to the court of the county of residence. The order does not constitute a legal settlement in this state that is required for the purpose of section 55 of the social welfare act, 1939 PA 280, MCL 400.55. The order and a certified copy of the proceedings in the transferring court must be delivered to the court of the county of residence. A case designated as a case in which the juvenile must be tried in the same manner as an adult under section 2d of this chapter may be transferred for venue or for juvenile disposition, but must not be transferred on grounds of residency. If the case is not transferred, the court having jurisdiction of the offense shall try the case.

(e) Authority to establish or assist in developing a program or programs within the county to prevent delinquency and provide services to act upon reports submitted to the court related to the behavior of a juvenile who does not require formal court jurisdiction but otherwise falls within subdivision (a). These services must be used only if the juvenile and his or her parents, guardian, or custodian voluntarily accepts them.

(f) If the court operates a detention home for juveniles within the court's jurisdiction under subdivision (a)(1), authority to place a juvenile within that home pending trial if the juvenile is within the circuit court's jurisdiction under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if the circuit court orders the family division of circuit court in the same county to place the juvenile in that home. The family division of circuit court shall comply with that order.

(g) Authority to place a juvenile in a county jail under section 27a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.27a, if the court designates the case under section 2d of this chapter as a case in which the juvenile is to be tried in the same manner as an adult and the court determines there is probable cause to believe that the offense was committed and probable cause to believe the juvenile committed that offense.

(h) Jurisdiction over a proceeding under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, in which a minor less than 18 years of age is the respondent, or a proceeding to enforce a valid foreign protection order issued against a respondent who is a minor less than 18 years of age. A personal protection order must not be issued against a respondent who is a minor less than 10 years of age. Venue for an initial action under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, is proper in the county of residence of either the petitioner or respondent. If the respondent does not live in this state, venue for the initial action is proper in the petitioner's county of residence.

(i) In a proceeding under this chapter concerning a juvenile's care and supervision, the court may issue orders affecting a party as necessary. This subdivision does not apply after May 1, 2018. As used in this subdivision, "party" means 1 of the following:

(i) In a delinquency proceeding, the petitioner and juvenile.

(ii) In a child protective proceeding, the petitioner, department, child, respondent, parent, guardian, or legal custodian, and any licensed child caring institution or child placing agency under contract with the department to provide for a juvenile's care and supervision.

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History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- Am. 1947, Act 68, Imd. Eff. May 2, 1947 ;-- CL 1948, 712A.2 ;-- Am.

1953, Act 193, Eff. Oct. 2, 1953 ;-- Am. 1965, Act 182, Imd. Eff. July 15, 1965 ;-- Am. 1972, Act 175, Imd. Eff. June 16, 1972 ;-- Am. 1984, Act 131, Imd. Eff. June 1, 1984 ;-- Am. 1986, Act 203, Imd. Eff. July 25, 1986 ;-- Am. 1988, Act 53, Eff. Oct. 1, 1988 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1990, Act 314, Imd. Eff. Dec. 20, 1990 ;-- Am. 1994, Act 192, Eff. Oct. 1, 1994 ;-- Am. 1996, Act 250, Eff. Jan. 1, 1997 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999 ;-- Am. 1998, Act 530, Eff. July 1, 1999 ;-- Am. 2000, Act 55, Eff. Apr. 1, 2000 ;-- Am. 2001, Act 211, Eff. Apr. 1, 2002 ;-- Am. 2014, Act 342, Eff. Jan. 14, 2015 ;-- Am. 2014, Act 519, Imd. Eff. Jan. 14, 2015 ;-- Am. 2018, Act 58, Eff. June 12, 2018 ;-- Am. 2019, Act 113, Eff. Oct. 1, 2021

Compiler's Notes: Section 3 of Act 53 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 172 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

Former Law: See sections 2, 3, 4 and 5 of Ch. XII of Act 288 of 1939, and CL 1929, § 12834.

Popular Name: Probate Code

Popular Name: Juvenile Code

712A.2a Continuing jurisdiction beyond maximum age; voluntary foster care; extended guardianship assistance; jurisdiction over juvenile committing certain violations; juvenile under jurisdiction of department of corrections; definitions.

Sec. 2a.

(1) Except as otherwise provided in 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.

(2) If the department files a report with the court under section 15 of the young adult voluntary foster care act, 2011 PA 225, MCL 400.655, the court shall determine whether it is in the youth's best interests to continue in voluntary foster care within 21 days of the filing of the report. A hearing is not required under this subsection, but may be held on the court's own motion or at the request of the youth or the department.

(3) If the court finds that the voluntary foster care agreement is in the youth's best interests, the court shall issue an order containing individualized findings to support its determinations made under subsection (2) and close the case in accordance with section 19 of the young adult voluntary foster care act, 2011 PA 225, MCL 400.659. The individualized findings shall be based on the department's written report and other materials and information submitted to the court.

(4) If the court has appointed a guardian under section 19a or 19c of this chapter for a youth age 16 or older, the court shall retain jurisdiction of the youth until the department determines the youth's eligibility to receive extended guardianship assistance under the young adult voluntary foster care act, 2011 PA 225, MCL 400.641 to 400.671, that shall be completed within 120 days of the youth's eighteenth birthday. If the department determines the youth will receive extended guardianship assistance, the court shall retain jurisdiction of the youth until that youth no longer receives guardianship assistance.

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

(6) If the court exercised jurisdiction over a child under section 2(h) of this chapter, jurisdiction of the court continues until the order expires but action regarding the personal protection order after the respondent's eighteenth birthday is not subject to this chapter.

(7) This section does not apply if the juvenile is sentenced to the jurisdiction of the department of corrections.

(8) Except as provided in subsection (9), as used in this chapter, "child", "minor", "youth", or any other term signifying a person under the age of 18 applies to a person 18 years of age or older concerning whom proceedings are commenced in the court under section 2 of this chapter and over whom the court has continuing jurisdiction under subsections (1) to (6).

(9) For the purpose of this section only, "juvenile" applies to a person 18 years of age or older concerning whom proceedings are commenced in the court under section 2 of this chapter and over whom the court has continuing jurisdiction under subsections (1) to (6).

History: Add. 1953, Act 193, Eff. Oct. 2, 1953 ;-- Am. 1959, Act 81, Eff. Mar. 19, 1960 ;-- Am. 1962, Act 8, Imd. Eff. Mar. 19, 1962 ;-- Am. 1972, Act 175, Imd. Eff. June 16, 1972 ;-- Am. 1988, Act 54, Eff. Oct. 1, 1988 ;-- Am. 1994, Act 192, Eff. Oct. 1, 1994 ;-- Am. 1996, Act 250, Eff. Jan. 1, 1997 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999 ;-- Am. 2011, Act 226, Imd. Eff. Nov. 22, 2011 ;-- Am. 2014, Act 533, Imd. Eff. Jan. 14, 2015

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Compiler's Notes: Section 3 of Act 54 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 174 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.2b Violation of vehicle code or corresponding ordinance; procedure.

Sec. 2b.

When a juvenile is accused of an act that constitutes a violation of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, or a provision of an ordinance substantially corresponding to any provision of Act No. 300 of the Public Acts of 1949, the following procedure applies, any other provision of this chapter notwithstanding:

(a) No petition shall be required, but the court may act upon a copy of the written notice to appear given the accused juvenile as required by section 728 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.728 of the Michigan Compiled Laws.

(b) The juvenile's parent or parents, guardian, or custodian may be required to attend a hearing conducted under this section when notified by the court, without additional service of process or delay. However, the court may extend the time for that appearance.

(c) If after hearing the case the court finds the accusation to be true, the court may dispose of the case under section 18 of this chapter.

(d) Within 14 days after entry of a court order of disposition for a juvenile found to be within this chapter, the court shall prepare and forward an abstract of the record of the court for the case in accordance with section 732 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.732 of the Michigan Compiled Laws.

(e) This section does not limit the court's discretion to restrict the driving privileges of a juvenile as a term or condition of probation.

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History: Add. 1965, Act 42, Imd. Eff. May 25, 1965 ;-- Am. 1988, Act 124, Eff. July 1, 1988 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.2c Court order authorizing apprehension of juvenile; contents of order; interference with execution of order; penalty.

Sec. 2c.

The court may issue an order authorizing a peace officer or other person designated by the court to apprehend a juvenile who is absent without leave from an institution or facility to which he or she was committed under section 18 of this chapter, has violated probation, has failed to appear for a hearing on a petition charging a violation of section 2 of this chapter, is alleged to have violated a personal protection order issued under section 2(h) of this chapter, or is alleged to have violated a valid foreign protection order. The order shall set forth specifically the identity of the juvenile sought and the house, building, or other location or place where there is probable cause to believe the juvenile is to be found. A person who interferes with the lawful attempt to execute an order issued under this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

History: Add. 1974, Act 3, Imd. Eff. Jan. 30, 1974 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999 ;-- Am. 2001, Act 211, Eff. Apr. 1, 2002
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.2d Juvenile to be tried as adult; designation by prosecuting attorney or court; factors; probable cause hearing; setting case for trial; proceedings as criminal proceedings; disposition or imposition of sentence; "specified juvenile violation" defined.

Sec. 2d.

(1) In a petition or amended petition alleging that a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter for a specified juvenile violation, the prosecuting attorney may designate the case as a case in which the juvenile is to be tried in the same manner as an adult. An amended petition making a designation under this subsection must be filed only by leave of the court.

(2) In a petition alleging that a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter for an offense other than a specified juvenile violation, the prosecuting attorney may request that the court designate the case as a case in which the juvenile is to be tried in the same manner as an adult. The court may designate the case following a hearing if it determines that the best interests of the juvenile and the public would be served by the juvenile being tried in the same manner as an adult. In determining whether the best interests of the juvenile and the public would be served, the court shall consider all of the following factors, giving greater weight to the seriousness of the alleged offense and the juvenile's prior delinquency record than to the other factors:

(a) The seriousness of the alleged offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines and the use of a firearm or other dangerous weapon.

(b) The juvenile's culpability in committing the alleged offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(c) The juvenile's prior record of delinquency that would be a crime if committed by an adult.

(d) The juvenile's programming history, including, but not limited to, any out-of-home placement or treatment and the juvenile's past willingness to participate meaningfully in available programming.

(e) The adequacy of the programming available to rehabilitate and hold accountable the juvenile in the juvenile justice system and the juvenile's amenability to treatment.

(f) The dispositional options available for the juvenile.

(g) The juvenile's developmental maturity, emotional health, and mental health.

(h) If the juvenile is a member of a federally recognized Indian tribe, culturally honoring traditional values of the juvenile's tribe.

(i) The impact on any victim.

(3) If a case is designated under this section, the case must be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction unless a probable cause hearing is required under subsection (4).

(4) If the petition in a case designated under this section alleges an offense that if committed by an adult would be a felony or punishable by imprisonment for more than 1 year, the court shall conduct a probable cause hearing not later than 14 days after the case is designated to determine whether there is probable cause to believe the offense was committed and whether there is probable cause to believe the juvenile committed the offense. This hearing may be combined with the designation hearing under subsection (2) for an offense other than a specified juvenile offense. A probable cause hearing under this section is the equivalent of the preliminary examination in a court of general criminal jurisdiction and satisfies the requirement for that hearing. A probable cause hearing must be conducted by a judge other than the judge who will try the case if the juvenile is tried in the same manner as an adult.

(5) If the court determines there is probable cause to believe the offense alleged in the petition was committed and probable cause to believe the juvenile committed the offense, the case must be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction.

(6) If the court determines that an offense did not occur or there is not probable cause to believe the juvenile committed the offense, the court shall dismiss the petition. If the court determines there is probable cause to believe another offense was committed and there is probable cause to believe the juvenile committed that offense, the court may further determine whether the case should be designated as a case in which the juvenile should be tried in the same manner as an adult as provided in subsection (2). If the court designates the case, the case must be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction.

(7) If a case is designated under this section, the proceedings are criminal proceedings and must afford all procedural protections and guarantees to which the juvenile would be entitled if being tried for the offense in a court of general criminal jurisdiction. A plea of guilty or nolo contendere or a verdict of guilty must result in entry of a judgment of conviction. The conviction must have the same effect and liabilities as if it had been obtained in a court of general criminal jurisdiction.

(8) Following a judgment of conviction, the court shall enter a disposition or impose a sentence authorized under section 18(1)(o) of this chapter.

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(9) As used in this section, "specified juvenile violation" means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

(b) A violation of section 84 or 110a(2) of the Michigan penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is armed with a dangerous weapon. As used in this subdivision, "dangerous weapon" means 1 or more of the following:

(i) A loaded or unloaded firearm, whether operable or inoperable.

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

(c) A violation of section 186a of the Michigan penal code, 1931 PA 328, MCL 750.186a, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the juvenile escaped or attempted to escape was 1 of the following:

(i) A high-security or medium-security facility operated by the department or a county juvenile agency.

(ii) A high-security facility operated by a private agency under contract with the department or a county juvenile agency.

(d) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

(e) An attempt to commit a violation described in subdivisions (a) to (d).

(f) Conspiracy to commit a violation described in subdivisions (a) to (d).

(g) Solicitation to commit a violation described in subdivisions (a) to (d).

(h) Any lesser included offense of an offense described in subdivisions (a) to (g) if the juvenile is alleged in the petition to have committed an offense described in subdivisions (a) to (g).

(i) Any other offense arising out of the same transaction as an offense described in subdivisions (a) to (g) if the juvenile is alleged in the petition to have committed an offense described in subdivisions (a) to (g).

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History: Add. 1996, Act 244, Eff. Aug. 1, 1996 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999 ;-- Am. 2020, Act 389, Eff. Apr. 4, 2021 ;-- Am. 2023, Act 291, Eff. Oct. 1, 2024
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.2e Waiver of jurisdiction over civil infractions; agreement.

Sec. 2e.

(1) The court may enter into an agreement with any or all district courts or municipal courts within the court's geographic jurisdiction to waive jurisdiction over any or all civil infractions alleged to have been committed by juveniles within the geographic jurisdiction of the district court or municipal court. The agreement shall specify for which civil infractions the court waives jurisdiction.

(2) For a civil infraction waived under subsection (1) committed by a juvenile on or after the effective date of the agreement, the district court or municipal court has jurisdiction over the juvenile in the same manner as if an adult had committed the civil infraction. The court has jurisdiction over juveniles who commit any other civil infraction.

History: Add. 1998, Act 478, Eff. Jan. 12, 1999
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.2f Jurisdiction over juvenile; placement of case on consent calendar; maintenance in nonpublic

manner; conduct of consent calendar conference; issuance of written consent calendar case plan; order of disposition in case while on consent calendar; completion of consent calendar case plan; closure of case; consent calendar not in best interest of juvenile or public; use of statements; report of successful completion; record.

Sec. 2f.

(1) Subject to subsection (2), if the court determines that formal jurisdiction should not be acquired over a juvenile, the court may proceed in an informal manner referred to as a consent calendar. The court shall not consider restitution when determining if the case should be placed on the consent calendar under this section.

(2) A case must not be placed on the consent calendar unless all of the following apply:

(a) The juvenile and the parent, guardian, or legal custodian and the prosecutor agree to have the case placed on the consent calendar.

(b) The court considers the results of the risk screening tool and mental health screening tool conducted on the juvenile by a designated individual or agency that is trained in those screening tools.

(c) The court determines that the case should proceed on the consent calendar in compliance with section 11(1) of this chapter.

(3) A risk screening tool and a mental health screening tool under subsection (2) must meet both of the following requirements:

(a) Be research based and nationally validated for use with juveniles.

(b) Comply with the guidelines created under subsection (4).

(4) The state court administrative office, under the supervision and direction of the supreme court, shall create guidelines on the use of risk screening tools and mental health screening tools described in subsection (2).

(5) Subject to subsection (2), the court may transfer a case from the formal calendar to the consent calendar at any time before disposition. A case involving the alleged commission of an offense as that term is defined in section 31 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.781, must only be placed on the consent calendar upon compliance with the procedures set forth in section 36b of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.786b.

(6) After a case is placed on the consent calendar, the prosecutor shall provide the victim with notice as required by article 2 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.781 to 780.802.

(7) Consent calendar cases must be maintained in the following nonpublic manner:

(a) Access to consent calendar case records must be provided to the juvenile, the juvenile's parents, guardian, or legal custodian, the guardian ad litem, counsel for the juvenile, the department if related to an investigation of neglect and abuse, law enforcement personnel, prosecutor, and other courts. However, consent calendar case records must not be disclosed to federal agencies or military recruiters. As used in this subdivision, "case records" includes the pleadings, motions, authorized petitions, notices, memoranda, briefs, exhibits, available transcripts, findings of the court, register of actions, consent calendar case plan, risk screening tool and mental health screening tool results, and court orders related to the case placed on the consent calendar.

(b) The contents of the confidential file must continue to be maintained confidentially. As used in this subdivision, "confidential file" means that term as defined in MCR 3.903.

(c) A risk screening tool and a mental health screening tool conducted as part of a proceeding under this section and any information obtained from a juvenile in the course of those screenings or provided by the juvenile in order to participate in a consent calendar case plan, including, but not limited to, any admission, confession, or incriminating evidence, are not admissible into evidence in any adjudicatory hearing in which the juvenile is accused and are not subject to subpoena or any other court process for use in any other proceeding or for any other purpose.

(8) The court shall conduct a consent calendar conference with the juvenile, the juvenile's attorney, if any, and the juvenile's parent, guardian, or legal custodian to discuss the allegations. The prosecuting attorney and victim may be, but are not required to be, present.

(9) If it appears to the court that the juvenile has engaged in conduct that would subject the juvenile to the jurisdiction of the court, the court shall issue a written consent calendar case plan. All of the following apply to a consent calendar case plan:

(a) The plan must include a requirement that the juvenile pay restitution under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. The court shall not order the juvenile or the juvenile's parent, guardian, or legal custodian to pay for fees or costs associated with consent calendar services.

(b) A consent calendar case plan must not contain a provision removing the juvenile from the custody of the juvenile's parent, guardian, or legal custodian.

(c) The period for a juvenile to complete the terms of a consent calendar case plan must not exceed 6 months, unless the court determines that a longer period is needed for the juvenile to complete a specific treatment program and includes this determination as part of the consent calendar case record.

(d) The consent calendar case plan is not an order of the court, but must be included as a part of the case record.

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(e) Violation of the terms of the consent calendar case plan may result in the court's returning the case to the formal calendar for further proceedings consistent with subsection (12).

(10) The court shall not enter an order of disposition in a case while it is on the consent calendar.

(11) Upon the juvenile's successful completion of the consent calendar case plan, the court shall close the case and shall destroy all records of the proceeding in accordance with the records management policies and procedures of the state court administrative office, established in accordance with supreme court rules.

(12) If it appears to the court at any time that proceeding on the consent calendar is not in the best interest of either the juvenile or the public, the court shall proceed as follows:

(a) If the court did not authorize the original petition, the court may, without hearing, transfer the case from the consent calendar to the formal calendar on the charges contained in the original petition to determine whether the petition should be authorized.

(b) If the court authorized the original petition, the court may transfer the case from the consent calendar to the formal calendar on the charges contained in the original petition only after a hearing. After transfer to the formal calendar, the court shall proceed with the case from where it left off before being placed on the consent calendar.

(13) Statements made by the juvenile during the proceeding on the consent calendar must not be used against the juvenile at a trial on the formal calendar on the same charge.

(14) Upon a judicial determination that the juvenile has completed the terms of the consent calendar case plan, the court shall report the successful completion of the consent calendar to the juvenile and the department of state police. The department of state police shall maintain a nonpublic record of the case. This record is open to the courts of this state, another state, or the United States, the department of corrections, law enforcement personnel, and prosecutors for use only in the performance of their duties or to determine whether an employee of the court, department, law enforcement agency, or prosecutor's office has violated conditions of employment or whether an applicant meets criteria for employment with the court, department, law enforcement agency, or prosecutor's office.

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History: Add. 2016, Act 185, Eff. Sept. 19, 2016 ;-- Am. 2023, Act 289, Eff. Oct. 1, 2024 ;-- Am. 2023, Act 291, Eff. Oct. 1, 2024 ;-- Am. 2023, Act 301, Eff. Oct. 1, 2024 ;-- Am. 2024, Act 123, Imd. Eff. Oct. 3, 2024
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.3 Criminal charge against person under age 17 for offense occurring before October 1, 2021 or age 18 for offense occurring on or after October 1, 2021; transfer of case to family division of circuit court.

Sec. 3.

(1) For an offense occurring before October 1, 2021, if during the pendency of a criminal charge against an individual in any other court it is ascertained that the individual was under the age of 17 at the time of the commission of the offense, the other court shall transfer the case without delay, together with all the papers, documents, and testimony connected with that case, to the family division of the circuit court of the county in which the other court is situated or in which the individual resides. For an offense occurring on or after October 1, 2021, if during the pendency of a criminal charge against an individual in any other court it is ascertained that the individual was under the age of 18 at the time of the commission of the offense, the other court shall transfer the case without delay, together with all the papers, documents, and testimony connected with that case, to the family division of the circuit court of the county in which the other court is situated or in which the individual resides.

(2) The court making the transfer shall order the individual to be taken promptly to the place of detention designated by the family division of the circuit court or to that court itself or release the juvenile in the custody of some suitable person to appear before the court at a time designated. The court shall then hear and dispose of the case in the same manner as if it had been originally instituted in that court.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- Am. 1946, 1st Ex. Sess., Act 22, Imd. Eff. Feb. 26, 1946 ;-- CL 1948, 712A.3 ;-- Am. 1961, Act 54, Eff. Sept. 8, 1961 ;-- Am. 1972, Act 175, Imd. Eff. June 16, 1972 ;-- Am. 1972, Act 235, Imd. Eff. July 27, 1972 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2019, Act 109, Eff. Oct. 1, 2021 ;-- Am. 2021, Act 118, Imd. Eff. Nov. 30, 2021
Former Law: See section 26 of Ch. XII of Act 288 of 1939, and CL 1929, § 12839.
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.3a Prior order of another court affecting child's welfare; notice, filing, service, disclosure.

Sec. 3a.

When any order affecting the welfare of a child is entered under this chapter by the judge of probate in any case where the child is subject to the prior or continuing order of any other court of this state, a notice thereof shall be filed in such other court and a copy of such notice shall be served personally or by registered mail upon the parents, guardian, or persons in loco parentis and upon the prosecuting attorney of the county wherein such other court is located. Such notices shall not disclose any allegations or findings of facts set forth in such petitions or orders, nor the actual person or institution to whom custody is changed. Such facts may be disclosed directly to such prosecuting attorney and shall be disclosed on request of the prosecuting attorney or by order of such other court, but shall be considered as confidential information, the disclosure of which will be subject to the same care as in all juvenile matters.

History: Add. 1953, Act 193, Eff. Oct. 2, 1953
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.4 Waiver of jurisdiction when child of 14 or older accused of felony.

Sec. 4.

(1) If a juvenile 14 years of age or older is accused of an act that if committed by an adult would be a felony, the judge of the family division of circuit court in the county in which the offense is alleged to have been committed may waive jurisdiction under this section upon motion of the prosecuting attorney. After waiver, the juvenile may be tried in the court having general criminal jurisdiction of the offense.

(2) Before conducting a hearing on the motion to waive jurisdiction, the court shall give notice of the hearing in the manner provided by supreme court rule to the juvenile and the prosecuting attorney and, if addresses are known, to the juvenile's parents or guardians. The notice must state clearly that a waiver of jurisdiction to a court of general criminal jurisdiction has been requested and that, if granted, the juvenile can be prosecuted for the alleged offense as though the juvenile were an adult.

(3) Before the court waives jurisdiction, the court shall determine on the record if there is probable cause to believe that an offense has been committed that if committed by an adult would be a felony and if there is probable cause to believe that the juvenile committed the offense. Before a juvenile may waive a probable cause hearing under this subsection, the court shall inform the juvenile that a waiver of this subsection waives the preliminary examination required under chapter VI of the code of criminal procedure, 1927 PA 175, MCL 766.1 to 766.18.

(4) Upon a showing of probable cause under subsection (3), the court shall conduct a hearing to determine if the best interests of the juvenile and the public would be served by granting a waiver of jurisdiction to the court of general criminal jurisdiction. In making its determination, the court shall consider all of the following criteria, giving greater weight to the seriousness of the alleged offense and the juvenile's prior record of delinquency than to the other criteria:

(a) The seriousness of the alleged offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines and the use of a firearm or other dangerous weapon.

(b) The culpability of the juvenile in committing the alleged offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(c) The juvenile's prior record of delinquency that would be a crime if committed by an adult.

(d) The juvenile's programming history, including, but not limited to, any out-of-home placement or treatment and the juvenile's past willingness to participate meaningfully in available programming.

(e) The adequacy of the programming available to rehabilitate and hold accountable the juvenile in the juvenile justice system and the juvenile's amenability to treatment.

(f) The dispositional options available for the juvenile.

(g) The juvenile's developmental maturity, emotional health, and mental health.

(h) If the juvenile is a member of a federally recognized Indian tribe, culturally honoring traditional values of the juvenile's tribe.

(i) The impact on any victim.

(5) If the court determines that there is probable cause to believe that an offense has been committed that if committed by an adult would be a felony and that the juvenile committed the offense, the court shall waive jurisdiction of the juvenile if the court finds that the juvenile has previously been subject to the jurisdiction of the circuit court under this section, section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606.

(6) If legal counsel has not been retained or appointed to represent the juvenile, the court shall advise the juvenile and the juvenile's parents, guardian, custodian, or guardian ad litem of the juvenile's right to representation and appoint legal counsel. If the court appoints legal counsel, the judge may assess the cost of providing legal counsel as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.

(7) Legal counsel shall have access to records or reports provided and received by the judge as a basis for decision in proceedings for waiver of jurisdiction. A continuance must be granted at legal counsel's request if any report, information, or recommendation not previously available is introduced or developed at the hearing and the interests of justice require a continuance.

(8) The court shall enter a written order either granting or denying the motion to waive jurisdiction and the court shall state on the record or in a written opinion the court's findings of fact and conclusions of law forming the basis for entering the order. If a juvenile is waived, a transcript of the court's findings or a copy of the written opinion must be sent to the court of general criminal jurisdiction.

(9) If the court does not waive jurisdiction, a transcript of the court's findings or, if a written opinion is prepared, a copy of the written opinion must be sent to the prosecuting attorney, juvenile, or juvenile's attorney upon request.

(10) If the court waives jurisdiction, the juvenile shall be arraigned on an information filed by the prosecutor in the court of general criminal jurisdiction. The probable cause finding under subsection (3) satisfies the requirements of, and is the equivalent of, the preliminary examination required under chapter VI of the code of criminal procedure, 1927 PA 175, MCL 766.1 to 766.18.

(11) As used in this section, "felony" means an offense punishable by imprisonment for more than 1 year or an offense designated by law as a felony.

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History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- Am. 1946, 1st Ex. Sess., Act 22, Imd. Eff. Feb. 26, 1946 ;-- CL 1948, 712A.4 ;-- Am. 1969, Act 140, Eff. Mar. 20, 1970 ;-- Am. 1972, Act 265, Imd. Eff. Oct. 3, 1972 ;-- Am. 1988, Act 182, Eff. Oct. 1, 1988 ;-- Am. 1996, Act 262, Eff. Jan. 1, 1997 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2023, Act 291, Eff. Oct. 1, 2024
Former Law: See section 26 of Ch. XII of Act 288 of 1939, and CL 1929, § 12839.
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.5 Jurisdiction over juvenile after 19 years of age.

Sec. 5.

The court does not have jurisdiction over an individual after he or she attains the age of 19 years, except as provided in section 2a of this chapter. A commitment of a juvenile to a private or public institution or agency is not valid after the juvenile has reached the age beyond which the court does not have continuing jurisdiction under section 2a of this chapter. Commitments to a private or incorporated institution or agency do not divest the court of jurisdiction unless the juvenile is adopted in a manner provided by law.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.5 ;-- Am. 1972, Act 175, Imd. Eff. June 16, 1972 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2021, Act 118, Imd. Eff. Nov. 30, 2021
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.6 Jurisdiction; adults.

Sec. 6.

The court has jurisdiction over adults as provided in this chapter and as provided in chapter 10A and chapter 10C of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082 and 600.1099b to 600.1099m, and may make orders affecting adults as in the opinion of the court are necessary for the physical, mental, or moral well-being of a particular juvenile or juveniles under its jurisdiction. However, those orders must be incidental to the jurisdiction of the court over the juvenile or juveniles.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.6 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2004, Act 221, Eff. Jan. 1, 2005 ;-- Am. 2018, Act 592, Eff. Mar. 28, 2019
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.6a Hearing; attendance by parent or guardian required; exception; failure to attend.

Sec. 6a.

The parent or guardian of a juvenile who is within the court's jurisdiction under section 2(a)(1) of this chapter shall attend each hearing held under this chapter unless the court excuses the parent or guardian from attendance for good cause. A parent or guardian who fails to attend the juvenile's hearing without good cause may be held in contempt and subject to fines. Failure of a parent or guardian to attend a hearing, however, is not grounds for an adjournment, continuance, or other delay of the proceeding and does not provide a basis for appellate or other relief.

History: Add. 1996, Act 252, Eff. Jan. 1, 1997
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.6b Order affecting nonparent adult.

Sec. 6b.

(1) The court may issue an order that affects a nonparent adult and that does 1 or more of the following:
(a) Requires the nonparent adult to participate in the development of a case service plan.
(b) Requires the nonparent adult to comply with a case service plan.
(c) Permanently removes the nonparent adult from the home of the child as provided in section 13a of this chapter.
(d) Permanently restrains the nonparent adult from coming into contact with or within close proximity of the child.
(2) Except as provided in subsection (3), a nonparent adult who violates an order issued under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.
(3) A nonparent adult who violates an order issued under this section and who has 1 or more prior convictions for violating an order issued under this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.
(4) This section does not prohibit a nonparent adult from being charged with, convicted of, or punished for any other violation of law the nonparent adult commits while violating an order issued under this section.
(5) This section does not prohibit the court from exercising its criminal or civil contempt powers for a violation of an order issued under this section.
(6) This section does not in any manner affect the authority or jurisdiction of the court as provided in section 6.

History: Add. 1998, Act 530, Eff. July 1, 1999

Popular Name: Probate Code
Popular Name: Juvenile Code

712A.7 Juvenile division of probate court; register of probate; appointment, duties, salary.

Sec. 7.

The judge of probate may appoint the register of probate, a deputy probate register, or clerk of his court as register of the juvenile division of the probate court. Such register of the juvenile division shall prepare all petitions for investigation, summons, writs and other necessary papers, and shall perform such duties as required by the judge of probate, and he shall exercise and be competent to do all acts required of the judge of probate, except judicial acts. Such register so appointed shall receive for his services under this chapter, in addition to his regular salary, such sum as the board of supervisors shall fix: Provided, however, That in counties having a population of 100,000, and not more than 350,000 inhabitants, according to the last federal census, the compensation shall be not less than $500.00 annually.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.7
Former Law: See section 9 of Ch. XII of Act 288 of 1939; section 5 of Act 6 of 1907, Ex. Sess.; Act 310 of 1909; Act 164 of 1911; Act 262 of 1911; Act 363 of 1913; Act 308 of 1915; CL 1915, § 2015; Act 24 of 1921, 1st Ex. Sess.; Act 105 of 1923; Act 127 of 1927; and CL 1929, § 12838.
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.8 County agent; creation of office; duties; assistants.

Sec. 8.

The office of county agent is created. The county agent is an officer of the court and under the general supervision of the judges of the court and shall serve at their pleasure. The county agent shall organize, direct and develop the juvenile welfare work of the court as authorized by the judge. When requested by the superintendent or director, the county agent shall supervise juveniles released from public institutions or agencies and may perform other juvenile welfare work as requested and with the approval of the judge, including services to school-age juveniles of the various school districts within the county, after consultation and agreement with the county school commissioner and the superintendents of schools in a county. With the judge's approval, the county agent or his or her assistants shall investigate and report on juveniles or families within the county as requested by the family independence agency, the county juvenile agency, or the superintendent of any state institution regarding the welfare of any juvenile. Assistant county agents shall perform the duties assigned to them by the county agent.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.8 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.9 Probation officers; appointment, compensation, duties; notification to social welfare office.

Sec. 9.

The judge of probate in each county may appoint 1 or more suitable persons of good character and qualified training or experience, other than the county agent or assistants, to act as probation officer, who shall receive such compensation as the board of supervisors may appropriate for that purpose, and who, at the discretion of the judge, may be authorized and empowered to perform county agent duties.

The judge of probate may also appoint other probation officers who shall receive no compensation from the

county treasury for the duties performed under such appointment.

It shall be the duty of the judge of probate to notify the state department of social welfare of the appointment of all paid probation officers made by him under the provisions of this chapter. All probation officers shall hold office during the pleasure of the court and shall report to the said court upon all cases under their care.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.9
Former Law: See section 10 of Ch. XII of Act 288 of 1939; section 5 of Act 6 of 1907, Ex. Sess.; Act 310 of 1909; Act 164 of 1911; Act 262 of 1911; Act 363 of 1913; Act 308 of 1915; CL 1915, § 2015; Act 24 of 1921, 1st Ex. Sess.; Act 105 of 1923; Act 127 of 1927; and CL 1929, § 12838.
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.9a Probation.

Sec. 9a.

If the court acting under section 18(1)(p) of this chapter imposes a sentence of probation in the same manner as probation could be imposed upon an adult convicted of the same offense for which the juvenile was convicted or enters an order of disposition delaying imposition of sentence and placing the juvenile on probation, the probation supervision and related services shall not be performed by employees of the department of corrections.

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History: Add. 1996, Act 244, Eff. Aug. 1, 1996 ;-- Am. 2020, Act 389, Eff. Apr. 4, 2021
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.10 Designation of probation officer or county agent as referee; duties of referee.

Sec. 10.

(1) Except as otherwise provided in subsection (2) and sections 14, 14a, and 14b of this chapter, the judge may designate a probation officer or county agent to act as referee in taking the testimony of witnesses and hearing the statements of parties upon the hearing of petitions alleging that a child is within the provisions of this chapter, if there is no objection by parties in interest. The probation officer or county agent designated to act as referee shall do all of the following:

(a) Take and subscribe the oath of office provided by the constitution.

(b) Administer oaths and examine witnesses.

(c) If a case requires a hearing and the taking of testimony, make a written signed report to the judge containing a summary of the testimony taken and a recommendation for the court's findings and disposition.

(2) If a child is before the court under section 2(a)(1) of this chapter, a probation officer or county agent who is not licensed to practice law in this state shall not be designated to act as a referee in any hearing for the child, except the preliminary inquiry or preliminary hearing. This subsection does not apply to a probation officer or county agent who has been designated to act as a referee by the judge before January 1, 1988 and who is acting as a referee as of January 1, 1988.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.10 ;-- Am. 1988, Act 92, Eff. June 1, 1988 ;-- Am. 2012, Act 163, Imd. Eff. June 12, 2012
Former Law: See section 11 of Ch. XII of Act 288 of 1939; section 5 of Act 6 of 1907, Ex. Sess.; Act 310 of 1909; Act 164 of 1911; Act 262 of 1911; Act 363 of 1913; Act 308 of 1915; CL 1915, § 2015; Act 24 of 1921, 1st Ex. Sess.; Act 105 of 1923; Act 127 of 1927; and CL 1929, § 12838.
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.11 Preliminary inquiry; petition; effect of juvenile attaining eighteenth birthday; biometric data; amendment of petition or other court record; offer of court services.

Sec. 11.

(1) Except as provided in subsection (2), if a person gives information to the court that a juvenile is within section 2(a)(2) to (4), (b), (c), or (d) of this chapter, a preliminary inquiry may be made to determine whether the interests of the public or the juvenile require that further action be taken. If the court determines that formal jurisdiction should be acquired, the court shall authorize a petition to be filed. The court may proceed on the consent calendar under section 2f of this chapter if at any time before disposition the court determines that a case should not proceed on the formal calendar but that the protective and supportive action by the court will serve the best interests of the juvenile and the public.

(2) Only the prosecuting attorney may file a petition requesting the court to take jurisdiction of a juvenile allegedly within section 2(a)(1) of this chapter. If the prosecuting attorney submits a petition requesting the court to take jurisdiction of a juvenile allegedly within section 2(a)(1) of this chapter and the court determines that formal jurisdiction should be acquired, the court shall authorize a petition to be filed.

(3) The petition described in subsections (1) and (2) shall be verified and may be upon information and belief. The petition shall set forth plainly the facts that bring the juvenile within this chapter and shall contain all of the following information:

(a) The juvenile's name, birth date, and address.

(b) The name and address of the juvenile's parents.

(c) The name and address of the juvenile's legal guardian, if there is a legal guardian.

(d) The name and address of each person having custody or control of the juvenile.

(e) The name and address of the juvenile's nearest known relative, if no parent or legal guardian can be found.

(4) If any of the facts required under subsection (3) are not known to the petitioner, the petition shall state that the facts are not known. If the juvenile attains his or her eighteenth birthday after the filing of the petition, the court's jurisdiction shall continue beyond the juvenile's eighteenth birthday and the court may hear and dispose of the petition under this chapter.

(5) When a petition is authorized, the court shall examine the court file to determine if a juvenile has had his or her biometric data collected as required under section 3 of 1925 PA 289, MCL 28.243. If a juvenile's biometric data has not been collected, the court shall do either of the following:

(a) Order the juvenile to submit himself or herself to the police agency that arrested or obtained the warrant for the arrest of the juvenile so the juvenile's biometric data can be collected.

(b) Order the juvenile committed to the custody of the sheriff for the collection of the juvenile's biometric data.

(6) A petition or other court record may be amended at any stage of the proceedings as the ends of justice require.

(7) If the juvenile diversion act, 1988 PA 13, MCL 722.821 to 722.831, is complied with and the court determines that court services can be used in the prevention of delinquency without formal jurisdiction, the court may offer court services to a juvenile without a petition being authorized as provided in section 2(e) of this chapter.

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History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.11 ;-- Am. 1963, Act 118, Eff. Sept. 6, 1963 ;-- Am. 1965, Act 182, Imd. Eff. July 15, 1965 ;-- Am. 1988, Act 18, Eff. Apr. 1, 1988 ;-- Am. 1988, Act 72, Eff. June 1, 1988 ;-- Am. 1988, Act 92, Eff. Apr. 1, 1988 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 2016, Act 185, Eff. Sept. 19, 2016 ;-- Am. 2019, Act 98, Eff. Oct. 1, 2021
Former Law: See section 17 of Ch. XII of Act 288 of 1939; section 5 of Act 6 of 1907, Ex. Sess.; Act 310 of 1909; Act 164 of 1911; Act 262 of 1911; Act 363 of 1913; Act 308 of 1915; CL 1915, § 2015; Act 24 of 1921, 1st Ex. Sess.; Act 105 of 1923; Act 127 of 1927; and CL 1929, § 12838.
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.12 Examination of child; hearing; summons.

Sec. 12.

After a petition shall have been filed and after such further investigation as the court may direct, in the course of

which the court may order the child to be examined by a physician, dentist, psychologist or psychiatrist, the court may dismiss said petition or may issue a summons reciting briefly the substance of the petition, and requiring the person or persons who have the custody or control of the child, or with whom the child may be, to appear personally and bring the child before the court at a time and place stated: Provided, That the court in its discretion may excuse but not restrict children from attending the hearing. If the person so summoned shall be other than the parent or guardian of the child, then the parents or guardian, or both, shall also be notified of the petition and of the time and place appointed for the hearing thereon, by personal service before the hearing, except as hereinafter provided. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

Any interested party who shall voluntarily appear in said proceedings, may, by writing, waive service of process or notice of hearing.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.12
Former Law: See section 17 of Ch. XII of Act 288 of 1939; section 5 of Act 6 of 1907, Ex. Sess.; Act 310 of 1909; Act 164 of 1911, Act 262 of 1911; Act 363 of 1913; Act 308 of 1915; CL 1915, § 2015; Act 24 of 1921, 1st Ex. Sess.; Act 105 of 1923; Act 127 of 1927; and CL 1929, § 12838.
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Popular Name: Juvenile Code

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712A.13 Service of summons.

Sec. 13.

Service of summons may be made anywhere in the state personally by the delivery of true copies thereof to the persons summoned: Provided, That if the judge is satisfied that it is impracticable to serve personally such summons or the notice provided for in the preceding section, he may order service by registered mail addressed to their last known addresses, or by publication thereof, or both, as he may direct. It shall be sufficient to confer jurisdiction if (1) personal service is effected at least 72 hours before the date of hearing; (2) registered mail is mailed at least 5 days before the date of hearing if within the state or 14 days if outside of the state; (3) publication is made once in some newspaper printed and circulated in the county in which said court is located at least 1 week before the time fixed in the summons or notice for the hearing.

Service of summons, notices or orders required by this chapter may be made by any peace officer or by any other suitable person designated by the judge. The judge may, in his discretion, authorize the payment of necessary traveling expenses incurred by any person summoned or otherwise required to appear at the time of hearing of any case coming within the provisions of this chapter, and such expenses and the expenses of making service as above provided, when approved by the judge, shall be paid by the county treasurer from the general fund of the county.

If any person so summoned, as herein provided, shall fail without reasonable cause to appear before said court, he may be proceeded against for contempt of court and punished accordingly.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.13
Former Law: See section 17 of Ch. XII of Act 288 of 1939; section 5 of Act 6 of 1907, Ex. Sess.; Act 310 of 1909; Act 164 of 1911; Act 262 of 1911; Act 363 of 1913; Act 308 of 1915; CL 1915, § 2015; Act 24 of 1921, 1st Ex. Sess.; Act 105 of 1923; Act 127 of 1927; and CL 1929, § 12838.
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.13a Definitions; petition; release of juvenile; order removing abusive person from home; placement of child; foster care; conditions; duty of court to inform parties; criminal record check and central registry clearance; family-like setting; parenting time; siblings; joint placement; visitation or other contact; review and modification of orders and plans; release of information; information included with order; "abuse" defined.

Sec. 13a.

(1) As used in this section and sections 2, 6b, 13b, 17c, 17d, 18f, 19, 19a, 19b, and 19c of this chapter:

(a) "Agency" means a public or private organization, institution, or facility that is performing the functions under part D of title IV of the social security act, 42 USC 651 to 669b, or that is responsible under court order or contractual arrangement for a juvenile's care and supervision.

(b) "Agency case file" means the current file from the agency providing direct services to the child, that may include the child protective services file if the child has not been removed from the home or the department or contract agency foster care file as provided under 1973 PA 116, MCL 722.111 to 722.128.

(c) "Attorney" means, if appointed to represent a child in a proceeding under section 2(b) or (c) of this chapter, an attorney serving as the child's legal advocate in a traditional attorney-client relationship with the child, as governed by the Michigan Rules of Professional Conduct. An attorney defined under this subdivision owes the same duties of undivided loyalty, confidentiality, and zealous representation of the child's expressed wishes as the attorney would to an adult client. For the purpose of a notice required under these sections, attorney includes a child's lawyer-guardian ad litem.

(d) "Case service plan" means the plan developed by an agency and prepared under section 18f of this chapter that includes services to be provided by and responsibilities and obligations of the agency and activities, responsibilities, and obligations of the parent. The case service plan may be referred to using different names than case service plan including, but not limited to, a parent/agency agreement or a parent/agency treatment plan and service agreement.

(e) "Foster care" means care provided to a juvenile in a foster family home, foster family group home, or child caring institution licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, or care provided to a juvenile in a relative's home under a court order.

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

(g) "Lawyer-guardian ad litem" means an attorney appointed under section 17c of this chapter. A lawyer-guardian ad litem represents the child, and has the powers and duties, as set forth in section 17d of this chapter. The provisions of section 17d of this chapter also apply to a lawyer-guardian ad litem appointed under each of the following:

(i) Section 5213 or 5219 of the estates and protected individuals code, 1998 PA 386, MCL 700.5213 and 700.5219.

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

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

(h) "Nonparent adult" means a person who is 18 years of age or older and who, regardless of the person's domicile, meets all of the following criteria in relation to a child over whom the court takes jurisdiction under this chapter:

(i) Has substantial and regular contact with the child.

(ii) Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.

(iii) Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.

(i) "Permanent foster family agreement" means an agreement for a child 14 years old or older to remain with a particular foster family until the child is 18 years old under standards and requirements established by the department, which agreement is among all of the following:

(i) The child.

(ii) If the child is a temporary ward, the child's family.

(iii) The foster family.

(iv) The child placing agency responsible for the child's care in foster care.

(j) "Relative" means an individual who is at least 18 years of age and is either of the following:

(i) Related to the child within the fifth degree by blood, marriage, or adoption, including the spouse of an individual related to the child within the fifth degree, even after the marriage has ended by death or divorce, the parent who shares custody of a half-sibling, and the parent of a man whom the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child.

(ii) Not related to a child within the fifth degree by blood, marriage, or adoption but who has a strong positive emotional tie or role in the child's life or the child's parent's life if the child is an infant, as determined by the department or, if the child is an Indian child, as determined solely by the Indian child's tribe. As used in this section, "Indian child" and "Indian child's tribe" mean those terms as defined in section 3 of chapter XIIB.

(k) "Sex offenders registration act" means the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.730.

(l) "Sibling" means a child who is related through birth or adoption by at least 1 common parent. Sibling includes that term as defined by an American Indian or Alaskan native child's tribal code or custom.

(2) If a juvenile is alleged to be within the provisions of section 2(b) of this chapter, the court may authorize a petition to be filed at the conclusion of the preliminary hearing or inquiry. The court may authorize the petition upon a showing of probable cause that 1 or more of the allegations in the petition are true and fall within the provisions of section 2(b) of this chapter. If a petition is before the court because the department is required to

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submit the petition under section 17 of the child protection law, 1975 PA 238, MCL 722.637, the court shall hold a hearing on the petition within 24 hours or on the next business day after the petition is submitted, at which hearing the court shall consider at least the matters governed by subsections (4) and (5).

(3) Except as provided in subsections (5) and (6), if a petition under subsection (2) is authorized, the court may release the juvenile in the custody of either of the juvenile's parents or the juvenile's guardian or custodian under reasonable terms and conditions necessary for either the juvenile's physical health or mental well-being.

(4) The court may order a parent, guardian, custodian, nonparent adult, or other person residing in a child's home to leave the home and, except as the court orders, not to subsequently return to the home if all of the following take place:

(a) A petition alleging abuse of the child by the parent, guardian, custodian, nonparent adult, or other person is authorized under subsection (2).

(b) The court after a hearing finds probable cause to believe the parent, guardian, custodian, nonparent adult, or other person committed the abuse.

(c) The court finds on the record that the presence in the home of the person alleged to have committed the abuse presents a substantial risk of harm to the child's life, physical health, or mental well-being.

(5) If a petition alleges abuse by a person described in subsection (4), regardless of whether the court orders the alleged abuser to leave the child's home under subsection (4), the court shall not leave the child in or return the child to the child's home or place the child with a person not licensed under 1973 PA 116, MCL 722.111 to 722.128, unless the court finds that the conditions of custody at the placement and with the individual with whom the child is placed are adequate to safeguard the child from the risk of harm to the child's life, physical health, or mental well-being.

(6) If a court finds a parent is required by court order to register under the sex offenders registration act, the department may, but is not required to, make reasonable efforts to reunify the child with the parent. The court may order reasonable efforts to be made by the department.

(7) In determining whether to enter an order under subsection (4), the court may consider whether the parent who is to remain in the juvenile's home is married to the person to be removed or has a legal right to retain possession of the home.

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

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

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

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

(9) The court may order placement of the child in foster care if the court finds all of the following conditions:

(a) Custody of the child with the parent presents a substantial risk of harm to the child's life, physical health, or mental well-being.

(b) No provision of service or other arrangement except removal of the child is reasonably available to adequately safeguard the child from risk as described in subdivision (a).

(c) Continuing the child's residence in the home is contrary to the child's welfare.

(d) Consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.

(e) Conditions of child custody away from the parent are adequate to safeguard the child's health and welfare.

(10) If the court orders placement of the juvenile outside the juvenile's home, the court shall inform the parties of the following:

(a) That the agency has the responsibility to prepare an initial services plan within 30 days of the juvenile's placement.

(b) The general elements of an initial services plan as required by the rules promulgated under 1973 PA 116, MCL 722.111 to 722.128.

(c) That participation in the initial services plan is voluntary without a court order.

(11) Before or within 7 days after a child is placed in a relative's home, the department shall perform a criminal record check and central registry clearance. If the child is placed in the home of a relative, the court shall order a home study to be performed and a copy of the home study to be submitted to the court not more than 30 days after the placement.

(12) In determining placement of a juvenile pending trial, the court shall order the juvenile placed in the most family-like setting available consistent with the juvenile's needs.

(13) If a juvenile is removed from the parent's custody at any time, the court shall permit the juvenile's parent to have regular and frequent parenting time with the juvenile. Parenting time between the juvenile and his or her parent must not be less than 1 time every 7 days unless the court determines either that exigent circumstances require less frequent parenting time or that parenting time, even if supervised, may be harmful to the juvenile's life,

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physical health, or mental well-being. If the court determines that parenting time, even if supervised, may be harmful to the juvenile's life, physical health, or mental well-being, the court may suspend parenting time until the risk of harm no longer exists. The court may order the juvenile to have a psychological evaluation or counseling, or both, to determine the appropriateness and the conditions of parenting time.

(14) Reasonable efforts must be made to do the following:

(a) Place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the supervising agency documents that a joint placement would be contrary to the safety or well-being of any of the siblings.

(b) In the case of siblings removed from their home who are not jointly placed, provide for visitation, at least monthly, or other ongoing interaction between the siblings, unless the supervising agency documents that visitation, at least monthly, or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.

(15) If the supervising agency documents that visitation or other contact is contrary to the safety or well-being of any of the siblings and temporarily suspends visitation or contact, the supervising agency shall report its determination to the court for consideration at the next review hearing.

(16) If the supervising agency temporarily suspends visitation or contact, the court shall review the decision and determine whether sibling visitation or contact will be beneficial to the siblings. If so, the court shall order sibling visitation or contact to the extent reasonable.

(17) Upon the motion of any party, the court shall review custody and placement orders and initial services plans pending trial and may modify those orders and plans as the court considers under this section is in the juvenile's best interests.

(18) The court shall include in an order placing a child in foster care an order directing the release of information concerning the child in accordance with this subsection. If a child is placed in foster care, within 10 days after receipt of a written request, the agency shall provide the person who is providing the foster care with copies of all initial, updated, and revised case service plans and court orders relating to the child and all of the child's medical, mental health, and education reports, including reports compiled before the child was placed with that person.

(19) In an order placing a child in foster care, the court shall include both of the following:

(a) An order that the child's parent, guardian, or custodian provide the supervising agency with the name and address of each of the child's medical providers.

(b) An order that each of the child's medical providers release the child's medical records. The order may specify providers by profession or type of institution.

(20) Nothing in this section is intended to supersede the placement preferences for an Indian child under chapter XIIB.

(21) As used in this section, "abuse" means 1 or more of the following:

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

(b) Engaging in sexual contact or sexual penetration as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, with a juvenile.

(c) Sexual exploitation of a juvenile, which includes, but is not limited to, allowing, permitting, or encouraging a juvenile to engage in prostitution or allowing, permitting, encouraging, or engaging in photographing, filming, or depicting a juvenile engaged in a listed sexual act as that term is defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(d) Maltreatment of a juvenile.

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History: Add. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1993, Act 114, Imd. Eff. July 20, 1993 ;-- Am. 1996, Act 16, Eff. June 1, 1996 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1997, Act 163, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 480, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 530, Eff. July 1, 1999 ;-- Am. 2000, Act 55, Eff. Apr. 1, 2000 ;-- Am. 2004, Act 475, Imd. Eff. Dec. 28, 2004 ;-- Am. 2012, Act 115, Imd. Eff. May 1, 2012 ;-- Am. 2012, Act 163, Imd. Eff. June 12, 2012 ;-- Am. 2015, Act 228, Imd. Eff. Dec. 17, 2015 ;-- Am. 2016, Act 191, Eff. Sept. 19, 2016 ;-- Am. 2022, Act 200, Imd. Eff. Oct. 7, 2022
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.13b Change in foster care placement.

Sec. 13b.

(1) If a child under the court's jurisdiction under section 2(b) of this chapter, or under MCI jurisdiction, control, or supervision, is placed in foster care, the agency must not change the child's placement before complying with the

requirements of this section, except when any of the following circumstances apply:

(a) The person providing the foster care requests or agrees to the change.

(b) A contracted social services agency of a federally recognized tribal government is providing primary case management.

(c) Even if the person providing the foster care placement objects to a proposed change in placement, when 1 of the following applies:

(i) The court orders the child returned home.

(ii) The change in placement is less than 30 days after the child's initial removal from the child's home.

(iii) The court orders the child to be moved.

(iv) The child is an MCI ward and the move is a result of the MCI superintendent's denial of consent to adoption by the caregiver.

(v) The child is an Indian child and the foster care placement or the proposed placement is within or to the placement preferences listed in section 23 of chapter XIIB.

(vi) The change in placement is in accordance with other provisions of this section.

(2) Except as provided in subsections (1) and (7), before a change in foster care placement takes effect, the agency must do all of the following:

(a) Notify the foster care review board, under the state court administrative office, of any proposed change in placement. Notice under this subdivision may be given by ordinary mail or by electronic means as agreed by the department and the state court administrative office.

(b) Notify the foster parents of the intended change in placement and inform them that, if they disagree with the decision, they may appeal within 3 days to a foster care review board. A foster parent may appeal orally, but must submit the appeal in writing immediately following the oral appeal. The agency shall provide the foster parents with the address and telephone number of a foster care review board with jurisdiction over the child.

(c) Maintain the current placement for not less than the time for appeal to the foster care review board and if a foster parent appeals, until the foster care review board determination.

(d) Notify the court with jurisdiction over the child, notify the child's tribe, as applicable, and notify the child's lawyer guardian ad litem of the proposed change in placement. Notice to the court under this subdivision may be given by ordinary mail or by electronic means as agreed by the department and the court that has jurisdiction over the child. The notice provided under this subdivision does not affect the department's placement discretion and shall include all of the following information:

(i) The reason for the change in placement.

(ii) The number of times the child's placement has been changed.

(iii) Whether or not the child will be required to change schools.

(iv) Whether or not the change will separate or reunite siblings or affect sibling visitation.

(v) If the child is an Indian child the notice shall include the following additional information:

(A) A statement that the child is an Indian child.

(B) A list of active efforts the agency took to place the child in compliance with section 23 of chapter XIIB, including how the placement meets the standards provided in section 23(8) of chapter XIIB.

(3) Upon receipt of an appeal from foster parents under subsection (2) or (7), the foster care review board shall investigate the proposed change in foster care placement within 7 days and shall report its findings and recommendations about the proposed placement change, including whether or not the foster care review board determines that the placement change is in the child's best interests, within 3 days after completion of the investigation to the court or, if the child is under MCI jurisdiction, control, or supervision, the MCI superintendent, to the foster care parents, to the parents, to the child's tribe, if applicable, and to the agency. If the child is an Indian child the report shall include the following additional information:

(a) A statement that the child is an Indian child.

(b) A list of active efforts the agency took to place the child in compliance with section 23 of chapter XIIB.

(4) If the child is an Indian child, the Indian child's tribe must be invited to participate in the investigation and the foster care review board must follow the best interests of the child standards and procedures identified in section 5 of chapter XIIB. If after investigation the foster care review board determines that the move is in the child's best interests, the agency may move the child.

(5) If after investigation the foster care review board determines that the move is not in the child's best interest, the agency shall maintain the current placement until a finding and order by the court or, if the child is under MCI jurisdiction, control, or supervision, a decision by the MCI superintendent. The agency shall not return a child to a placement from which the child was removed under subsection (7) unless the court orders that placement's restoration under subsection (6) or the MCI superintendent approves that placement's restoration under this subsection. The foster care review board shall notify the court, or if the child is under MCI jurisdiction, control, or supervision, the MCI superintendent, about the board's and agency's disagreement. The court shall set a hearing date and provide notice to the foster parents, each interested party, and the prosecuting attorney if the prosecuting attorney has appeared in the case. The court shall set the hearing no sooner than 7 and no later than 14 days after receipt of the notice from the foster care review board. The rules of evidence do not apply to a hearing required by

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this subsection. Within 14 days after notification under this subsection, the MCI superintendent shall make a decision regarding the child's placement and shall inform each interested party what the decision is.

(6) After hearing testimony from the agency and any other interested party, including the Indian child's tribe, and considering any other evidence bearing upon the proposed change in placement, the court shall order the continuation or restoration of the placement unless the court finds that the proposed change in placement is in the child's best interests.

(7) If the agency has reasonable cause to believe that the child has suffered sexual abuse or nonaccidental physical injury, or that there is substantial risk of harm to the child's physical or emotional well-being, the agency may change the child's foster care placement without complying with subsection (1) or (2)(b) or (c). The agency shall include in the child's file documentation of its justification for action under this subsection. If a foster parent objects to the removal of a child under this subsection, the foster parent may appeal to the foster care review board within 3 days after the child's removal. The foster parent may appeal orally, but must submit the appeal in writing immediately following the oral appeal.

(8) At the time of or immediately following a child's removal under subsection (7), the agency shall inform the foster parents about the removal and that, if they disagree with the decision, they may appeal within 3 days to a foster care review board in the manner provided in subsection (7). The agency shall provide the foster parents with the address and telephone number of a foster care review board with jurisdiction over the child.

(9) If an Indian child, not already removed from foster care review board consideration by subsection (1)(b) or (c)(v), under the court's jurisdiction under section 2(b) of this chapter, or under MCI jurisdiction, control, or supervision, is placed in foster care, the agency or MCI must not change the child's placement or make a recommendation for placement change before notifying the Indian child's tribe, and before a change in an Indian child's foster care placement takes effect, the agency, or MCI, where applicable, must do all the following:

(a) Except as provided by subsection (1)(c)(i), (1)(c)(iii), or (7), the agency or MCI, where applicable, must notify an Indian child's tribe at least 3 days before any proposed placement change of an Indian child. Notification under this subdivision may be given by ordinary mail and email to the designated Indian child welfare act agent with receipt 3 days before the beginning of the foster care review board investigation.

(b) At the time of or immediately following an Indian child's removal under subsection (7), the agency or MCI must inform the Indian child's tribe of the child's placement.

(c) The agency, foster care review board, and MCI must comply with section 23 of chapter XIIB for any placement change, including a placement following a removal under subsection (7).

(10) As used in this section, "Indian child" and "Indian child's tribe" mean those terms as defined in section 3 of chapter XIIB.

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History: Add. 1997, Act 163, Eff. July 1, 1998 ;-- Am. 2000, Act 46, Imd. Eff. Mar. 27, 2000 ;-- Am. 2004, Act 475, Imd. Eff. Dec. 28, 2004 ;-- Am. 2008, Act 201, Imd. Eff. July 11, 2008 ;-- Am. 2024, Act 73, Imd. Eff. July 8, 2024
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.14 Officers or county agent authorized to take child into custody; notice; jail or detention facility; release of child; preliminary hearing; order; placement of child; foster care home services.

Sec. 14.

(1) Any local police officer, sheriff or deputy sheriff, state police officer, county agent or probation officer of any court of record may, without the order of the court, immediately take into custody any child who is found violating any law or ordinance, or for whom there is reasonable cause to believe is violating or has violated a personal protection order issued under section 2(h) of this chapter by the court under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or for whom there is reasonable cause to believe is violating or has violated a valid foreign protection order. If the officer or county agent takes a child coming within the provisions of this chapter into custody, he or she shall immediately attempt to notify the parent or parents, guardian, or custodian. While awaiting the arrival of the parent or parents, guardian, or custodian, a child under the age of 18 years taken into custody under the provisions of this chapter shall not be held in a jail or any other detention facility unless the child is completely isolated so as to prevent any verbal, visual, or physical contact with an adult prisoner. Unless the child requires immediate detention as provided for in this act, the officer shall accept the written promise of the parent or parents, guardian, or custodian, to bring the child to the court at a fixed time. The child shall then be released to the custody of the parent or parents, guardian, or custodian.

(2) If a child is not released under subsection (1), the child and his or her parent or parents, guardian, or

custodian, if they can be located, shall immediately be brought before the court for a preliminary hearing on the status of the child, and an order signed by a judge or a referee authorizing the filing of a complaint shall be entered or the child shall be released to his or her parent or parents, guardian, or custodian.

(3) If a complaint is authorized under subsection (2), the order shall state where the child is to be placed, pending investigation and hearing, which placement may be in any of the following:

(a) In the home of the child's parent, guardian, or custodian.

(b) If a child is within the court's jurisdiction under section 2(a) of this chapter, in a suitable foster care home subject to the court's supervision. If a child is within the court's jurisdiction under section 2(b) of this chapter, the court shall not place a child in a foster care home subject to the court's supervision.

(c) In a child care institution or child placing agency licensed by the department to receive for care children within the jurisdiction of the court.

(d) In a suitable place of detention.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.14 ;-- Am. 1952, Act 133, Eff. Sept. 18, 1952 ;-- Am. 1961, Act 30, Eff. Sept. 8, 1961 ;-- Am. 1966, Act 43, Eff. Mar. 10, 1967 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999 ;-- Am. 2001, Act 211, Eff. Apr. 1, 2002 ;-- Am. 2012, Act 163, Imd. Eff. June 12, 2012 ;-- Am. 2019, Act 111, Eff. Oct. 1, 2021
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.14a Immediate removal of child without court order; conditions; placement order pending preliminary hearing; issuance of placement order by designated judge or referee; "officer" defined.

Sec. 14a.

(1) If there is reasonable cause to believe that a child is at substantial risk of harm or is in surroundings that present an imminent risk of harm and the child's immediate removal from those surroundings is necessary to protect the child's health and safety, an officer may, without a court order, immediately take that child into protective custody. An officer who takes a child into protective custody under this section shall immediately notify the department of human services. While awaiting the arrival of the department of human services, the child shall not be held in a detention facility.

(2) If a child taken into protective custody under this section is not released, the officer or the department of human services shall immediately contact the designated judge or referee, as provided in subsection (3), to seek a court order for placement of the child pending a preliminary hearing.

(3) A judge or referee shall be designated as the contact when a placement order is sought for a child in protective custody under this section. In accordance with the provisions of section 14b of this chapter, if the court is closed, the designated judge or referee may, upon receipt electronically or otherwise of a petition or affidavit of facts, order placement if the placement order is communicated in writing, electronically or otherwise, to the appropriate county department office and filed with the court the next business day. When a placement order is issued by a designated referee, the order shall take effect as an interim order pending a preliminary hearing.

(4) As used in this section, "officer" means a local police officer, sheriff or deputy sheriff, state police officer, or county agent or probation officer of a court of record.

History: Add. 2012, Act 163, Imd. Eff. June 12, 2012
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.14b Ex parte order authorizing immediate protective custody of child.

Sec. 14b.

(1) Upon receipt electronically or otherwise of a petition or affidavit of facts, a judge or referee may issue a

written ex parte order, electronically or otherwise, authorizing the department of human services to immediately take a child into protective custody and place the child pending the preliminary hearing if the court finds all of the following:

(a) There is reasonable cause to believe that the child is at substantial risk of harm or is in surroundings that present an imminent risk of harm and the child's immediate removal from those surroundings is necessary to protect the child's health and safety.

(b) The circumstances warrant issuing an ex parte order pending the preliminary hearing.

(c) Consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.

(d) No remedy other than protective custody is reasonably available to protect the child.

(e) Continuing to reside in the home is contrary to the child's welfare.

(2) The ex parte order shall be supported by written findings of fact.

History: Add. 2012, Act 163, Imd. Eff. June 12, 2012
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.15 Detention of child pending hearing; detention screening tool; release of child; petition; limitation on custody of child pending hearing; detention in secure facility, cell, or other secure area designed to incarcerate adults; exception.

Sec. 15.

(1) In the case of a juvenile concerning whom a complaint has been made or a petition has been filed under this chapter, the court may order the juvenile, pending hearing, detained in a facility as the court designates. The court may release the juvenile, pending hearing, into the custody of a parent, guardian, or custodian, to be brought before the court at the time designated. As used in this subsection, "petition" includes all of the following:

(a) Petition.

(b) Supplemental petition.

(c) Petition for revocation of probation.

(d) Supplemental petition alleging a violation of a personal protection order.

(e) A petition or supplemental petition alleging that a juvenile violated a court order under section 2(a)(2) to (4) of this chapter.

(2) Custody, pending hearing, is subject to subsection (3) and limited to the following children:

(a) Those whose home conditions make immediate removal necessary.

(b) Those who have a record of unexcused failures to appear at juvenile court proceedings.

(c) Those who have failed to remain in a detention or nonsecure facility or placement in violation of a court order.

(d) Those whose offenses are so serious that release would endanger public safety.

(e) Those who have allegedly violated a personal protection order and for whom it appears there is a substantial likelihood of retaliation or continued violation.

(f) Those who have allegedly violated a court order under section 2(a)(2) to (4) of this chapter.

(3) Before a juvenile may be detained in a secure facility pending hearing, an individual or agency designated by the court shall use a detention screening tool on the juvenile. Before detaining a juvenile, the court shall consult the results of the detention screening tool and follow any rules regarding its use that are promulgated by the supreme court. The court shall share the results of the detention screening tool with all parties before a juvenile's detention hearing. The state court administrative office, under the supervision and direction of the supreme court and in collaboration with local courts, shall determine the appropriate detention screening tool. Any statement, admission, confession, or incriminating evidence obtained from a juvenile in the course of a screening under this section is not admissible as evidence in an adjudicatory hearing in which the juvenile is accused, is not subject to subpoena, and may not be used in any other court proceeding or for any other purpose.

(4) If a juvenile is taken into custody for violating a court order under section 2(a)(2) to (4) of this chapter and is detained in a secure facility, the petitioner shall ensure that an appropriately trained, licensed, or certified mental health or substance abuse professional interviews the juvenile in person within 24 hours to assess the immediate mental health and substance abuse needs of the juvenile. The assessment may alternatively be done upon filing the petition, before an order for placement in a secure facility. Within 48 hours of the placement in the secure facility, the petitioner shall submit the assessment to the court and the court shall conduct a hearing to determine both of the following:

(a) If there is reasonable cause to believe that the juvenile violated the court order.

(b) The appropriate placement of the juvenile pending the disposition of the alleged violation, including if the juvenile should be placed in a secure facility.

(5) A juvenile taken into custody under section 2(b) of this chapter or subsection (2)(a) must not be detained in a secure facility or in a cell or other secure area of a secure facility designed to incarcerate adults.

(6) A juvenile taken into custody under section 2(a)(2) to (4) of this chapter must not be detained in a cell or other secure area of a secure facility designed to incarcerate adults unless either of the following applies:

(a) The juvenile is under the jurisdiction of the court under section 2(a)(1) of this chapter for an offense which, if committed by an adult, would be a felony.

(b) Until September 30, 2021, the juvenile is not less than 17 years of age and is under the jurisdiction of the court under a supplemental petition under section 2(h) of this chapter. Beginning October 1, 2021, the juvenile is not less than 18 years of age and is under the jurisdiction of the court under a supplemental petition under section 2(h) of this chapter.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.15 ;-- Am. 1972, Act 175, Imd. Eff. June 16, 1972 ;-- Am. 1987, Act 72, Eff. Sept. 1, 1987 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999 ;-- Am. 2019, Act 111, Eff. Oct. 1, 2021 ;-- Am. 2020, Act 389, Eff. Apr. 4, 2021 ;-- Am. 2023, Act 290, Eff. Oct. 1, 2024

Compiler's Notes: Section 2 of Act 72 of 1987 provides: "If this amendatory act requires any increase in the level of any activity or service currently required by this act or requires a new activity or service by a local unit of government, the state shall reimburse the local unit of government for any new or increased costs."

Former Law: See section 18 of Ch. XII of Act 288 of 1939; section 5 of Act 6 of 1907, Ex. Sess.; Act 310 of 1909; Act 164 of 1911; Act 262 of 1911; Act 363 of 1913; Act 308 of 1915; CL 1915, § 2015; Act 24 of 1921, 1st Ex. Sess.; Act 105 of 1923; Act 127 of 1927; and CL 1929, § 12838.

Popular Name: Probate Code

Popular Name: Juvenile Code

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712A.16 Detention and care of juvenile.

Sec. 16.

(1) If a juvenile who is less than 18 years of age is taken into custody or detained, the juvenile must not be confined in a police station, prison, jail, lock-up, or reformatory or transported with, or compelled or permitted to associate or mingle with, criminal or dissolute persons. Except as otherwise provided in section 15 of this chapter, the court may order a juvenile 15 years of age or older whose habits or conduct are considered a menace to other juveniles, or who may not otherwise be safely detained, placed in a jail or other place of detention for adults, but in a room or ward separate from adults and for not more than 30 days, unless longer detention is necessary for the service of process.

(2) The county board of commissioners in each county or of counties contracting together may provide for the diagnosis, treatment, care, training, and detention of juveniles in a child care home or facility conducted as an agency of the county if the home or facility meets the licensing standards established under 1973 PA 116, MCL 722.111 to 722.128. The court or a court-approved agency may arrange for the boarding of juveniles in any of the following:

(a) If a juvenile is within the court's jurisdiction under section 2(a) of this chapter, a suitable foster care home subject to the court's supervision. If a juvenile is within the court's jurisdiction under section 2(b) of this chapter, the court shall not place a juvenile in a foster care home subject to the court's supervision.

(b) A child caring institution or child placing agency licensed by the department to receive for care juveniles within the court's jurisdiction.

(c) If in a room or ward separate and apart from adult criminals, the county jail for juveniles over 17 years of age within the court's jurisdiction.

(3) If a detention home or facility is established as an agency of the county, the judge may appoint a superintendent and other necessary employees for the home or facility who shall receive compensation as provided by the county board of commissioners of the county. This section does not alter or diminish the legal responsibility of the department or a county juvenile agency to receive juveniles committed by the court.

(4) If the court under subsection (2) arranges for the board of juveniles temporarily detained in private homes or in a child caring institution or child placing agency, a reasonable sum fixed by the court for the juvenile's board must be paid by the county treasurer as provided in section 25 of this chapter.

(5) A court shall not provide foster care home services subject to the court's supervision to juveniles within

section 2(b) of this chapter.

(6) A juvenile detention home described in subsection (3) is operated under the direction of the county board of commissioners or, in a county that has an elected county executive, under the county executive's direction. A different method for directing the operation of a detention home may be agreed to in any county by the chief judge of the circuit court in that county and the county board of commissioners or, in a county that has an elected county executive, the county executive.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.16 ;-- Am. 1963, Act 65, Eff. May 8, 1963 ;-- Am. 1968, Act 150, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 175, Imd. Eff. June 16, 1972 ;-- Am. 1987, Act 72, Eff. Sept. 1, 1987 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999 ;-- Am. 2019, Act 102, Eff. Oct. 1, 2021 ;-- Am. 2023, Act 290, Eff. Oct. 1, 2024

Compiler's Notes: Section 2 of Act 72 of 1987 provides: "If this amendatory act requires any increase in the level of any activity or service currently required by this act or requires a new activity or service by a local unit of government, the state shall reimburse the local unit of government for any new or increased costs."

Former Law: See section 27 of Ch. XII of Act 288 of 1939; and CL 1929, § 12841.

Popular Name: Probate Code

Popular Name: Juvenile Code

Admin Rule: R 400.1 et seq. of the Michigan Administrative Code.

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712A.16a Repealed. 1963, Act 214, Imd. Eff. May 17, 1963.

Compiler's Notes: The repealed section provided for joint regional facilities for diagnosis and custody of minors pending criminal proceedings.

Popular Name: Probate Code

Popular Name: Juvenile Code

712A.17 Hearing; informality; adjournment; transcript; jury; giving security for appearance of juvenile; appearance by prosecuting attorney; legal consultant or legal representation; admitting foster care review board member to hearing; closing hearing to members of general public; "juvenile witness" defined.

Sec. 17.

(1) The court may conduct a hearing other than a criminal hearing in an informal manner. The court shall require stenographic notes or another transcript to be taken of the hearing. The court shall adjourn a hearing or grant a continuance regarding a case under section 2(b) of this chapter only for good cause with factual findings on the record and not solely upon stipulation of counsel or for the convenience of a party. In addition to a factual finding of good cause, the court shall not adjourn the hearing or grant a continuance unless 1 of the following is also true:

(a) The motion for the adjournment or continuance is made in writing not less than 14 days before the hearing.

(b) The court grants the adjournment or continuance upon its own motion after taking into consideration the child's best interests. An adjournment or continuance granted under this subdivision shall not last more than 28 days unless the court states on the record the specific reasons why a longer adjournment or continuance is necessary.

(2) Except as otherwise provided in this subsection, in a hearing other than a criminal trial under this chapter, a person interested in the hearing may demand a jury of 6 individuals, or the court, on its own motion, may order a jury of 6 individuals to try the case. In a proceeding under section 2(h) of this chapter, a jury shall not be demanded or ordered on a supplemental petition alleging a violation of a personal protection order. In a criminal trial, a jury may be demanded as provided by law. The jury shall be summoned and impaneled in accordance with chapter 13 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1300 to 600.1376, and, in the case of a criminal trial, as provided in chapter VIII of the code of criminal procedure, 1927 PA 175, MCL 768.1 to 768.36.

(3) A parent, guardian, or other custodian of a juvenile held under this chapter has the right to give bond or other security for the appearance of the juvenile at the hearing of the case.

(4) The prosecuting attorney shall appear for the people when requested by the court, and in a proceeding under section 2(a)(1) of this chapter, the prosecuting attorney shall appear if the proceeding requires a hearing and the taking of testimony.

(5) In a proceeding under section 2(b) of this chapter, upon request of the family independence agency or an agent of the family independence agency under contract with the family independence agency, the prosecuting attorney shall serve as a legal consultant to the family independence agency or its agent at all stages of the proceeding. If in a proceeding under section 2(b) of this chapter the prosecuting attorney does not appear on behalf of the family independence agency or its agent, the family independence agency may contract with an attorney of its choice for legal representation.

(6) A member of a local foster care review board established under 1984 PA 422, MCL 722.131 to 722.139a, shall be admitted to a hearing under subsection (1).

(7) Upon motion of a party or a victim, the court may close the hearing of a case brought under this chapter to members of the general public during the testimony of a juvenile witness or the victim if the court finds that closing the hearing is necessary to protect the welfare of the juvenile witness or the victim. In determining whether closing the hearing is necessary to protect the welfare of the juvenile witness or the victim, the court shall consider the following:

(a) The age of the juvenile witness or the victim.

(b) The nature of the proceeding.

(c) The desire of the juvenile witness, of the witness's family or guardian, or of the victim to have the testimony taken in a room closed to the public.

(8) As used in subsection (7), "juvenile witness" does not include a juvenile against whom a proceeding is brought under section 2(a)(1) of this chapter.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.17 ;-- Am. 1980, Act 499, Imd. Eff. Jan. 21, 1981 ;-- Am. 1982, Act 330, Imd. Eff. Dec. 14, 1982 ;-- Am. 1984, Act 420, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 170, Imd. Eff. July 7, 1986 ;-- Am. 1988, Act 91, Eff. June 1, 1988 ;-- Am. 1988, Act 92, Eff. June 1, 1988 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1989, Act 73, Imd. Eff. June 16, 1989 ;-- Am. 1996, Act 258, Eff. Jan. 1, 1997 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1997, Act 169, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 325, Imd. Eff. Aug. 3, 1998 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999

Former Law: See section 12 of Ch. XII of Act 288 of 1939; and CL 1929, §§ 12835 and 12836.

Popular Name: Probate Code

Popular Name: Juvenile Code

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712A.17a Hearing; record; transcription.

Sec. 17a.

In any case in which a record of the hearing is kept by a recording device, a transcription of the hearing need not be made in the absence of a request by an interested party. The recording of the hearing shall be maintained as prescribed by rules of the supreme court.

History: Add. 1969, Act 95, Imd. Eff. July 24, 1969 ;-- Am. 2014, Act 307, Imd. Eff. Oct. 10, 2014

Popular Name: Probate Code

Popular Name: Juvenile Code

712A.17b Definitions; proceedings to which section applicable; use of dolls or mannequins; support person; notice; videorecorded statement; shielding of witness; videorecorded deposition; special arrangements to protect welfare of witness; section additional to other protections or procedures; violation as misdemeanor; penalty.

Sec. 17b.

(1) As used in this section:

(a) "Custodian of the videorecorded statement" means the investigating law enforcement agency, prosecuting attorney, or department of attorney general or another person designated under the county protocols established as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628.

(b) "Developmental disability" means that term as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, except that, for the purposes of implementing this section, developmental disability includes only a condition that is attributable to a mental impairment or to a combination of mental and physical impairments,

and does not include a condition attributable to a physical impairment unaccompanied by a mental impairment.

(c) "Nonoffending parent or legal guardian" means a natural parent, stepparent, adoptive parent, or legally appointed or designated guardian of a witness who is not alleged to have committed a violation of the laws of this state, another state, the United States, or a court order that is connected in any manner to a witness's videorecorded statement.

(d) "Videorecorded statement" means a witness's statement taken by a custodian of the videorecorded statement as provided in subsection (5). Videorecorded statement does not include a videorecorded deposition taken as provided in subsections (16) and (17).

(e) "Witness" means an alleged victim of an offense listed under subsection (2) who is either of the following:

(i) A person under 16 years of age.

(ii) A person 16 years of age or older with a developmental disability.

(2) This section only applies to either of the following:

(a) A proceeding brought under section 2(a)(1) of this chapter in which the alleged offense, if committed by an adult, would be a felony under section 136b, 145c, 520b to 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and 750.520g.

(b) A proceeding brought under section 2(b) of this chapter.

(3) If pertinent, the witness shall be permitted the use of dolls or mannequins, including, but not limited to, anatomically correct dolls or mannequins, to assist the witness in testifying on direct and cross-examination.

(4) A witness who is called upon to testify shall be permitted to have a support person sit with, accompany, or be in close proximity to the witness during his or her testimony. A notice of intent to use a support person shall name the support person, identify the relationship the support person has with the witness, and give notice to all parties to the proceeding that the witness may request that the named support person sit with the witness when the witness is called upon to testify during any stage of the proceeding. The notice of intent to use a named support person shall be filed with the court and shall be served upon all parties to the proceeding. The court shall rule on a motion objecting to the use of a named support person before the date at which the witness desires to use the support person.

(5) A custodian of the videorecorded statement may take a witness's videorecorded statement. The videorecorded statement shall be admitted at all proceedings except the adjudication stage instead of the live testimony of the witness. The videorecorded statement shall state the date and time that the statement was taken; shall identify the persons present in the room and state whether they were present for the entire video recording or only a portion of the video recording; and shall show a time clock that is running during the taking of the statement.

(6) In a videorecorded statement, the questioning of the witness should be full and complete; shall be in accordance with the forensic interview protocol implemented as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628; and, if appropriate for the witness's developmental level, shall include, but need not be limited to, all of the following areas:

(a) The time and date of the alleged offense or offenses.

(b) The location and area of the alleged offense or offenses.

(c) The relationship, if any, between the witness and the respondent.

(d) The details of the offense or offenses.

(e) The names of other persons known to the witness who may have personal knowledge of the offense or offenses.

(7) A custodian of the videorecorded statement may release or consent to the release or use of a videorecorded statement or copies of a videorecorded statement to a law enforcement agency, an agency authorized to prosecute the criminal case to which the videorecorded statement relates, or an entity that is part of county protocols established under section 8 of the child protection law, 1975 PA 238, MCL 722.628. Each respondent and, if represented, his or her attorney has the right to view and hear the videorecorded statement at a reasonable time before it is offered into evidence. In preparation for a court proceeding and under protective conditions, including, but not limited to, a prohibition on the copying, release, display, or circulation of the videorecorded statement, the court may order that a copy of the videorecorded statement be given to the defense.

(8) If authorized by the prosecuting attorney in the county in which the videorecorded statement was taken and with the consent of a minor witness's nonoffending parent or legal guardian, a videorecorded statement may be used for purposes of training the custodians of the videorecorded statement in that county, or for purposes of training persons in another county that would meet the definition of custodian of the videorecorded statement had the videorecorded statement been taken in that other county, on the forensic interview protocol implemented as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628. The consent required under this subsection must be obtained through the execution of a written, fully informed, time-limited, and revocable release of information. An individual participating in training under this subsection is also required to execute a nondisclosure agreement to protect witness confidentiality.

(9) Except as provided in this section, an individual, including, but not limited to, a custodian of the videorecorded statement, the witness, or the witness's parent, guardian, guardian ad litem, or attorney, shall not release or consent to release a videorecorded statement or a copy of a videorecorded statement.

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(10) A videorecorded statement that becomes part of the court record is subject to a protective order of the court for the purpose of protecting the privacy of the witness.

(11) A videorecorded statement shall not be copied or reproduced in any manner except as provided in this section. A videorecorded statement is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject to release under another statute, and is not subject to disclosure under the Michigan court rules governing discovery. This section does not prohibit the production or release of a transcript of a videorecorded statement.

(12) Except as otherwise provided in subsection (15), if, upon the motion of a party or in the court's discretion, the court finds on the record that psychological harm to the witness would occur if the witness were to testify in the presence of the respondent at a court proceeding or in a videorecorded deposition taken as provided in subsection (13), the court shall order that the witness during his or her testimony be shielded from viewing the respondent in such a manner as to enable the respondent to consult with his or her attorney and to see and hear the testimony of the witness without the witness being able to see the respondent.

(13) In a proceeding brought under section 2(b) of this chapter, if, upon the motion of a party or in the court's discretion, the court finds on the record that psychological harm to the witness would occur if the witness were to testify at the adjudication stage, the court shall order to be taken a videorecorded deposition of a witness that shall be admitted into evidence at the adjudication stage instead of the live testimony of the witness. The examination and cross-examination of the witness in the videorecorded deposition shall proceed in the same manner as permitted at the adjudication stage.

(14) In a proceeding brought under section 2(a)(1) of this chapter in which the alleged offense, if committed by an adult, would be a felony under section 136b, 145c, 520b to 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and 750.520g, if, upon the motion of a party made before the adjudication stage, the court finds on the record that the special arrangements specified in subsection (15) are necessary to protect the welfare of the witness, the court shall order 1 or both of those special arrangements. In determining whether it is necessary to protect the welfare of the witness, the court shall consider both of the following:

(a) The age of the witness.

(b) The nature of the offense or offenses.

(15) If the court determines on the record that it is necessary to protect the welfare of the witness and grants the motion made under subsection (14), the court shall order 1 or both of the following:

(a) In order to protect the witness from directly viewing the respondent, the courtroom shall be arranged so that the respondent is seated as far from the witness stand as is reasonable and not directly in front of the witness stand. The respondent's position shall be located so as to allow the respondent to hear and see all witnesses and be able to communicate with his or her attorney.

(b) A questioner's stand or podium shall be used for all questioning of all witnesses by all parties, and shall be located in front of the witness stand.

(16) In a proceeding brought under section 2(a)(1) of this chapter in which the alleged offense, if committed by an adult, would be a felony under section 136b, 145c, 520b to 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and 750.520g, if, upon the motion of a party or in the court's discretion, the court finds on the record that the witness is or will be psychologically or emotionally unable to testify at a court proceeding even with the benefit of the protections afforded the witness in subsections (3), (4), and (15), the court shall order that a videorecorded deposition of a witness shall be taken to be admitted at the adjudication stage instead of the witness's live testimony.

(17) For purposes of the videorecorded deposition under subsection (16), the witness's examination and cross-examination shall proceed in the same manner as if the witness testified at the adjudication stage, and the court shall order that the witness, during his or her testimony, shall not be confronted by the respondent but shall permit the respondent to hear the testimony of the witness and to consult with his or her attorney.

(18) This section is in addition to other protections or procedures afforded to a witness by law or court rule.

(19) A person who intentionally releases a videorecorded statement in violation of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

History: Add. 1987, Act 45, Eff. Jan. 1, 1988 ;-- Am. 1989, Act 254, Eff. Mar. 29, 1990 ;-- Am. 1998, Act 325, Imd. Eff. Aug. 3, 1998 ;-- Am. 2002, Act 625, Eff. Mar. 31, 2003 ;-- Am. 2018, Act 344, Eff. Jan. 14, 2019

Popular Name: Probate Code

Popular Name: Juvenile Code

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712A.17c Advising child or respondent of right to attorney; appointment of attorney; waiver; appointment

of lawyer-guardian ad litem; costs; service until discharged by court; assistance to court.

Sec. 17c.

(1) In a proceeding under section 2(a) or (d) of this chapter or a proceeding regarding a supplemental petition alleging a violation of a personal protection order under section 2(h) of this chapter, the court shall advise the child that he or she has a right to an attorney at each stage of the proceeding.

(2) In a proceeding under section 2(a) or (d) of this chapter, the court shall appoint an attorney to represent the child if 1 or more of the following apply:

(a) The child's parent refuses or fails to appear and participate in the proceedings.

(b) The child's parent is the complainant or victim.

(c) The child and those responsible for his or her support are financially unable to employ an attorney and the child does not waive his or her right to an attorney.

(d) Those responsible for the child's support refuse or neglect to employ an attorney for the child and the child does not waive his or her right to an attorney.

(e) The court determines that the best interests of the child or the public require appointment.

(3) Except as otherwise provided in this subsection, in a proceeding under section 2(a) or (d) of this chapter, the child may waive his or her right to an attorney. The waiver by a child shall be made in open court, on the record, and shall not be made unless the court finds on the record that the waiver was voluntarily and understandingly made. The child may not waive his or her right to an attorney if the child's parent or guardian ad litem objects or if the appointment is made under subsection (2)(e).

(4) In a proceeding under section 2(b) or (c) of this chapter, the court shall advise the respondent at the respondent's first court appearance of all of the following:

(a) The right to an attorney at each stage of the proceeding.

(b) The right to a court-appointed attorney if the respondent is financially unable to employ an attorney.

(c) If the respondent is not represented by an attorney, the right to request and receive a court-appointed attorney at a later proceeding.

(5) If it appears to the court in a proceeding under section 2(b) or (c) of this chapter that the respondent wants an attorney and is financially unable to retain an attorney, the court shall appoint an attorney to represent the respondent.

(6) Except as otherwise provided in this subsection, in a proceeding under section 2(b) or (c) of this chapter, the respondent may waive his or her right to an attorney. A respondent who is a minor may not waive his or her right to an attorney if the respondent's parent or guardian ad litem objects.

(7) In a proceeding under section 2(b) or (c) of this chapter, the court shall appoint a lawyer-guardian ad litem to represent the child. The child shall not waive the assistance of the lawyer-guardian ad litem. In addition to any other powers and duties, a lawyer-guardian ad litem's powers and duties include those prescribed in section 17d.

(8) If an attorney or lawyer-guardian ad litem is appointed for a party under this act, after a determination of ability to pay the court may enter an order assessing attorney costs against the party or the person responsible for that party's support, or against the money allocated from marriage license fees for family counseling services under section 3 of 1887 PA 128, MCL 551.103. An order assessing attorney costs may be enforced through contempt proceedings.

(9) An attorney or lawyer-guardian ad litem appointed by the court under this section shall serve until discharged by the court. If the child's case was petitioned under section 2(b) of this chapter, the court shall not discharge the lawyer-guardian ad litem for the child 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, unless the court discharges the lawyer-guardian ad litem for good cause shown on the record. If the child remains subject to the jurisdiction, control, or supervision of the court, or the Michigan children's institute or other agency, the court shall immediately appoint another lawyer-guardian ad litem to represent the child.

(10) To assist the court in determining a child's best interests, the court may appoint a guardian ad litem for a child involved in a proceeding under this chapter.

History: Add. 1988, Act 92, Eff. June 1, 1988 ;-- Am. 1994, Act 264, Eff. Jan. 1, 1995 ;-- Am. 1997, Act 169, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 480, Eff. Mar. 1, 1999
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.17d Lawyer-guardian ad litem; powers and duties.

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Sec. 17d.

(1) A lawyer-guardian ad litem's duty is to the child, and not the court. The lawyer-guardian ad litem's powers and duties include at least all of the following:

(a) The obligations of the attorney-client privilege.

(b) To serve as the independent representative for the child's best interests, and be entitled to fully and actively participate in all aspects of the litigation and access to all relevant information regarding the child.

(c) To determine the facts of the case by conducting an independent investigation including, but not limited to, interviewing the child, social workers, family members, and others as necessary, and reviewing relevant reports and other information. The agency case file must be reviewed before disposition and before the hearing for termination of parental rights. Updated material must be reviewed as provided to the court and parties. The supervising agency shall provide documentation of progress that relates to all aspects of the last court ordered treatment plan, including copies of evaluations and therapy reports and verification of parenting time not later than 5 business days before the scheduled hearing.

(d) To meet with or observe the child and assess the child's needs and wishes with regard to the representation and the issues in the case in the following instances:

(i) Before the pretrial hearing.

(ii) Before the initial disposition, if held more than 91 days after the petition has been authorized.

(iii) Before a dispositional review hearing.

(iv) Before a permanency planning hearing.

(v) Before a post-termination review hearing.

(vi) At least once during the pendency of a supplemental petition.

(vii) At other times as ordered by the court. Adjourned or continued hearings do not require additional visits unless directed by the court.

(e) The court may allow alternative means of contact with the child if good cause is shown on the record.

(f) To explain to the child, taking into account the child's ability to understand the proceedings, the lawyer-guardian ad litem's role.

(g) To file all necessary pleadings and papers and independently call witnesses on the child's behalf.

(h) To attend all hearings and substitute representation for the child only with court approval.

(i) To make a determination regarding the child's best interests and advocate for those best interests according to the lawyer-guardian ad litem's understanding of those best interests, regardless of whether the lawyer-guardian ad litem's determination reflects the child's wishes. The child's wishes are relevant to the lawyer-guardian ad litem's determination of the child's best interests, and the lawyer-guardian ad litem shall weigh the child's wishes according to the child's competence and maturity. Consistent with the law governing attorney-client privilege, the lawyer-guardian ad litem shall inform the court of the child's wishes and preferences.

(j) To monitor the implementation of case plans and court orders and to determine whether services the court ordered for the child or the child's family are being provided in a timely manner and are accomplishing their purpose. The lawyer-guardian ad litem shall inform the court if the services are not being provided in a timely manner, if the family fails to take advantage of the services, or if the services are not accomplishing their intended purpose.

(k) Consistent with the rules of professional responsibility, to identify common interests among the parties and, to the extent possible, promote a cooperative resolution of the matter through consultation with the child's parent, foster care provider, guardian, and caseworker.

(l) To request authorization by the court to pursue issues on the child's behalf that do not arise specifically from the court appointment.

(m) To participate in early childhood, child, and adolescent development training.

(n) To participate in trauma-informed training if provided by the state court administrative office.

(2) If, after discussion between the child and his or her lawyer-guardian ad litem, the lawyer-guardian ad litem determines that the child's interests as identified by the child are inconsistent with the lawyer-guardian ad litem's determination of the child's best interests, the lawyer-guardian ad litem shall communicate the child's position to the court. If the court considers the appointment appropriate considering the child's age and maturity and the nature of the inconsistency between the child's and the lawyer-guardian ad litem's identification of the child's interests, the court may appoint an attorney for the child. An attorney appointed under this subsection serves in addition to the child's lawyer-guardian ad litem.

(3) The court or another party to the case shall not call a lawyer-guardian ad litem as a witness to testify regarding matters related to the case. The lawyer-guardian ad litem's file of the case is not discoverable.

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History: Add. 1998, Act 480, Eff. Mar. 1, 1999 ;-- Am. 2004, Act 475, Imd. Eff. Dec. 28, 2004 ;-- Am. 2012, Act 115, Imd. Eff. May 1, 2012 ;-- Am. 2022, Act 201, Imd. Eff. Oct. 7, 2022

Popular Name: Probate Code

712A.18 Orders of disposition; reimbursement; guidelines; restitution; condition of probation; revocation or alteration of terms and conditions; community service; biometric data; fingerprints; risk and needs assessment; report to department of state police; registration of juvenile provided in MCL 28.721 to 28.730; release from placement in juvenile boot camp; imposition of sentence in county jail facility; violation of personal protection order.

Sec. 18.

(1) If the court finds that a juvenile concerning whom a petition is filed is not within this chapter, the court shall enter an order dismissing the petition. Except as otherwise provided in subsection (8) and subject to subsection (9), if the court finds that a juvenile is within this chapter, the court shall order the juvenile returned to the juvenile's parent if the return of the juvenile to the juvenile's parent would not cause a substantial risk of harm to the juvenile or society. Subject to subsection (9), the court may also enter any of the following orders of disposition that are appropriate for the welfare of the juvenile and society in view of the facts proven and ascertained:

(a) Warn the juvenile or the juvenile's parents, guardian, or custodian and, except as provided in subsection (5), dismiss the petition.

(b) Place the juvenile on probation, or under supervision in the juvenile's own home or in the home of an adult who is related to the juvenile. As used in this subdivision, "related" means a relative as that term is defined in section 13a of this chapter. The court shall order the terms and conditions of probation or supervision, including reasonable rules for the conduct of the parents, guardian, or custodian, if any, as the court determines necessary for the physical, mental, or moral well-being and behavior of the juvenile. The court may order that the juvenile participate in a juvenile drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1088.

(c) If a juvenile is within the court's jurisdiction under section 2(a) of this chapter, or under section 2(h) of this chapter for a supplemental petition, place the juvenile in a suitable foster care home subject to the court's supervision. If a juvenile is within the court's jurisdiction under section 2(b) of this chapter, the court shall not place a juvenile in a foster care home subject to the court's supervision.

(d) Except as otherwise provided in this subdivision, place the juvenile in or commit the juvenile to a private institution or agency approved or licensed by the department's division of child welfare licensing for the care of juveniles of similar age, sex, and characteristics. If the juvenile is not a ward of the court, the court shall commit the juvenile to the department or, if the county is a county juvenile agency, to that county juvenile agency for placement in or commitment to an institution or agency as the department or county juvenile agency determines is most appropriate, subject to any initial level of placement the court designates.

(e) Except as otherwise provided in this subdivision, commit the juvenile to a public institution, county facility, institution operated as an agency of the court or county, or agency authorized by law to receive juveniles of similar age, sex, and characteristics. If the juvenile is not a ward of the court, the court shall commit the juvenile to the department or, if the county is a county juvenile agency, to that county juvenile agency for placement in or commitment to an institution or facility as the department or county juvenile agency determines is most appropriate, subject to any initial level of placement the court designates. In a placement under subdivision (d) or a commitment under this subdivision, except to a state institution or a county juvenile agency, the juvenile's religious affiliation must be protected by placement or commitment to a private child placing or child caring agency or institution, if available.

(f) Provide the juvenile with medical, dental, surgical, or other health care, in a local hospital if available, or elsewhere, maintaining as much as possible a local physician-patient relationship, and with clothing and other incidental items the court determines are necessary.

(g) Order the parents, guardian, custodian, or any other person to refrain from continuing conduct that the court determines has caused or tended to cause the juvenile to come within or to remain under this chapter or that obstructs placement or commitment of the juvenile by an order under this section.

(h) Appoint a guardian under section 5204 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204, in response to a petition filed with the court by a person interested in the juvenile's welfare. If the court appoints a guardian as authorized by this subdivision, it may dismiss the petition under this chapter.

(i) Order the juvenile to engage in community service. The court shall not order the juvenile or the juvenile's parent, guardian, or legal custodian to pay for fees or costs associated with community service.

(j) The court shall not order the juvenile or the juvenile's parent, guardian, or legal custodian to pay fines associated with a violation of a municipal ordinance or a state or federal law if another disposition under this section has been ordered.

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(k) If the court finds that the juvenile has violated a court order under section 2(a)(2) to (4) of this chapter, order the juvenile to be placed in a secure facility. A court order under this subdivision must state all of the following:

(i) The court order the juvenile violated.

(ii) The factual basis for determining that there was reasonable cause to believe that the juvenile violated the court order.

(iii) The court's finding of fact to support a determination that there is no appropriate less restrictive alternative placement available considering the best interests of the juvenile.

(iv) The length of time, not to exceed 7 days, that the juvenile may remain in the secure facility and the plan for the juvenile's release from the facility.

(v) That the order may not be renewed or extended.

(l) For a second or subsequent violation of a court order under section 2(a)(2) to (4) of this chapter, issue a second or subsequent order under subdivision (k), but only if the court finds both of the following:

(i) The juvenile violated a court order after the date that the court issued the first order under subdivision (k).

(ii) The court has procedures in place to ensure that a juvenile held in a secure facility by a court order is not in custody more than 7 days or the length of time authorized by the court, whichever is shorter.

(m) If a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter, order the juvenile's parent or guardian to personally participate in treatment reasonably available in the parent's or guardian's location.

(n) If a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter, place the juvenile in and order the juvenile to complete satisfactorily a program of training in a juvenile boot camp established by the department under the juvenile boot camp act, 1996 PA 263, MCL 400.1301 to 400.1309, as provided in that act. If the county is a county juvenile agency, the court shall commit the juvenile to that county juvenile agency for placement in the program under that act. Upon receiving a report of satisfactory completion of the program from the department, the court shall authorize the juvenile's release from placement in the juvenile boot camp. Following satisfactory completion of the juvenile boot camp program, the juvenile shall complete an additional period of not less than 120 days or more than 180 days of intensive supervised community reintegration in the juvenile's local community. To place or commit a juvenile under this subdivision, the court shall determine all of the following:

(i) Placement in a juvenile boot camp will benefit the juvenile.

(ii) The juvenile is physically able to participate in the program.

(iii) The juvenile does not appear to have any mental handicap that would prevent participation in the program.

(iv) The juvenile will not be a danger to other juveniles in the boot camp.

(v) There is an opening in a juvenile boot camp program.

(vi) If the court must commit the juvenile to a county juvenile agency, the county juvenile agency is able to place the juvenile in a juvenile boot camp program.

(o) If the court entered a judgment of conviction under section 2d of this chapter, enter any disposition under this section or, if the court determines that the best interests of the public would be served, impose any sentence upon the juvenile that could be imposed upon an adult convicted of the offense for which the juvenile was convicted. If the juvenile is convicted of a violation or conspiracy to commit a violation of section 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7403, the court may impose the alternative sentence permitted under that section if the court determines that the best interests of the public would be served. The court may delay imposing a sentence of imprisonment under this subdivision for a period not longer than the period during which the court has jurisdiction over the juvenile under this chapter by entering an order of disposition delaying imposition of sentence and placing the juvenile on probation upon the terms and conditions it considers appropriate, including any disposition under this section. If the court delays imposing sentence under this section, section 18i of this chapter applies. If the court imposes sentence, it shall enter a judgment of sentence. If the court imposes a sentence of imprisonment, the juvenile shall receive credit against the sentence for time served before sentencing. In determining whether to enter an order of disposition or impose a sentence under this subdivision, the court shall consider all of the following factors, giving greater weight to the seriousness of the offense and the juvenile's prior record:

(i) The seriousness of the offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm or other dangerous weapon, and the impact on any victim.

(ii) The juvenile's culpability in committing the offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(iii) The juvenile's prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior.

(iv) The juvenile's programming history, including, but not limited to, the juvenile's past willingness to participate meaningfully in available programming.

(v) The adequacy of the punishment or programming available in the juvenile justice system.

(vi) The dispositional options available for the juvenile.

(p) In a proceeding under section 2(b) or (c) of this chapter, if a juvenile is removed from the parent's custody at

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any time, the court shall permit the juvenile's parent to have regular and frequent parenting time with the juvenile. Parenting time between the juvenile and the juvenile's parent must not be less than 1 time every 7 days unless the court determines either that exigent circumstances require less frequent parenting time or that parenting time, even if supervised, may be harmful to the juvenile's life, physical health, or mental well-being. If the court determines that parenting time, even if supervised, may be harmful to the juvenile's life, physical health, or mental well-being, the court may suspend parenting time until the risk of harm no longer exists. The court may order the juvenile to have a psychological evaluation or counseling, or both, to determine the appropriateness and the conditions of parenting time.

(2) Money collected for juveniles placed by the court with or committed to the department or a county juvenile agency must be accounted for and reported on an individual juvenile basis.

(3) The court shall not order a juvenile or a juvenile's parent, guardian, or legal custodian to pay for the costs of care, services, court-appointed attorney representation, or other costs or assessments related to the juvenile's court proceeding.

(4) An order directed to a parent or a person other than the juvenile is not effective and binding on the parent or other person unless opportunity for hearing is given by issuance of summons or notice as provided in sections 12 and 13 of this chapter and until a copy of the order, bearing the seal of the court, is served on the parent or other person as provided in section 13 of this chapter.

(5) If the court finds that a juvenile comes under section 30 of this chapter, the court shall order the juvenile or the juvenile's parent to pay restitution as provided in sections 30 and 31 of this chapter and in sections 44 and 45 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.794 and 780.795.

(6) If the court imposes restitution as a condition of probation, the court shall require the juvenile to do either of the following as an additional condition of probation:

(a) Engage in community service or, with the victim's consent, perform services for the victim.

(b) Seek and maintain paid employment and pay restitution to the victim from the earnings of that employment.

(7) If the court finds that the juvenile is in intentional default of the payment of restitution, a court may, as provided in section 30 of this chapter, revoke or alter the terms and conditions of probation for nonpayment of restitution. If a juvenile who is ordered to engage in community service intentionally refuses to perform the required community service, the court may revoke or alter the terms and conditions of probation. The juvenile must not be placed outside of his or her home solely based on nonpayment of restitution or inability to perform community service.

(8) The court shall not enter an order of disposition for a juvenile offense as defined in section 1a of 1925 PA 289, MCL 28.241a, or a judgment of sentence for a conviction until the court has examined the court file and has determined that the juvenile's biometric data have been collected and forwarded as required by section 3 of 1925 PA 289, MCL 28.243, and the juvenile's fingerprints have been taken and forwarded as required by the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.730. If a juvenile's biometric data have not been collected or a juvenile has not had the juvenile's fingerprints taken, the court shall do either of the following:

(a) Order the juvenile to submit himself or herself to the police agency that arrested or obtained the warrant for the juvenile's arrest so the juvenile's biometric data can be collected and forwarded and the juvenile's fingerprints can be taken and forwarded.

(b) Order the juvenile committed to the sheriff's custody for collecting and forwarding the juvenile's biometric data and taking and forwarding the juvenile's fingerprints.

(9) A designated individual or agency shall conduct a risk and needs assessment for each juvenile before disposition. The following procedure applies to a risk and needs assessment conducted under this subsection:

(a) The results of the risk and needs assessment, and a dispositional recommendation made by the designated individual or agency that performed the risk and needs assessment, must be shared with the court and each party to the proceeding, including the juvenile, counsel for the juvenile, and the prosecuting attorney.

(b) The results of the risk and needs assessment must be used to inform a dispositional recommendation and to determine the most appropriate disposition for the juvenile considering all of the following factors:

(i) The least restrictive setting possible.

(ii) Public safety.

(iii) Victim interests.

(iv) Rehabilitation of the juvenile.

(v) Improved juvenile outcomes, including, but not limited to, educational advancement.

(10) The court shall consider the results of the risk and needs assessment conducted under subsection (9) when making a dispositional decision regarding a juvenile found within this chapter, including, but not limited to, any of the following decisions:

(a) Whether to place a juvenile under supervision, including the length, level, and conditions of this supervision.

(b) Whether to place a juvenile on probation.

(c) Whether to place a juvenile in out-of-home care.

(11) For the duration of each order of disposition for a juvenile found within this chapter, the court shall require a new risk and needs assessment for the juvenile, to be conducted, shared, and used in the same manner as

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described in subsection (9), if any of the following conditions occur:

(a) Six months have passed since the juvenile's last risk and needs assessment.

(b) The juvenile experiences a major life event.

(c) There is a major change in the juvenile's proceedings.

(12) A risk and needs assessment conducted under subsection (9) must meet both of the following requirements:

(a) Be research based and nationally validated for use with juveniles.

(b) Comply with the guidelines created under subsection (13).

(13) The state court administrative office, under the supervision and direction of the supreme court, shall create guidelines on the use of risk and needs assessments under this section.

(14) A designated individual or agency that conducts risk and needs assessments under subsection (9) must be trained on the appropriate use of the applicable risk and needs assessment selected by the court.

(15) A risk and needs assessment conducted as part of a proceeding under this section and any information obtained from a minor in the course of the assessment, including any admission, confession, or incriminating evidence, are not admissible into evidence in any adjudicatory hearing in which the minor is accused and are not subject to subpoena or any other court process for use in any other proceeding or for any other purpose.

(16) Upon final disposition, conviction, acquittal, or dismissal of an offense within the court's jurisdiction under section 2(a)(1) of this chapter, using forms approved by the state court administrator, the clerk of the court entering the final disposition, conviction, acquittal, or dismissal shall immediately advise the department of state police of that final disposition, conviction, acquittal, or dismissal as required by section 3 of 1925 PA 289, MCL 28.243. The report to the department of state police must include information as to the finding of the judge or jury and a summary of the disposition or sentence imposed.

(17) If the court has entered an order of disposition or a judgment of conviction for a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court, the department, or the county juvenile agency shall register the juvenile or accept the juvenile's registration as provided in the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.730.

(18) If the court enters an order of disposition placing a juvenile in a juvenile boot camp program, or committing a juvenile to a county juvenile agency for placement in a juvenile boot camp program, and the court receives from the department a report that the juvenile has failed to perform satisfactorily in the program, that the juvenile does not meet the program's requirements or is medically unable to participate in the program for more than 25 days, that there is no opening in a juvenile boot camp program, or that the county juvenile agency is unable to place the juvenile in a juvenile boot camp program, the court shall release the juvenile from placement or commitment and enter an alternative order of disposition. A juvenile must not be placed in a juvenile boot camp under an order of disposition more than once, except that a juvenile returned to the court for a medical condition, because there was no opening in a juvenile boot camp program, or because the county juvenile agency was unable to place the juvenile in a juvenile boot camp program may be placed again in the juvenile boot camp program after the medical condition is corrected, an opening becomes available, or the county juvenile agency is able to place the juvenile.

(19) If the juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter for an offense other than a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court shall determine if the offense is a violation of a law of this state or a local ordinance of a municipality of this state that by its nature constitutes a sexual offense against an individual who is less than 18 years of age. If so, the order of disposition is for a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, and the court shall include the basis for that determination on the record and include the determination in the order of disposition.

(20) The court shall not impose a sentence of imprisonment in the county jail under subsection (1)(o) unless the present county jail facility for the juvenile's imprisonment meets all requirements under federal law and regulations for housing juveniles. The court shall not impose the sentence until it consults with the sheriff to determine when the sentence will begin to ensure that space will be available for the juvenile.

(21) In a proceeding under section 2(h) of this chapter, this section only applies to a disposition for a violation of a personal protection order and subsequent proceedings.

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History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.18 ;-- Am. 1953, Act 139, Eff. Oct. 2, 1953 ;-- Am. 1963, Act 65, Imd. Eff. May 8, 1963 ;-- Am. 1972, Act 175, Imd. Eff. June 16, 1972 ;-- Am. 1982, Act 398, Imd. Eff. Dec. 28, 1982 ;-- Am. 1988, Act 71, Eff. June 1, 1988 ;-- Am. 1988, Act 72, Eff. June 1, 1988 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1989, Act 112, Imd. Eff. June 23, 1989 ;-- Am. 1990, Act 314, Imd. Eff. Dec. 20, 1990 ;-- Am. 1993, Act 344, Eff. May 1, 1994 ;-- Am. 1994, Act 264, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 355, Eff. Oct. 1, 1995 ;-- Am. 1996, Act 243, Eff. Aug. 1, 1996 ;-- Am. 1996, Act 244, Eff. Aug. 1, 1996 ;-- Am. 1997, Act 163, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999 ;-- Am. 1999, Act 86, Eff. Sept. 1, 1999 ;-- Am. 2000, Act 55, Eff. Apr. 1, 2000 ;-- Am. 2003, Act 71, Eff. Oct. 1, 2003 ;-- Am. 2004, Act 102, Imd. Eff. May 13, 2004 ;-- Am. 2004, Act 221, Eff. Jan. 1, 2005 ;-- Am. 2004, Act 475, Imd. Eff. Dec. 28, 2004 ;-- Am. 2011, Act 295, Eff. Apr. 1, 2012 ;-- Am. 2016, Act 191, Eff. Sept. 19, 2016 ;-- Am. 2018, Act 58, Eff. June 12, 2018 ;-- Am. 2019, Act 102, Eff. Oct. 1, 2021 ;-- Am. 2020, Act 389, Eff. Apr. 4, 2021 ;-- Am. 2022, Act 209, Imd. Eff. Oct. 7, 2022 ;-- Am. 2023, Act 298, Eff. Oct. 1, 2024 ;-- Am. 2023, Act 301,

Eff. Oct. 1, 2024
Former Law: See sections 18, 20, 21, and 22 of Ch. XII of Act 288 of 1939; CL 1929, §§ 12838 and 12840; Act 30 of 1931; and Act 260 of 1937.
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18a Placement or commitment of ward of the court to out-of-state institutions.

Sec. 18a.

If desirable or necessary, the court may place a ward of the court in or commit a ward of the court to a private institution or agency incorporated under the laws of another state and approved or licensed by that state's department of social welfare, or the equivalent approving or licensing agency, for the care of children of similar age, sex, and characteristics.

History: Add. 1964, Act 83, Eff. Aug. 28, 1964 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.18b Reimbursement order; failure to comply, contempt of court; assignment of wages.

Sec. 18b.

Whenever the court under section 18 of this act enters a reimbursement order and the parent or other adult legally responsible for the care of the child fails or refuses to obey and perform the order, and has been found guilty of contempt of court for such failure or refusal, the court making the order may order an assignment to the county or state of the salary, wages or other income of the person responsible for the care of the child, which assignment shall continue until the support is paid in full. The order of assignment shall be effective 1 week after service upon the employer of a true copy of the order by personal service or by registered or certified mail. Thereafter the employer shall withhold from the earnings due the employee the amount specified in the order of assignment for transmittal to the county or state until notified by the court that the support arrearage is paid in full. An employer shall not use the assignment as a basis, in whole or in part, for the discharge of an employee or for any other disciplinary action against an employee. Compliance by an employer with the order of assignment operates as a discharge of the employer's liability to the employee as to that portion of the employee's earnings so affected.

History: Add. 1965, Act 172, Imd. Eff. July 15, 1965
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18c Retention of jurisdiction of child committed under MCL 712A.18(1)(e); effective date of subsection (2); annual review; release of child.

Sec. 18c.

(1) If a child is committed under section 18(1)(e) of this chapter for an offense which, if committed by an adult, would be punishable by imprisonment for more than 1 year or an offense expressly designated by law to be a felony, the court shall retain jurisdiction over the child.
(2) If a child is committed under section 18(1)(e) of this chapter and the child was adjudicated as being in the court's jurisdiction under section 2(a) of this chapter, the court shall retain jurisdiction over the child. This subsection shall take effect June 1, 1991.
(3) If the court has retained jurisdiction over a child under this section, the court shall conduct an annual review of the services being provided to the child, the child's placement, and the child's progress in that placement. In

conducting this review, the court shall examine the child's annual report prepared pursuant to section 3 of the juvenile facilities act. The court may order changes in the child's placement or treatment plan based on the review.

(4) If the court has retained jurisdiction over a child under this section, the child may be released only with the approval of the court. Except as otherwise provided in section 18d, the child shall be automatically released upon reaching 19 years of age.

History: Add. 1988, Act 54, Eff. Oct. 1, 1988
Compiler's Notes: Section 3 of Act 54 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 174 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18d Juvenile committed under MCL 712A.18(1)(e); review hearing; burden of proof; determination; notice; legal counsel; costs; commitment reports; section nonapplicable to juvenile convicted of crime under chapter.

Sec. 18d.

(1) If a juvenile is committed under section 18(1)(e) of this chapter for an offense that, if committed by an adult, would be a violation or attempted violation of section 72, 83, 84, 86, 88, 89, 91, 110a(2), 186a, 316, 317, 349, 520b, 520c, 520d, 520g, 529, 529a, 530, or 531 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.72, 750.83, 750.84, 750.86, 750.88, 750.89, 750.91, 750.110a, 750.186a, 750.316, 750.317, 750.349, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, 750.530, and 750.531 of the Michigan Compiled Laws, or section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws, the court shall conduct a review hearing to determine whether the juvenile has been rehabilitated and whether the juvenile presents a serious risk to public safety. If the court determines that the juvenile has not been rehabilitated or that the juvenile presents a serious risk to public safety, jurisdiction over the juvenile shall be continued. In making this determination, the court shall consider all of the following:

(a) The extent and nature of the juvenile's participation in education, counseling, or work programs.

(b) The juvenile's willingness to accept responsibility for prior behavior.

(c) The juvenile's behavior in his or her current placement.

(d) The juvenile's prior record and character and his or her physical and mental maturity.

(e) The juvenile's potential for violent conduct as demonstrated by prior behavior.

(f) The recommendations of the institution, agency, or facility charged with the child's care for the juvenile's release or continued custody.

(g) Other information the prosecuting attorney or juvenile may submit.

(2) The juvenile has the burden of proving by a preponderance of the evidence that he or she has been rehabilitated and does not present a serious risk to public safety.

(3) Unless adjourned for good cause, a review hearing shall be scheduled and held as near as possible to, but before, the juvenile's nineteenth birthday. If the institution, agency, or facility to which the juvenile was committed believes the juvenile has been rehabilitated and does not present a serious risk to public safety, the institution, agency, or facility may petition the court to conduct a review hearing any time before the juvenile becomes 19 years of age or, if the court has continued jurisdiction under subsection (1), any time before the juvenile becomes 21 years of age.

(4) Not less than 14 days before a review hearing is to be conducted, the prosecuting attorney, the juvenile, and, if addresses are known, the juvenile's parent or guardian shall be notified. The notice shall state that the court may extend jurisdiction over the juvenile and shall advise the juvenile and the juvenile's parent or guardian of the right to legal counsel. If legal counsel has not been retained or appointed to represent the juvenile, the court shall appoint legal counsel and may assess the cost of providing counsel as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.

(5) The institution, agency, or facility charged with the care of the juvenile shall prepare commitment reports as provided in section 5 of the juvenile facilities act, Act No. 73 of the Public Acts of 1988, being section 803.225 of the Michigan Compiled Laws, for use by the court at a review hearing held under this section.

(6) This section does not apply to a juvenile convicted under this chapter for committing a crime.

History: Add. 1988, Act 54, Eff. Oct. 1, 1988 ;-- Am. 1994, Act 192, Eff. Oct. 1, 1994 ;-- Am. 1996, Act 257, Eff. Jan. 1, 1997
Compiler's Notes: Section 3 of Act 54 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by

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Act 174 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18e Application for entry of order setting aside adjudication; filing; contents; hearing; submitting copy of application and fingerprints; report; serving copy of application on attorney general and prosecuting attorney; contesting application; notice to victim; definitions; hearing; affidavits; proofs; entry of order; setting aside adjudication as privilege and conditional; effect of entering order; sending copy of order to arresting agency and department of state police; nonpublic record of order and record; availability of nonpublic record; fee; exemption from disclosure; divulging, using, or publishing information as misdemeanor.

Sec. 18e.

(1) Except as otherwise provided in subsection (2) and section 18t of this chapter, a person who has been adjudicated of not more than 1 juvenile offense that would be a felony if committed by an adult and not more than 3 juvenile offenses, of which not more than 1 may be a juvenile offense that would be a felony if committed by an adult and who has no felony convictions may file an application with the adjudicating court or adjudicating courts for the entry of an order setting aside the adjudications. A person may have only 1 adjudication for an offense that would be a felony if committed by an adult and not more than 2 adjudications for an offense that would be a misdemeanor if committed by an adult or if there is no adjudication for a felony if committed by an adult, not more than 3 adjudications for an offense that would be a misdemeanor if committed by an adult set aside under this section. Multiple adjudications arising out of a series of acts that were in a continuous time sequence of 12 hours or less and that displayed a single intent and goal constitute 1 offense provided that none of the adjudications constitute any of the following:

(a) An assaultive crime as that term is defined in subsection (7).

(b) An offense involving the use or possession of a weapon.

(c) An offense with a maximum penalty of 10 or more years imprisonment.

(2) A person shall not apply under this section to have set aside, and a judge shall not under this section set aside, either of the following:

(a) An adjudication for an offense that if committed by an adult would be a felony for which the maximum punishment is life imprisonment.

(b) A conviction under section 2d of this chapter. This subdivision does not prevent a person convicted under section 2d of this chapter from having that conviction set aside as otherwise provided by law.

(3) An application under this section shall not be filed until the expiration of 1 year after the termination of jurisdiction.

(4) An application under this section is invalid unless it contains the following information and is signed under oath by the person whose adjudication is to be set aside:

(a) The full name and current address of the applicant.

(b) A certified record of the adjudication that is to be set aside.

(c) A statement that the applicant has not been adjudicated of a juvenile offense other than the juvenile offenses sought to be set aside as a result of this application.

(d) A statement that the applicant has not been convicted of any felony offense.

(e) A statement as to whether the applicant has previously filed an application to set aside this or any other adjudication and, if so, the disposition of the application.

(f) A statement as to whether the applicant has any other criminal charge pending against him or her in any court in the United States or in any other country.

(g) A consent to the use of the nonpublic record created under subsection (13), to the extent authorized by subsection (13).

(5) Upon application, the adjudicating court or adjudicating courts shall locate any court records or documents necessary to conduct a hearing under this section.

(6) The applicant shall submit a copy of the application and 2 complete sets of fingerprints to the department of state police. The department of state police shall compare those fingerprints with the records of the department, including the nonpublic record created under subsection (13), and shall forward a complete set of fingerprints to the Federal Bureau of Investigation for a comparison with the records available to that agency. The department of state police shall report to the court in which the application is filed the information contained in the department's records with respect to any pending charges against the applicant, any record of adjudication or conviction of the applicant, and the setting aside of any adjudication or conviction of the applicant and shall report to the court any

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similar information obtained from the Federal Bureau of Investigation. The court shall not act upon the application until the department of state police reports the information required by this subsection to the court.

(7) A copy of the application must be served upon the attorney general and, if applicable, upon the office of the prosecuting attorney who prosecuted the offense. The attorney general and the prosecuting attorney shall have an opportunity to contest the application. If the attorney general or prosecuting attorney wishes to contest an application, the attorney general or prosecuting attorney must do so not later than 35 days after service. If the adjudication was for an offense that if committed by an adult would be an assaultive crime or serious misdemeanor, and if the name of the victim is known to the prosecuting attorney, the prosecuting attorney shall give the victim of that offense written notice of the application and forward a copy of the application to the victim under section 46a of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.796a. The notice must be sent by first-class mail to the victim's last known address. The victim has the right to appear at any proceeding under this section concerning that adjudication and to make a written or oral statement. As used in this subsection:

(a) "Assaultive crime" means that term as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

(b) "Serious misdemeanor" means that term as defined in section 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.811.

(c) "Victim" means that term as defined in section 31 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.781.

(8) Upon the hearing of the application, the court may require the filing of affidavits and the taking of proofs as it considers proper.

(9) Except as provided in this subsection and subsection (10), if the court determines that the circumstances and behavior of the applicant from the date of the applicant's adjudication to the filing of the application warrant setting aside the 1 adjudication for a juvenile offense that would be a felony if committed by an adult and not more than 2 adjudications for a juvenile offense that would be a misdemeanor if committed by an adult or if there is no adjudication for a felony if committed by an adult, not more than 3 adjudications for an offense that would be a misdemeanor if committed by an adult and that setting aside the adjudication or adjudications is consistent with the public welfare, the court may enter an order setting aside the adjudication. If the applicant submits to the court a certificate of completion from the Michigan youth challeNGe academy showing that the applicant has completed that program, the court shall determine that the applicant's circumstances and behavior warrant setting aside the adjudication. If the court also determines that setting aside the adjudication or adjudications is consistent with the public welfare, the court may enter an order setting aside the adjudication as provided in this subsection. Except as provided in subsection (10), the setting aside of an adjudication under this section is a privilege and conditional, and is not a right.

(10) If the person files an application with the court and he or she otherwise meets all the requirements, notwithstanding subsection (9), the court shall set aside the adjudication of a person as follows:

(a) The person was adjudicated for an offense that if committed by an adult would be a violation or an attempted violation of section 413 of the Michigan penal code, 1931 PA 328, MCL 750.413.

(b) The person was adjudicated for an offense that if committed by an adult would be a violation or an attempted violation of section 448, 449, or 450 of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, and 750.450, or a local ordinance substantially corresponding to section 448, 449, or 450 of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, and 750.450, and he or she committed the offense as a direct result of his or her being a victim of a human trafficking violation.

(11) Upon the entry of an order under this section, the applicant is considered not to have been previously adjudicated, except as provided in subsection (13) and as follows:

(a) The applicant is not entitled to the remission of any fine, costs, or other money paid as a consequence of an adjudication that is set aside.

(b) This section does not affect the right of the applicant to rely upon the adjudication to bar subsequent proceedings for the same offense.

(c) This section does not affect the right of a victim of an offense to prosecute or defend a civil action for damages.

(d) This section does not create a right to commence an action for damages for detention under the disposition that the applicant served before the adjudication is set aside under this section.

(12) Upon the entry of an order under this section, the court shall send a copy of the order to the arresting agency and the department of state police.

(13) The department of state police shall retain a nonpublic record of the order setting aside an adjudication for a juvenile offense that would be a felony if committed by an adult and not more than 2 juvenile offenses that would be misdemeanors if committed by an adult or if there is no adjudication for a felony if committed by an adult, not more than 3 adjudications for an offense that would be a misdemeanor if committed by an adult and of the record of the arrest, fingerprints, adjudication, and disposition of the applicant in the case to which the order applies. Except as provided in subsection (14), this nonpublic record must be made available only to a court of competent jurisdiction, an agency of the judicial branch of state government, a law enforcement agency, a prosecuting attorney, the

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attorney general, or the governor upon request and only for the following purposes:

(a) Consideration in a licensing function conducted by an agency of the judicial branch of state government.

(b) Consideration by a law enforcement agency if a person whose adjudication has been set aside applies for employment with the law enforcement agency.

(c) To show that a person who has filed an application to set aside an adjudication has previously had an adjudication set aside under this section.

(d) The court's consideration in determining the sentence to be imposed upon conviction for a subsequent offense that is punishable as a felony or by imprisonment for more than 1 year.

(e) Consideration by the governor, if a person whose adjudication has been set aside applies for a pardon for another offense.

(14) A copy of the nonpublic record created under subsection (13) must be provided to the person whose adjudication is set aside under this section upon payment of a fee determined and charged by the department of state police in the same manner as the fee prescribed in section 4 of the freedom of information act, 1976 PA 442, MCL 15.234.

(15) The nonpublic record maintained under subsection (13) is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(16) Except as provided in subsection (13), a person, other than the applicant, who knows or should have known that an adjudication was set aside under this section, who divulges, uses, or publishes information concerning an adjudication set aside under this section is guilty of a misdemeanor.

(17) An order setting aside an adjudication for a traffic offense under this section must not require that the conviction be removed or expunged from the applicant's driving record maintained by the secretary of state as required under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

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History: Add. 1988, Act 72, Eff. June 1, 1988 ;-- Am. 1993, Act 344, Eff. May 1, 1994 ;-- Am. 1996, Act 257, Eff. Jan. 1, 1997 ;-- Am. 2012, Act 527, Imd. Eff. Dec. 28, 2012 ;-- Am. 2016, Act 337, Eff. Mar. 14, 2017 ;-- Am. 2018, Act 142, Eff. Aug. 8, 2018 ;-- Am. 2020, Act 361, Eff. July 3, 2021

Popular Name: Probate Code

Popular Name: Juvenile Code

712A.18f Report; preparation and contents of case service plan; order of disposition; updating and revising case service plan; rules; review by child's physician in case of abuse and neglect; testimony.

Sec. 18f.

(1) If, in a proceeding under section 2(b) of this chapter, an agency advises the court against placing a child in the custody of the child's parent, guardian, or custodian, the agency shall report in writing to the court what efforts were made to prevent the child's removal from his or her home or the efforts made to rectify the conditions that caused the child's removal from his or her home. The report shall include all of the following:

(a) If services were provided to the child and his or her parent, guardian, or custodian, the services, including in-home services, that were provided.

(b) If services were not provided to the child and his or her parent, guardian, or custodian, the reasons why services were not provided.

(c) Likely harm to the child if the child were to be separated from his or her parent, guardian, or custodian.

(d) Likely harm to the child if the child were to be returned to his or her parent, guardian, or custodian.

(2) Before the court enters an order of disposition in a proceeding under section 2(b) of this chapter, the agency shall prepare a case service plan that shall be available to the court and all the parties to the proceeding.

(3) The case service plan shall provide for placing the child in the most family-like setting available and in as close proximity to the child's parents' home as is consistent with the child's best interests and special needs. The case service plan shall include, but is not limited to, the following:

(a) The type of home or institution in which the child is to be placed and the reasons for the selected placement.

(b) Efforts to be made by the child's parent to enable the child to return to his or her home.

(c) Efforts to be made by the agency to return the child to his or her home.

(d) Schedule of services to be provided to the parent, child, and if the child is to be placed in foster care, the foster parent, to facilitate the child's return to his or her home or to facilitate the child's permanent placement.

(e) Except as otherwise provided in this subdivision, unless parenting time, even if supervised, would be harmful to the child as determined by the court under section 13a of this chapter or otherwise, a schedule for regular and

frequent parenting time between the child and his or her parent, which shall not be less than once every 7 days.

(f) Efforts to be made by the supervising agency to provide frequent in-person visitation or other ongoing interaction between siblings unless the court determines under section 13a of this chapter that sibling visitation or contact will not be beneficial to 1 or more of the siblings.

(g) Conditions that would limit or preclude placement or parenting time with a parent who is required by court order to register under the sex offenders registration act.

(4) Before the court enters an order of disposition, the court shall consider the case service plan; any written or oral information offered concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom the child is placed, lawyer-guardian ad litem, attorney, or guardian ad litem; and any other evidence offered, including the appropriateness of parenting time, which information or evidence bears on the disposition. The order of disposition shall state whether reasonable efforts have been made to prevent the child's removal from his or her home or to rectify the conditions that caused the child's removal from his or her home. The court may order compliance with all or any part of the case service plan as the court considers necessary.

(5) If a child continues in placement outside of the child's home, the case service plan shall be updated and revised at 90-day intervals as required by the rules promulgated under 1973 PA 116, MCL 722.111 to 722.128. The agency shall consult with the foster parents when it updates and revises the case service plan, and shall attach a statement summarizing the information received from the foster parents to the updated and revised case service plan. Updated and revised case service plans shall be available to the court and all the parties to the proceeding. Within 10 days after receipt of a written request, the agency shall provide the person who is providing the foster care with the information itemized in section 13a(17) of this chapter.

(6) To ensure that the case service plan addresses the child's medical needs in relation to abuse and neglect, the department shall review a child's case with the child's attending physician of record during a hospitalization or with the child's primary care physician, but only if a physician has diagnosed the child's abuse or neglect as involving 1 or more of the following:

(a) Failure to thrive.

(b) Munchausen syndrome by proxy.

(c) Shaken baby syndrome.

(d) A bone fracture that is diagnosed as being the result of abuse or neglect.

(e) Drug exposure.

(7) If a child is placed outside of his or her home and the department is required to review the child's case with a physician under subsection (6), then in a judicial proceeding to determine if the child is to be returned to his or her home, the court must allow the child's attending physician of record during a hospitalization or the child's primary care physician to testify regarding the case service plan. The court shall notify each physician of the hearing's time and place.

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History: Add. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1994, Act 264, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 16, Eff. June 1, 1996 ;-- Am. 1997, Act 163, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 479, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 480, Eff. Mar. 1, 1999 ;-- Am. 1999, Act 25, Imd. Eff. May 18, 1999 ;-- Am. 2012, Act 115, Imd. Eff. May 1, 2012 ;-- Am. 2016, Act 191, Eff. Sept. 19, 2016
Popular Name: Probate Code
Popular Name: Juvenile Code
Admin Rule: R 400.6101 et seq. of the Michigan Administrative Code.

712A.18g Commitment under MCL 712A.18(1)(e).

Sec. 18g.

(1) In addition to any other disposition under this act, a juvenile other than a juvenile sentenced in the same manner as an adult under section 18(1)(p) of this chapter shall be committed under section 18(1)(e) of this chapter to a detention facility for a specified period of time if all of the following circumstances exist:

(a) The juvenile is under the jurisdiction of the juvenile division of the probate court under section 2(a)(1) of this chapter.

(b) The juvenile is adjudicated as or convicted of violating a criminal municipal ordinance or law of this state or the United States.

(c) The juvenile is found to have used a firearm during the criminal violation.

(2) The period of time specified under subsection (1) must not exceed the length of the sentence that could have been imposed if the juvenile had been sentenced as an adult.

(3) As used in this section, "firearm" means that term as defined in section 3t of 1846 RS 1, MCL 8.3t.

History: Add. 1996, Act 258, Eff. Jan. 1, 1997 ;-- Am. 2020, Act 389, Eff. Apr. 4, 2021
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18h Commitment to department of corrections prohibited; exception.

Sec. 18h.

A juvenile sentenced to imprisonment under section 18(1)(p) of this chapter shall not be committed to the jurisdiction of the department of corrections. This section does not apply if the juvenile was convicted of a specified juvenile violation as defined in section 2d of this chapter.

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History: Add. 1996, Act 244, Eff. Aug. 1, 1996 ;-- Am. 2020, Act 389, Eff. Apr. 4, 2021
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18i Delay in sentencing.

Sec. 18i.

(1) A delay in sentencing does not deprive the court of jurisdiction to sentence the juvenile under section 18(1)(o) of this chapter any time during the delay.

(2) If the court has entered an order of disposition under section 18(1)(o) of this chapter delaying imposition of sentence, the court shall conduct an annual review of the probation, including but not limited to the services being provided to the juvenile, the juvenile's placement, and the juvenile's progress in that placement. In conducting this review, the court shall examine any annual report prepared under section 3 of the juvenile facilities act, 1988 PA 73, MCL 803.223, and any report prepared upon the court's order by the officer or agency supervising probation. The court may order changes in the juvenile's probation based on the review including but not limited to imposition of sentence.

(3) If the court entered an order of disposition under section 18(1)(o) of this chapter delaying imposition of sentence, the court shall conduct a review hearing to determine whether the juvenile has been rehabilitated and whether the juvenile presents a serious risk to public safety. If the court determines that the juvenile has not been rehabilitated or that the juvenile presents a serious risk to public safety, jurisdiction over the juvenile shall be continued or the court may impose sentence. In making this determination, the court shall consider the following:

(a) The extent and nature of the juvenile's participation in education, counseling, or work programs.

(b) The juvenile's willingness to accept responsibility for prior behavior.

(c) The juvenile's behavior in his or her current placement.

(d) The prior record and character of the juvenile and his or her physical and mental maturity.

(e) The juvenile's potential for violent conduct as demonstrated by prior behavior.

(f) The recommendations of any institution or agency charged with the juvenile's care for the juvenile's release or continued custody.

(g) Other information the prosecuting attorney or juvenile may submit.

(4) A review hearing shall be scheduled and held unless adjourned for good cause as near as possible to, but before, the juvenile's nineteenth birthday. If an institution or agency to which the juvenile was committed believes that the juvenile has been rehabilitated and that the juvenile does not present a serious risk to public safety, the institution or agency may petition the court to conduct a review hearing any time before the juvenile becomes 19 years of age or, if the court has continued jurisdiction, any time before the juvenile becomes 21 years of age.

(5) Not less than 14 days before a review hearing is to be conducted, the prosecuting attorney, juvenile, and, if addresses are known, the juvenile's parent or guardian shall be notified. The notice shall state that the court may extend jurisdiction over the juvenile or impose sentence and shall advise the juvenile and the juvenile's parent or

guardian of the right to legal counsel. If legal counsel has not been retained or appointed to represent the juvenile, the court shall appoint legal counsel and may assess the cost of providing counsel as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.

(6) A commitment report prepared as provided in section 5 of the juvenile facilities act, 1988 PA 73, MCL 803.225, and any report prepared upon the court's order by the officer or agency supervising probation may be used by the court at a review hearing held under this section.

(7) The court shall conduct a final review of the juvenile's probation not less than 3 months before the end of the probation period. If the court determines at this review that the best interests of the public would be served by imposing any other sentence provided by law for an adult offender, the court may impose the sentence. In making its determination, the court shall consider the criteria specified in subsection (3) and all of the following criteria:

(a) The effect of treatment on the juvenile's rehabilitation.

(b) Whether the juvenile is likely to be dangerous to the public if released.

(c) The best interests of the public welfare and the protection of public security.

(8) Not less than 14 days before a final review hearing under subsection (7) is to be conducted, the prosecuting attorney, juvenile, and, if addresses are known, the juvenile's parent or guardian shall be notified. The notice shall state that the court may impose a sentence upon the juvenile and shall advise the juvenile and the juvenile's parent or guardian of the right to legal counsel. If legal counsel has not been retained or appointed to represent the juvenile, the court shall appoint legal counsel and may assess the cost of providing counsel as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.

(9) If a juvenile placed on probation under an order of disposition delaying imposition of sentence is found by the court to have violated probation by being convicted of a felony or a misdemeanor punishable by imprisonment for more than 1 year, or adjudicated as responsible for an offense that if committed by an adult would be a felony or a misdemeanor punishable by imprisonment for more than 1 year, the court shall revoke probation and sentence the juvenile to imprisonment for a term that does not exceed the penalty that could have been imposed for the offense for which the juvenile was originally convicted and placed on probation.

(10) If a juvenile placed on probation under an order of disposition delaying imposition of sentence is found by the court to have violated probation other than as provided in subsection (9), the court may impose sentence or may order any of the following for the juvenile:

(a) A change of placement.

(b) Community service.

(c) Substance use disorder counseling.

(d) Mental health counseling.

(e) Participation in a vocational-technical education program.

(f) Incarceration in a county jail for not more than 30 days as provided in this chapter. A juvenile shall be placed in a room or ward out of sight and sound from adult prisoners.

(g) Other participation or performance as the court considers necessary.

(11) If a sentence of imprisonment is imposed under this section, the juvenile shall receive credit for the period of time served on probation.

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History: Add. 1996, Act 244, Eff. Aug. 1, 1996 ;-- Am. 2019, Act 102, Eff. Oct. 1, 2021 ;-- Am. 2020, Act 389, Eff. Apr. 4, 2021
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18j Escape by juvenile from facility or residence; notification; "escape" defined.

Sec. 18j.

(1) If a juvenile escapes from a facility or residence in which he or she has been placed for a violation described in section 2(a)(1) of this chapter, other than his or her own home or the home of his or her parent or guardian, the individual at that facility or residence who has responsibility for maintaining custody of the juvenile at the time of the escape shall immediately notify 1 of the following of the escape or cause 1 of the following to be immediately notified of the escape:

(a) If the escape occurs in a city, village, or township that has a police department, the police department of that city, village, or township.

(b) Except as provided in subdivision (a), 1 of the following:

(i) The sheriff department of the county in which the escape occurs.

(ii) The department of state police post having jurisdiction over the area in which the escape occurs.

(2) A police agency that receives notification of an escape under subsection (1) shall enter that notification into the law enforcement information network without undue delay.

(3) As used in this section, "escape" means to leave without lawful authority or to fail to return to custody when required.

History: Add. 1996, Act 482, Eff. Jan. 1, 1997
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18k DNA identification profiling; providing samples for chemical testing; assessment; forwarding to department of state police; definitions.

Sec. 18k.

(1) An individual shall provide samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and shall provide samples for chemical testing for a determination of his or her secretor status if any of the following apply:

(a) The individual is arrested for committing or attempting to commit an offense that would be a felony if committed by an adult.

(b) The individual is convicted of, or found responsible for, a felony or attempted felony, or any of the following misdemeanors, or local ordinances that are substantially corresponding to the following misdemeanors:

(i) A violation of section 167(1)(c), (f), or (i) of the Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of ill fame or prostitution.

(ii) A violation of section 335a(1) of the Michigan penal code, 1931 PA 328, MCL 750.335a, indecent exposure.

(iii) A violation punishable under section 451(1) or (2) of the Michigan penal code, 1931 PA 328, MCL 750.451, first and second prostitution violations.

(2) Notwithstanding subsection (1), if at the time the individual is arrested for the offense the investigating law enforcement agency or the department of state police already has a sample from the individual that meets the requirements of the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the individual is not required to provide another sample or pay the assessment required under subsection (4).

(3) The samples required to be collected under this section shall be collected by the investigating law enforcement agency and transmitted by the investigating law enforcement agency to the department of state police in the manner prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, when a petition is filed or the court issues a summons.

(4) The court shall order each individual found responsible for or convicted of 1 or more crimes listed in subsection (1) to pay an assessment of $60.00. The assessment required under this subsection is in addition to any fine, costs, or other assessments imposed by the court.

(5) An assessment required under subsection (4) shall be ordered upon the record, and shall be listed separately in the adjudication order, judgment of sentence, or order of probation.

(6) After reviewing a verified petition by an individual against whom an assessment is imposed under subsection (4), the court may suspend payment of all or part of the assessment if it determines the individual is unable to pay the assessment.

(7) The court that imposes the assessment prescribed under subsection (4) may retain 10% of all assessments or portions of assessments collected for costs incurred under this section and shall transmit that money to its funding unit. On the last day of each month, the clerk of the court shall transmit the assessments or portions of assessments collected under this section as follows:

(a) Twenty-five percent to the county sheriff or other investigating law enforcement agency that collected the DNA sample as designated by the court to defray the costs of collecting DNA samples.

(b) Sixty-five percent to the state treasurer for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(8) The department of human services or a county juvenile agency, investigating law enforcement agency, prosecuting agency, or court that has in its possession a DNA identification profile obtained from a sample of an individual arrested for an offense described in subsection (1) shall forward the DNA identification profile to the department of state police when a petition is filed or the court issues a summons unless the department of state police already has a DNA identification profile of the individual.

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(9) As used in this section:

(a) "DNA identification profile" and "DNA identification profiling" mean those terms as defined in section 2 of the DNA identification profiling system act, 1990 PA 250, MCL 28.172.

(b) "Felony" means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(c) "Investigating law enforcement agency" means the law enforcement agency responsible for the investigation of the offense for which the individual is arrested, convicted, or found responsible. Investigating law enforcement agency does not include a probation officer employed by the department of corrections.

(d) "Sample" means a portion of an individual's blood, saliva, or tissue collected from the individual.

History: Add. 1996, Act 507, Imd. Eff. Jan. 9, 1997 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999 ;-- Am. 2001, Act 91, Eff. Jan. 1, 2002 ;-- Am. 2003, Act 77, Eff. Oct. 1, 2003 ;-- Am. 2014, Act 458, Eff. July 1, 2015
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.18l Evaluation of juvenile for psychiatric or psychological treatment; court order.

Sec. 18l.

If a juvenile is found to be within the court's jurisdiction under section 2(a)(1) of this chapter for an offense that, if committed by an adult, would be a violation of section 50b of the Michigan penal code, 1931 PA 328, MCL 750.50b, having to do with cruelty to animals, or would be a violation of sections 71 to 80 of the Michigan penal code, 1931 PA 328, MCL 750.71 to 750.80, having to do with arson, the court shall order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, the court may order that treatment. This section does not preclude the court from entering any other order of disposition allowed under this chapter.

History: Add. 2000, Act 175, Eff. Oct. 1, 2000
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18m Repealed. 2023, Act 301, Eff. Oct. 1, 2024.

Compiler's Notes: The repealed section pertained to the payment of costs by a juvenile within the court's jurisdiction.

712A.18n Competency of juvenile; presumption; order to determine competency during proceeding; record.

Sec. 18n.

(1) A juvenile 10 years of age or older is presumed competent to proceed unless the issue of competency is raised by a party. A juvenile less than 10 years of age is presumed incompetent to proceed.

(2) The court may order on its own motion, or at the request of the juvenile, the juvenile's attorney, or the prosecuting attorney, a competency evaluation to determine whether the juvenile is incompetent to proceed if the juvenile is the subject of a delinquency petition in the court or if the juvenile is under the court's jurisdiction under section 2(a)(2) to (4) of this chapter. The issue of the juvenile's competency may be raised by the court before which the proceedings are pending or being held, or by motion of a party, at any time during the proceeding.

(3) At the time an issue of the juvenile's competency is raised, the delinquency proceeding shall temporarily cease until determination is made on the competence of the juvenile according to this act.

(4) The court shall maintain a record of how many competency evaluations are requested under this section.

History: Add. 2012, Act 541, Eff. Mar. 28, 2013
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18o Competency evaluation; conduct by qualified forensic mental health examiner; expert witness; additional evaluations at party's expense; conduct in least restrictive environment.

Sec. 18o.

(1) A competency evaluation ordered under section 18n of this chapter shall be conducted by a qualified juvenile forensic mental health examiner. The qualified juvenile forensic mental health examiner shall provide the court with an opinion as to whether the juvenile is competent to proceed. The court has the final determination of an expert witness serving as a qualified juvenile forensic mental health examiner.

(2) This section does not prohibit any party from retaining the party's own qualified juvenile forensic mental health examiner to conduct additional evaluations at the party's own expense.

(3) The competency evaluation shall be conducted in the least restrictive environment. There is a presumption in favor of conducting a competency evaluation while the juvenile remains in the custody of a parent or legal guardian, unless removal from the home is necessary for the best interests of the juvenile, for reasons of public safety, or because the parent or guardian has refused to cooperate in the competency evaluation process.

History: Add. 2012, Act 541, Eff. Mar. 28, 2013
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.18p Providing information relating to competency; submission of report by qualified forensic mental health examiner; extension; copies of report to be provided to certain individuals.

Sec. 18p.

(1) The court shall order the prosecuting attorney to provide to the juvenile's attorney all information related to competency and shall order the prosecuting attorney and juvenile's attorney to submit to the qualified juvenile forensic mental health examiner any information considered relevant to the competency evaluation, including, but not limited to:

(a) The names and addresses of all attorneys involved.

(b) Information about the alleged offense.

(c) Any information about the juvenile's background in the prosecuting attorney's possession.

(2) Except as prohibited by federal law, the court shall require the juvenile's attorney to provide any available records of the juvenile or other information relevant to the evaluation, including, but not limited to, any of the following:

(a) Psychiatric records.

(b) School records.

(c) Medical records.

(d) Child protective services records.

(3) The requirement to provide records or information under subsection (1) or (2) does not limit, waive, or abrogate the work product doctrine or the attorney-client privilege, and release of records and information under subsection (1) or (2) is subject to the work product doctrine and the attorney-client privilege.

(4) All information required under subsections (1) and (2) must be provided to the qualified juvenile forensic mental health examiner within 10 days after the court issues the order for the competency evaluation. If possible, the information required under this section shall be received before the juvenile's competency evaluation or the commencement of the competency evaluation in an outpatient setting.

(5) A qualified juvenile forensic mental health examiner who conducts a competency evaluation shall submit a written report to the court not later than 30 days from receipt of the court order requiring the competency evaluation. The evaluation shall be based on a juvenile adjudicative competence interview (JACI) or another interview method approved by the court. The report shall contain, but not be limited to, the following:

(a) A description of the nature, content, and extent of the examination, including, but not limited to, all of the following:

(i) A description of assessment procedures, techniques, and tests used.

(ii) Available medical, educational, and court records reviewed.

(iii) Social, clinical, developmental, and legal history as available.

(b) A clinical assessment that includes, but is not limited to, the following:

(i) A mental status examination.

(ii) The diagnosis and functional impact of mental illness, developmental disability, or cognitive impairment. If the juvenile is taking medication, the impact of the medication on the juvenile's mental state and behavior.

(iii) An assessment of the juvenile's intelligence.

(iv) The juvenile's age, maturity level, developmental stage, and decision-making abilities.

(v) Whether the juvenile has any other factor that affects competence.

(c) A description of abilities and deficits in the following mental competency functions related to the juvenile's competence to proceed:

(i) The ability to factually as well as rationally understand and appreciate the nature and object of the proceedings, including, but not limited to, all of the following:

(A) An ability to understand the role of the participants in the court process, including, the roles of the judge, the juvenile's attorney, the prosecuting attorney, the probation officer, witnesses, and the jury, and to understand the adversarial nature of the process.

(B) An ability to appreciate the charges and understand the seriousness of the charges.

(C) An ability to understand and realistically appraise the likely outcomes.

(D) An ability to extend thinking into the future.

(ii) The ability to render meaningful assistance to the juvenile's attorney in the preparation of the case, including, but not limited to, all of the following:

(A) An ability to disclose to an attorney a reasonably coherent description of facts and events pertaining to the charge, as perceived by the juvenile.

(B) An ability to consider the impact of his or her action on others.

(C) Verbal articulation abilities or the ability to express himself or herself in a reasonable and coherent manner.

(D) Logical decision-making abilities, particularly multifactored problem-solving or the ability to take several factors into consideration in making a decision.

(E) An ability to reason about available options by weighing the consequences, including weighing pleas, waivers, and strategies.

(F) An ability to display appropriate courtroom behavior.

(6) The qualified juvenile forensic mental health examiner shall provide the court with an opinion about the juvenile's competency to proceed. If the qualified juvenile forensic mental health examiner determines that the juvenile is incompetent to proceed, the qualified juvenile forensic mental health examiner shall comment on the nature of any psychiatric or psychological disorder or cognitive impairment, the prognosis, and the services needed to restore the juvenile to competency, if possible, within a projected time frame.

(7) The court in its discretion may, for good cause, grant the qualified juvenile forensic mental health examiner a 30-day extension in filing the competency evaluation report.

(8) Copies of the written report shall be provided by the court to the juvenile's attorney, the prosecuting attorney, and any guardian ad litem for the juvenile not later than 5 working days after receipt of the report by the court.

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History: Add. 2012, Act 541, Eff. Mar. 28, 2013
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18q Competency hearing.

Sec. 18q.

(1) Not later than 30 days after a report is filed under section 18p of this chapter, the court shall hold a hearing to determine if a juvenile is competent to proceed. At the hearing, the parties may introduce other evidence regarding the juvenile's mental condition or may submit the matter by written stipulation based on the filed report.

(2) Upon a finding by the court that a juvenile is incompetent to proceed and a finding that there is a substantial probability that the juvenile will remain incompetent to proceed for the foreseeable future or within the period of the restoration order, the court shall dismiss with prejudice the charges against the juvenile and may determine

custody of the juvenile.

(3) The qualified juvenile forensic mental health examiner appointed by the court to determine the juvenile's mental condition shall be allowed reasonable fees for services rendered.

(4) The court shall report to the state court administrator the number of juveniles found to be incompetent to proceed.

History: Add. 2012, Act 541, Eff. Mar. 28, 2013
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18r Competency evaluations; self-incrimination; evidence or statements inadmissible in proceeding determining responsibility; sealing reports; order to open reports; purposes; confidentiality; disclosure.

Sec. 18r.

(1) The constitutional protections against self-incrimination apply to all competency evaluations.

(2) Any evidence or statement obtained during a competency evaluation is not admissible in any proceeding to determine the juvenile's responsibility.

(3) A statement that a juvenile makes during a competency evaluation or evidence resulting from the statement concerning any other event or transaction is not admissible in any proceeding to determine the juvenile's responsibility for any other charges that are based on those events or transactions.

(4) A statement that the juvenile makes during a competency evaluation may not be used for any purpose other than assessment of his or her competency without the written consent of the juvenile or the juvenile's guardian. The juvenile or the juvenile's guardian must have an opportunity to consult with his or her attorney before giving consent.

(5) After the case proceeds to adjudication or the juvenile is found to be unable to regain competence, the court shall order all of the reports that are submitted according to sections 18n to 18q of this chapter to be sealed. The court may order that the reports be opened only as follows:

(a) For further competency or criminal responsibility evaluations.

(b) For statistical analysis.

(c) If the records are considered to be necessary to assist in mental health treatment ordered according to the mental health code.

(d) For data gathering.

(e) For scientific study or other legitimate research.

(6) If the court orders reports to be open for the purposes of statistical analysis, data gathering, or scientific study according to subsection (5), the reports shall remain confidential.

(7) Any statement that a juvenile makes during a competency evaluation, or any evidence resulting from that statement, is not subject to disclosure.

History: Add. 2012, Act 541, Eff. Mar. 28, 2013
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.18s Court finding that juvenile may be restored to competency in foreseeable future; restoration order; renewal; report that substantial probability that juvenile will remain incompetent; actions of court; order to provide treatment; report from entity providing services; duties of court; record.

Sec. 18s.

(1) If the juvenile is incompetent to proceed but the court finds that the juvenile may be restored to competency in the foreseeable future, 1 of the following applies:

(a) If the offense is a traffic offense or a misdemeanor other than a serious misdemeanor, the matter shall be dismissed.

(b) If the offense is a serious misdemeanor, the court may dismiss the matter or suspend the proceedings against

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the juvenile.

(c) If the offense is a felony, the proceedings against the juvenile shall be further suspended.

(2) If proceedings are suspended because the juvenile is incompetent to proceed but the court finds that the juvenile may be restored to competency in the foreseeable future, all of the following apply:

(a) Before issuing a restoration order, the court shall hold a hearing to determine the least restrictive environment for completion of the restoration.

(b) The court may issue a restoration order that is valid for 60 days from the date of the initial finding of incompetency or until 1 of the following occurs, whichever occurs first:

(i) The qualified juvenile forensic mental health examiner, based on information provided by the qualified restoration provider, submits a report that the juvenile has regained competency or that there is no substantial probability that the juvenile will regain competency within the period of the order.

(ii) The charges are dismissed.

(iii) The juvenile reaches 18 years of age.

(c) Following issuance of the restoration order, the qualified restoration provider shall submit a report to the court and the qualified juvenile forensic mental health examiner that includes the information required under section 18p of this chapter. The report shall be submitted to the court and the qualified juvenile forensic mental health examiner every 30 days, or sooner if and at the time either of the following occurs:

(i) The qualified restoration provider determines that the juvenile is no longer incompetent to proceed.

(ii) The qualified restoration provider determines that there is no substantial probability that the juvenile will be competent to proceed within the period of the order.

(3) Not later than 14 days before the expiration of the initial 60-day order, the qualified restoration provider may recommend to the court and the qualified juvenile forensic mental health examiner that the restoration order be renewed by the court for another 60 days, if there is a substantial probability that the juvenile will not be incompetent to proceed within the period of that renewed restoration order. The restoration order and any renewed restoration order shall not exceed a total of 120 days.

(4) Except as otherwise provided in this section, upon receipt of a report that there is a substantial probability that the juvenile will remain incompetent to proceed for the foreseeable future or within the period of the restoration order, the court shall do both of the following:

(a) Determine custody of the juvenile as follows:

(i) The court may direct that civil commitment proceedings be initiated, as allowed under section 498d of the mental health code, MCL 330.1498d.

(ii) If the court determines that commitment proceedings are inappropriate, the juvenile shall be released to the juvenile's parent, legal guardian, or legal custodian under conditions considered appropriate to the court.

(b) Dismiss the charges against the juvenile.

(5) Upon receipt of a report from a qualified juvenile forensic mental health examiner that there is a substantial probability that the juvenile is unable to be restored due to serious emotional disturbance, the court may in its discretion, except as provided under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, order that mental health services be provided to the juvenile by the department of community health, subject to the availability of inpatient care, a community mental health services program, the department of human services, a county department of human services, or another appropriate mental health services provider for a period not to exceed 60 days. The court shall retain jurisdiction over the juvenile throughout the duration of the order. The entity ordered to provide services under this subsection shall continue to provide services for the duration of the period of treatment ordered by the court.

(6) Not later than 14 days before the expiration of an order for treatment under this subsection or subsection (5), the entity providing mental health services under that order shall submit a report to the court and the qualified juvenile forensic mental health examiner regarding the juvenile. Upon receipt of the report, the court shall review the report and do either of the following:

(a) Renew the order for another period of treatment not to exceed 60 days. The order for treatment and any renewed order shall not exceed a total of 120 days.

(b) Determine custody of the juvenile and dismiss the charges against the juvenile.

(7) The department of community health shall maintain a record of the number of juveniles for whom the court ordered that mental health services be provided under subsection (5) or (6).

History: Add. 2012, Act 541, Eff. Mar. 28, 2013
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.18t Automatic expungements; exceptions; notification; nonpublic record; disclosure; violation; misdemeanor; implementation.

Sec. 18t.

(1) Except as otherwise provided in this section, beginning 2 years after the effective date of the amendatory act that added this section, an adjudication is set aside under this section without filing an application under section 18e of this chapter 2 years after the termination of court supervision or when the person becomes 18 years of age, whichever is later.

(2) Subsection (1) does not apply to an adjudication for an offense described under section 2(a)(1)(A) to (I) of this chapter, to a conviction or adjudication as described under section 18e(2) of this chapter, or to a conviction or adjudication for a violation of section 81a, 82, 90, 136b, 321, 322, 397, 411h, 411i, 520d, 520g, or 543k of the Michigan penal code, 1931 PA 328, MCL 750.81a, 750.82, 750.90, 750.136b, 750.321, 750.322, 750.397, 750.411h, 750.411i, 750.520d, 750.520g, and 750.543k.

(3) The attorney general and the prosecuting attorney who prosecuted the offense shall not contest the setting aside of an adjudication without an application under this section.

(4) Upon the setting aside of an adjudication under this section, the person is considered not to have been previously adjudicated, except as provided in subsection (6) and as follows:

(a) The person is not entitled to the remission of any fine, costs, or other money paid as a consequence of an adjudication that is set aside.

(b) This section does not affect the right of the person to rely upon the adjudication to bar subsequent proceedings for the same offense.

(c) This section does not affect the right of a victim of an offense to prosecute or defend a civil action for damages.

(d) This section does not create a right to commence an action for damages for detention under the disposition that the person served before the adjudication is set aside under this section.

(e) Research on the utilization and effectiveness of the set-aside process.

(5) Upon the setting aside of an adjudication under this section, the court shall notify the arresting agency and the department of state police that the adjudication has been set aside.

(6) The department of state police shall retain a nonpublic record of an adjudication for a juvenile offense that is set aside under this section and of the record of the arrest, fingerprints, adjudication, and disposition of the person in the case. Except as provided in subsection (7), this nonpublic record must be made available only to a court of competent jurisdiction, an agency of the judicial branch of state government, a law enforcement agency, a prosecuting attorney, the attorney general, or the governor upon request and only for the following purposes:

(a) Consideration in a licensing function conducted by an agency of the judicial branch of state government.

(b) Consideration by a law enforcement agency if a person whose adjudication has been set aside applies for employment with the law enforcement agency.

(c) The court's consideration in determining the sentence to be imposed upon conviction for a subsequent offense that is punishable as a felony or by imprisonment for more than 1 year.

(d) Consideration by the governor, if a person whose adjudication has been set aside under this section applies for a pardon for another offense.

(7) A copy of the nonpublic record created under subsection (6) must be provided to the person whose adjudication is set aside under this section upon payment of a fee determined and charged by the department of state police in the same manner as the fee prescribed in section 4 of the freedom of information act, 1976 PA 442, MCL 15.234.

(8) The nonpublic record maintained under subsection (6) is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) Except as provided in subsection (6), a person, other than the person whose adjudication is set aside under this section or a victim, who knows or should have known that an adjudication was set aside under this section, and who divulges, uses, or publishes information concerning an adjudication set aside under this section is guilty of a misdemeanor. As used in this subsection, "victim" means any individual who suffered direct or threatened physical, financial, or emotional harm as the result of the offense that was committed by the person whose adjudication is set aside under this section.

(10) An adjudication set aside for a traffic offense under this section must not be removed or expunged from the driving record of the person whose adjudication has been set aside maintained by the secretary of state as required under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(11) If the governor determines that the process for setting aside an adjudication without an application under this section cannot be implemented by the date required under subsection (1) because of technological limitations, the governor may issue a directive delaying the implementation of this section for not more than 180 days. The attorney general, the state court administrator, or the director of the department of state police may recommend a delay of implementation to the governor under this subsection.

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History: Add. 2020, Act 361, Eff. July 3, 2021
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.19 Termination of cause; supplemental order of disposition; review hearing; notice of review hearing; factors to be reviewed; modification of case service plan; determination as to placement; order; determination as to review; issuance of order without hearing; agency report and other information as evidence; access; concurrent efforts to reunify child with family.

Sec. 19.

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

(2) Except as provided in subsections (3) and (4), if a child subject to the court's jurisdiction remains in his or her home, a review hearing must be held not more than 182 days from the date a petition is filed to give the court jurisdiction over the child and no later than every 91 days after that for the first year that the child is subject to the court's jurisdiction. After the first year that the child is subject to the court's jurisdiction, a review hearing shall be held no later than 182 days from the immediately preceding review hearing before the end of that first year and no later than every 182 days from each preceding review hearing after that until the case is dismissed. A review hearing under this subsection must not be canceled or delayed beyond the number of days required in this subsection, regardless of whether a petition to terminate parental rights or another matter is 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 service plan prepared according to section 18f of this chapter.

(3) Except as otherwise provided in subsection (4), if, in a proceeding under section 2(b) of this chapter, a child is subject to the court's jurisdiction and removed from his or her home, a review hearing must be held not more than 182 days after the child's removal from his or her home and no later than every 91 days after that for the first year that the child is subject to the court's jurisdiction. After the first year that the child has been removed from his or her home and is subject to the court's jurisdiction, a review hearing must be held not more than 182 days from the immediately preceding review hearing before the end of that first year and no later than every 182 days from each preceding review hearing after that until the case is dismissed. A review hearing under this subsection must not be canceled or delayed beyond the number of days required in this subsection, regardless of whether a petition to terminate parental rights or another matter is 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 service plan prepared according to section 18f of this chapter.

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

(5) Written notice of a review hearing under subsection (2), (3), or (4) must be served on all of the following:

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

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

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

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

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

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

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

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(h) The attorney for the child, the attorney for each party, and the prosecuting attorney if the prosecuting attorney has appeared in the case.

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

(j) Other persons as the court may direct.

(6) At a review hearing under subsection (2), (3), or (4), the court shall review on the record all of the following:

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

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

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

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

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

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

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

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

(8) At a review hearing under subsection (2), (3), or (4), the court shall determine the continuing necessity and appropriateness of the child's placement and shall order the return of the child to the custody of the parent as provided in this subsection, continue the dispositional order, modify the dispositional order, or enter a new dispositional order. The court shall order the child returned to the custody of his or her parent if returning the child to his or her parent would not cause a substantial risk of harm to the child.

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

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

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

(10) At a review hearing under this section, the court shall approve or disapprove a qualified residential treatment program placement as provided in section 13a of 1973 PA 116, MCL 722.123a.

(11) Unless waived, if not less than 7 days' notice is given to all parties before returning a child to the child's home, and no party requests a hearing within the 7 days, the court may issue an order without a hearing permitting the agency to return the child to the child's home.

(12) An agency report filed with the court must be accessible to all parties to the action and must be offered into evidence. The court shall consider any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom a child is placed, attorney, lawyer-guardian ad litem, or guardian ad litem, in addition to any other evidence, including the appropriateness of parenting time, offered at the hearing.

(13) Reasonable efforts to finalize an alternate permanency plan may be made concurrently with reasonable efforts to reunify the child with the family.

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

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History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.19 ;-- Am. 1951, Act 98, Eff. Sept. 28, 1951 ;-- Am. 1966, Act 181, Imd. Eff. July 1, 1966 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1994, Act 264, Eff. Jan. 1, 1995 ;-- Am. 1996, Act 16, Eff. June 1, 1996 ;-- Am. 1997, Act 163, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 480, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 530, Eff. July 1, 1999 ;-- Am. 2004, Act 477, Eff. Imd. Eff. Dec. 28, 2004 ;-- Am. 2008, Act 202, Imd. Eff. July 11, 2008 ;-- Am. 2018, Act 58, Eff. June 12, 2018 ;-- Am. 2020, Act 9, Imd. Eff. Jan. 27, 2020

Former Law: See section 18 of Ch. XII of Act 288 of 1939; and CL 1929, § 12838.

Popular Name: Probate Code

Popular Name: Juvenile Code

712A.19a Permanency planning hearing; conditions; time limitation; reunion of child and family not required; purpose; obtaining child's views regarding permanency plan; consideration of out-of-state placement; notice; statement; return of child to parent; noncompliance with case service plan; other conditions as evidence; termination of parental rights to child; exceptions; alternative placement plans; powers and appointment of guardian; information considered as evidence; revocation or termination of guardianship.

Sec. 19a.

(1) Subject to subsection (2), if a child remains in foster care and parental rights to the child have not been terminated, the court shall conduct a permanency planning hearing within 12 months after the child was removed from his or her home. Subsequent permanency planning hearings must be held no later than every 12 months after each preceding permanency planning hearing during the continuation of foster care. 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, but no later than 12 months from the removal of the child from his or her home, from the preceding permanency planning hearing, or from the number of days required under subsection (2). A permanency planning hearing shall not be canceled or delayed beyond the number of months required by this subsection or days as required under subsection (2), regardless of whether there is a petition to terminate parental rights pending.

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

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

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

(i) Murder of another child of the parent.

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

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

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

(c) The parent has had rights to the child's siblings involuntarily terminated and the parent has failed to rectify the conditions that led to that termination of parental rights.

(d) The parent is required by court order to register under the sex offenders registration act.

(3) A permanency planning hearing must be conducted to review the child's status and the progress being made toward the child's return home or to show why the child should not be placed in the permanent custody of the court. The court shall obtain the child's views regarding the permanency plan in a manner that is appropriate to the child's age. In the case of a child who will not be returned home, the court shall consider in-state and out-of-state placement options. In the case of a child placed out-of-state, the court shall determine whether the out-of-state placement continues to be appropriate and in the child's best interests. The court shall ensure that the agency is providing appropriate services to assist a child who will transition from foster care to independent living.

(4) At or before each permanency planning hearing, the court shall determine whether the agency has made reasonable efforts to finalize the permanency plan. At the hearing, the court shall determine whether and, if applicable, when the following must occur:

(a) The child may be returned to the parent, guardian, or legal custodian.

(b) A petition to terminate parental rights should be filed.

(c) The child may be placed in a legal guardianship.

(d) The child may be permanently placed with a fit and willing relative.

(e) The child may be placed in another planned permanent living arrangement, but only in those cases where the agency has documented to the court a compelling reason for determining that it would not be in the best interest of the child to follow 1 of the options listed in subdivisions (a) to (d).

(5) The court shall determine whether or not the agency, foster home, or institutional placement has followed the reasonable and prudent parenting standard that the child has had regular opportunities to engage in age or developmentally appropriate activities.

(6) Not less than 14 days before a permanency planning hearing, written notice of the hearing and a statement of the purposes of the hearing, including a notice that the hearing may result in further proceedings to terminate parental rights, must be served on all of the following:

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

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

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

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

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

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

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

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

(i) Other persons as the court may direct.

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

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

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

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

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

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

(iii) The child is an unaccompanied refugee minor as defined in 45 CFR 400.111.

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

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

(9) If the agency demonstrates under subsection (8) that initiating termination of parental rights to the child is clearly not in the child's best interests, or the court does not order the agency to initiate termination of parental rights to the child under subsection (8), the court shall order 1 or more of the following alternative placement plans:

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

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

(c) Subject to subsection (11), if the court determines that it is in the child's best interests, appoint a guardian for the child, which guardianship may continue until the child is emancipated.

(10) A guardian appointed under subsection (9)(c) has all of the powers and duties set forth under section 5215 of the estates and protected individuals code, 1998 PA 386, MCL 700.5215.

(11) If a child is placed in a guardian's or a proposed guardian's home under subsection (9)(c), the court shall order the department to perform an investigation and file a written report of the investigation for a review under subsection (12) and the court shall order the department 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(11) of this chapter. If a home study has been performed within the immediately preceding 365 days, a copy of that home study must be submitted to the court.

(12) The court's jurisdiction over a juvenile under section 2(b) of this chapter must 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.

(13) The court's jurisdiction over a guardianship created under this section must continue until released by court order. The court shall review a guardianship created under this section annually and may conduct additional reviews

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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.

(14) In making the determinations under this section, the court shall consider any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom the child is placed, or guardian ad litem in addition to any other evidence, including the appropriateness of parenting time, offered at the hearing. If a qualified residential treatment program placement as provided in section 13a of 1973 PA 116, MCL 722.123a, is presented, the court shall approve or disapprove that qualified residential treatment program placement.

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

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

(17) After notice and hearing on a petition to revoke or permission to terminate the guardianship, if the court finds by a preponderance of evidence that continuing the guardianship is not in the child's best interests, the court shall revoke or terminate the guardianship and appoint a successor guardian or restore temporary legal custody to the department.

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History: Add. 1972, Act 59, Imd. Eff. Feb. 21, 1972 ;-- Am. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1994, Act 264, Eff. Jan. 1, 1995 ;-- Am. 1997, Act 163, Eff. Mar. 31, 1998 ;-- Am. 2000, Act 46, Imd. Eff. Mar. 27, 2000 ;-- Am. 2004, Act 473, Imd. Eff. Dec. 28, 2004 ;-- Am. 2008, Act 200, Imd. Eff. July 11, 2008 ;-- Am. 2012, Act 115, Imd. Eff. May 1, 2012 ;-- Am. 2016, Act 497, Eff. Apr. 6, 2017 ;-- Am. 2018, Act 58, Eff. June 12, 2018 ;-- Am. 2020, Act 9, Imd. Eff. Jan. 27, 2020

Popular Name: Probate Code

Popular Name: Juvenile Code

712A.19b Termination of parental rights to child; petition; hearing; record; findings; opinion or order; notice of hearing; suspension of parenting time; grounds for termination; "concerned person" defined.

Sec. 19b.

(1) Except as provided in subsection (4), if a child remains in foster care in the temporary custody of the court following a review hearing under section 19(3) of this chapter or a permanency planning hearing under section 19a of this chapter or if a child remains in the custody of a guardian or limited guardian, upon petition of the prosecuting attorney, whether or not the prosecuting attorney is representing or acting as legal consultant to the agency or any other party, or petition of the child, guardian, custodian, concerned person, agency, or child advocate as authorized in section 7 of the child advocate act, 1994 PA 204, MCL 722.927, the court shall hold a hearing to determine if the parental rights to a child should be terminated and, if all parental rights to the child are terminated, the child placed in permanent custody of the court. The court shall state on the record or in writing its findings of fact and conclusions of law with respect to whether or not parental rights should be terminated. The court shall issue an opinion or order regarding a petition for termination of parental rights within 70 days after the commencement of the initial hearing on the petition. The court's failure to issue an opinion within 70 days does not dismiss the petition.

(2) Not less than 14 days before a hearing to determine if the parental rights to a child should be terminated, written notice of the hearing shall be served upon all of the following:

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

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

(c) The child's parents.

(d) If the child has a guardian, the child's guardian.

(e) If the child has a guardian ad litem, the child's guardian ad litem.

(f) If tribal affiliation has been determined, the Indian tribe's elected leader.

(g) The child's attorney and each party's attorney.

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

(i) The prosecutor.

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

(a) The child has been deserted under either of the following circumstances:

(i) The child's parent is unidentifiable, has deserted the child for 28 or more days, and has not sought custody of

the child during that period. For the purposes of this section, a parent is unidentifiable if the parent's identity cannot be ascertained after reasonable efforts have been made to locate and identify the parent.

(ii) The child's parent has deserted the child for 91 or more days and has not sought custody of the child during that period.

(b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

(i) The parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home.

(ii) The parent who had the opportunity to prevent the physical injury or physical or sexual abuse failed to do so and the court finds that there is a reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if placed in the parent's home.

(iii) A nonparent adult's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse by the nonparent adult in the foreseeable future if placed in the parent's home.

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(ii) Other conditions exist that cause the child to come within the court's jurisdiction, the parent has received recommendations to rectify those conditions, the conditions have not been rectified by the parent after the parent has received notice and a hearing and has been given a reasonable opportunity to rectify the conditions, and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

(d) The child's parent has placed the child in a limited guardianship under section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, and has substantially failed, without good cause, to comply with a limited guardianship placement plan described in section 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5205, regarding the child to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.

(e) The child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and the parent has substantially failed, without good cause, to comply with a court-structured plan described in section 5207 or 5209 of the estates and protected individuals code, 1998 PA 386, MCL 700.5207 and 700.5209, regarding the child to the extent that the noncompliance has resulted in a disruption of the parent-child relationship.

(f) The child has a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and both of the following have occurred:

(i) The parent, having the ability to support or assist in supporting the minor, has failed or neglected, without good cause, to provide regular and substantial support for the minor for a period of 2 years or more before the filing of the petition or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the petition.

(ii) The parent, having the ability to visit, contact, or communicate with the minor, has regularly and substantially failed or neglected, without good cause, to do so for a period of 2 years or more before the filing of the petition.

(g) The parent, although, in the court's discretion, financially able to do so, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(h) The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(i) Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and the parent has failed to rectify the conditions that led to the prior termination of parental rights.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if the child is returned to the home of the parent.

(k) The parent abused the child or a sibling of the child, the abuse included 1 or more of the following, and there is a reasonable likelihood that the child will be harmed if returned to the care of the parent:

(i) Abandonment of a young child.

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

(iii) Battering, torture, or other severe physical abuse.

(iv) Loss or serious impairment of an organ or limb.

(v) Life-threatening injury.

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(vi) Murder or attempted murder.

(vii) Voluntary manslaughter.

(viii) Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

(ix) Sexual abuse as that term is defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(l) The parent's rights to another child were voluntarily terminated following the initiation of proceedings under section 2(b) of this chapter or a similar law of another state and the proceeding involved abuse that included 1 or more of the following, and the parent has failed to rectify the conditions that led to the prior termination of parental rights:

(i) Abandonment of a young child.

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

(iii) Battering, torture, or other severe physical abuse.

(iv) Loss or serious impairment of an organ or limb.

(v) Life-threatening injury.

(vi) Murder or attempted murder.

(vii) Voluntary manslaughter.

(viii) Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

(ix) Sexual abuse as that term is defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(m) The parent is convicted of 1 or more of the following, and the court determines that termination is in the child's best interests because continuing the parent-child relationship with the parent would be harmful to the child:

(i) A violation of section 136, 136a, 316, 317, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136, 750.136a, 750.316, 750.317, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(ii) A violation of a criminal statute that includes as an element the use of force or the threat of force and that subjects the parent to sentencing under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(iii) A federal law or law of another state with provisions substantially similar to a crime or procedure listed or described in subparagraph (i) or (ii).

(4) If a petition to terminate the parental rights to a child is filed, the court may enter an order terminating parental rights under subsection (3) at the initial dispositional hearing. If a petition to terminate parental rights to a child is filed, the court may suspend parenting time for a parent who is a subject of the petition.

(5) If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made.

(6) As used in this section, "concerned person" means a foster parent with whom the child is living or has lived who has specific knowledge of behavior by the parent constituting grounds for termination under subsection (3)(b) or (g) and who has contacted the department, the prosecuting attorney, the child's attorney, and the child's guardian ad litem, if any, and is satisfied that none of these persons intend to file a petition under this section.

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History: Add. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1990, Act 314, Imd. Eff. Dec. 20, 1990 ;-- Am. 1994, Act 264, Eff. Jan. 1, 1995 ;-- Am. 1997, Act 169, Eff. Mar. 31, 1998 ;-- Am. 1998, Act 479, Eff. Mar. 1, 1999 ;-- Am. 1998, Act 530, Eff. July 1, 1999 ;-- Am. 2000, Act 46, Imd. Eff. Mar. 27, 2000 ;-- Am. 2000, Act 232, Eff. Jan. 1, 2001 ;-- Am. 2008, Act 199, Imd. Eff. July 11, 2008 ;-- Am. 2010, Act 7, Eff. Sept. 4, 2010 ;-- Am. 2012, Act 115, Imd. Eff. May 1, 2012 ;-- Am. 2012, Act 386, Imd. Eff. Dec. 19, 2012 ;-- Am. 2017, Act 193, Eff. Mar. 7, 2018 ;-- Am. 2018, Act 58, Eff. June 12, 2018 ;-- Am. 2023, Act 295, Eff. Feb. 13, 2024

Compiler's Notes: Enacting section 1 of Act 232 of 2000 provides:"Enacting section 1. Section 19b of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this amendatory act, and chapter XII of the probate code of 1939, 1939 PA 288, as added by this amendatory act, do not apply to a proceeding that arises before the effective date of this amendatory act."

Popular Name: Probate Code

Popular Name: Juvenile Code

712A.19c Review hearing of child's placement after termination of parental rights; appointment of guardian; applicability of section.

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(10) 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 of human services 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

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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.

History: Add. 1988, Act 224, Eff. Apr. 1, 1989 ;-- Am. 1998, Act 479, Eff. Mar. 1, 1999 ;-- Am. 2000, Act 46, Imd. Eff. Mar. 27, 2000 ;-- Am. 2004, Act 476, Imd. Eff. Dec. 28, 2004 ;-- Am. 2008, Act 203, Imd. Eff. July 11, 2008 ;-- Am. 2011, Act 31, Imd. Eff. May 24, 2011 ;-- Am. 2012, Act 115, Imd. Eff. May 1, 2012
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.20 Temporary or permanent custody.

Sec. 20.

The court in all cases involving custody shall state in the order for disposition or any supplemental order of disposition whether the child is placed in the temporary or permanent custody of the court. If the child is placed in the temporary custody of the court, no supplemental order of disposition providing permanent custody, or containing any other order of disposition shall be made except at a hearing pursuant to issuance of summons or notice as provided in sections 12 and 13 of this chapter or at a rehearing provided by section 19 of this chapter. If the child is placed in the permanent custody of the court, all parental rights are terminated, though such rights may be reinstated by a supplemental order of disposition after rehearing pursuant to section 21.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.20 ;-- Am. 1966, Act 181, Imd. Eff. July 1, 1966
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.21 Petition for rehearing; affirming, modifying, or setting aside order; conduct of rehearing; order for supplemental disposition; applicability of section to criminal proceeding; “interested person” construed.

Sec. 21.

(1) At any time while the juvenile is under the jurisdiction of the court, an interested person may file a petition in writing and under oath for a rehearing upon all matters coming within the provisions of this chapter. Upon the rehearing, the court may affirm, modify, or set aside any order reviewed under this section. If parental rights have been terminated by an order entered in the proceedings and custody of the juvenile has been removed from the parents, guardian, or other person, the petition for rehearing shall be filed not later than 20 days after the date of entry of the order terminating parental rights. The petition shall set forth in detail the place, manner, and all other information requested by the court in reference to the proposed future custody of the juvenile. The rehearing shall be conducted in accordance with the provisions of this chapter relating to the conduct of original hearings. The court may enter an order for supplemental disposition while the juvenile remains under the court's jurisdiction.

(2) This section does not apply to a criminal proceeding under this chapter.

(3) As used in subsection (1), "interested person" includes a member of a local foster care review board established under Act No. 422 of the Public Acts of 1984, being sections 722.131 to 722.140 of the Michigan Compiled Laws, to which that juvenile's case has been assigned.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.21 ;-- Am. 1958, Act 129, Eff. Sept. 13, 1958 ;-- Am. 1965, Act 202, Imd. Eff. July 16, 1965 ;-- Am. 1980, Act 499, Imd. Eff. Jan. 21, 1981 ;-- Am. 1982, Act 330, Imd. Eff. Dec. 14, 1982 ;-- Am. 1983, Act 105, Eff. Sept. 1, 1983 ;-- Am. 1984, Act 420, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 170, Imd. Eff. July 7, 1986 ;-- Am. 1989, Act 73, Imd. Eff. June 16, 1989 ;-- Am. 1996, Act 262, Eff. Jan. 1, 1997
Former Law: See section 8 of Ch. XII of Act 288 of 1939; and CL 1929, § 12846.

Popular Name: Probate Code
Popular Name: Juvenile Code

712A.22 Annual report.

Sec. 22.

The state court administrative office shall publish an annual report evaluating the court regarding its duty under this act to engage in obtaining permanency for children. The report shall include at least information and statistics detailing the court's adherence to each time period prescribed by this act or court rule for the management and disposition of children's cases that are petitioned under section 2(b) of this chapter and, if the court fails to adhere to a time period, the specific reasons for that failure.

History: Add. 1997, Act 169, Eff. Mar. 31, 1998
Compiler's Notes: Former MCL 712A.22, which pertained to appeals to circuit court, was repealed by Act 543 of 1978, Eff. July 1, 1979.
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.23 Use of evidence against juvenile.

Sec. 23.

Evidence regarding the disposition of a juvenile under this chapter and evidence obtained in a dispositional proceeding under this chapter shall not be used against that juvenile for any purpose in any judicial proceeding except in a subsequent case against that juvenile under this chapter. This section does not apply to a criminal conviction under this chapter.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.23 ;-- Am. 1996, Act 258, Eff. Jan. 1, 1997
Former Law: See sections 13 and 14 of Ch. XII of Act 288 of 1939; and CL 1929, §§ 12834 and 12836.
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.24 Placement in institutions; summary of information; conveyance of child; progress report.

Sec. 24.

Whenever the court shall place a child in any public or private institution or agency, it shall transmit with the order of disposition or supplemental order of disposition a summary of its information concerning such child, and such child may be placed in the care of a county agent, probation officer, juvenile matron or some other reliable person designated by the court to be conveyed to the institution, and the same compensation shall be paid by the state for the transportation of said child as is paid to county agents in like cases.

Whenever the court shall place a child in a private or incorporated institution or agency, it shall require a progress report concerning said child which shall be made at least once every 6 months from the date of the order.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- Am. 1947, Act 284, Eff. Oct. 11, 1947 ;-- CL 1948, 712A.24
Former Law: See section 20 of Ch. XII of Act 288 of 1939; and CL 1929, § 12838.
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.25 Payment of expenses.

Sec. 25.

(1) Except as otherwise provided by law, expenses incurred in carrying out this chapter shall be paid upon the court's order by the county treasurer from the county's general fund.

(2) A county that is a county juvenile agency shall pay expenses for county juvenile agency services incurred in carrying out this chapter from the block grant distributed under section 117a of the social welfare act, 1939 PA 280, MCL 400.117a, and other funds made available for that purpose and is not obligated under subsection (1) to pay for juvenile justice services other than county juvenile agency services as required by section 117a of the social welfare act. As used in this subsection, "county juvenile agency services" and "juvenile justice service" mean those terms as defined in section 117a of the social welfare act.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.25 ;-- Am. 1951, Act 98, Eff. Sept. 28, 1951 ;-- Am. 1955, Act 112, Eff. Oct. 14, 1955 ;-- Am. 1976, Act 383, Imd. Eff. Dec. 28, 1976 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999
Former Law: See sections 7, 21, 22, 24, and 25 of Ch. XII of Act 288 of 1939; CL 1929, § 12840; Act 30 of 1931; Act 260 of 1937; and CL 1929, § 12844.
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.26 Contempt of court; punishment.

Sec. 26.

The court shall have the power to punish for contempt of court under chapter 17 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1701 to 600.1745, any person who willfully violates, neglects, or refuses to obey and perform any order or process the court has made or issued to enforce this chapter.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.26 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999
Compiler's Notes: Act 314 of 1915, referred to in this section, was repealed by Act 236 of 1961. See now MCL 600.101 et seq.
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.27 Quarters, equipment and supplies for use of juvenile division.

Sec. 27.

Suitable quarters, equipment, and supplies shall be provided by the board of supervisors of each county for the use of the juvenile division of the probate court in said county.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.27
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.28 Case records; opening records; order in respect to payments by parent; copy; publicizing action taken against parents or adult; administration of court; reports; form; definitions.

Sec. 28.

(1) Before June 1, 1988, the court shall maintain records of all cases brought before it and as provided in the juvenile diversion act. The records are open only by court order to persons having a legitimate interest, except that

diversion records are open only as provided in the juvenile diversion act.

(2) Beginning June 1, 1988, the court shall maintain records of all cases brought before it and as provided in the juvenile diversion act. Except as otherwise provided in this subsection, until December 31, 2020, records of a case brought before the court are open to the general public. Diversion records are open only as provided in the juvenile diversion act. Except as otherwise provided in section 49 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.799, if the hearing of a case brought before the court is closed under section 17 of this chapter, the records of that hearing are open only by court order to persons having a legitimate interest.

(3) Beginning January 1, 2021, except as otherwise provided, records of a case brought before the court are not open to the general public and are open only to persons having a legitimate interest. Diversion records are open only as provided in the juvenile diversion act. Except as otherwise provided in section 49 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.799, if the hearing of a case brought before the court is closed under section 17 of this chapter, the records of that hearing are open only by court order to persons having a legitimate interest.

(4) Action taken against parents or adults must not be released for publicity unless the parents or adults are found guilty of contempt of court. The court shall furnish the department and a county juvenile agency with reports of the administration of the court in a form recommended by the Michigan Probate Judges Association. Copies of these reports must, upon request, be made available to other state departments by the department.

(5) As used in this section:

(a) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(b) "Indian child" and "Indian child's tribe" mean those terms as defined in section 3 of the Michigan Indian family preservation act, chapter XIIB of the probate code of 1939, 1939 PA 288, MCL 712B.3.

(c) "Juvenile diversion act" means the juvenile diversion act, 1988 PA 13, MCL 722.821 to 722.831.

(d) "Persons having a legitimate interest" includes, but is not limited to, the juvenile, the juvenile's parent, the juvenile's guardian or legal custodian, the juvenile's guardian ad litem, counsel for the juvenile, the department or a licensed child caring institution or child placing agency under contract with the department to provide for the juvenile's care and supervision if related to an investigation of child neglect or child abuse, law enforcement personnel, a prosecutor, a member of a local foster care review board established under 1984 PA 422, MCL 722.131 to 722.139a, the Indian child's tribe if the juvenile is an Indian child, and a court of this state.

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History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.28 ;-- Am. 1959, Act 184, Eff. Mar. 19, 1960 ;-- Am. 1980, Act 499, Imd. Eff. Jan. 21, 1981 ;-- Am. 1982, Act 330, Imd. Eff. Dec. 14, 1982 ;-- Am. 1984, Act 420, Imd. Eff. Dec. 28, 1984 ;-- Am. 1986, Act 170, Imd. Eff. July 7, 1986 ;-- Am. 1988, Act 18, Eff. Apr. 1, 1988 ;-- Am. 1988, Act 91, Eff. Apr. 1, 1988 ;-- Am. 1989, Act 73, Imd. Eff. June 16, 1989 ;-- Am. 1996, Act 409, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 478, Eff. Jan. 12, 1999 ;-- Am. 2020, Act 362, Eff. Mar. 24, 2021 ;-- Am. 2023, Act 301, Eff. Oct. 1, 2024

Former Law: See section 13 of Ch. XII of Act 288 of 1939; and CL 1929, § 12836.

Popular Name: Probate Code

Popular Name: Juvenile Code

712A.29 Allocation and application of money collected; "crime victim payment" defined.

Sec. 29.

(1) If a child is subject to restitution or payments arising out of the same order of disposition, money collected from that child, or the child's parent or parents, for the payment of restitution or other payments must be allocated as provided in this section.

(2) If a child is subject to payment of crime victim payments or other payments, 100% of the money collected from that child, or the child's parent or parents, must first be applied to the payment of restitution to a victim or victim's estate before the balance can be applied to assessments to the crime victim rights fund.

(3) As used in this section, "crime victim payment" means restitution ordered under sections 30 and 31 of this chapter and under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, paid to the victim or the victim's estate, but not to a person who reimbursed the victim for his or her loss. Crime victim payment also includes assessments to the crime victim rights fund ordered under section 5 of 1989 PA 196, MCL 780.905.

History: Add. 1993, Act 344, Eff. May 1, 1994 ;-- Am. 2003, Act 74, Eff. Oct. 1, 2003 ;-- Am. 2023, Act 301, Eff. Oct. 1, 2024
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.29a Reimbursement or collection of fines, fees, and costs; prohibition.

Sec. 29a.

(1) The court shall not order a juvenile within the court's jurisdiction under section 2(a)(1) or (f) of this chapter or the juvenile's parent, guardian, or legal custodian to reimburse the court for any fine, fees, or costs related to the juvenile's court case.

(2) Beginning October 1, 2024, the court shall not collect the balance of any court–ordered fines, fees, or costs previously assessed to a juvenile under section 29 of this chapter, or former section 18m of this chapter, and only the portion of any court order that imposed those fines, fees, or costs is vacated and unenforceable.

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History: Add. 2023, Act 301, Eff. Oct. 1, 2024
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.30 "Offense" and "victim" defined; order of restitution.

Sec. 30.

(1) For purposes of this section and section 31:

(a) "Juvenile offense" means a violation by a juvenile of a penal law of this state or a violation by a juvenile of an ordinance of a local unit of government of this state punishable by imprisonment or by a fine that is not a civil fine.

(b) "Victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a juvenile offense. For purposes of subsections (2), (3), (6), (8), (9), and (13), victim includes a sole proprietorship, partnership, corporation, association, governmental entity, or other legal entity that suffers direct physical or financial harm as a result of the commission of a juvenile offense.

(2) Except as provided in subsection (8), at the dispositional hearing for a juvenile offense, the court shall order, in addition to or in lieu of any other disposition authorized by law, that the juvenile make full restitution to any victim of the juvenile's course of conduct that gives rise to the disposition or to the victim's estate.

(3) If a juvenile offense results in damage to or loss or destruction of property of a victim of the juvenile offense, or results in the seizure or impoundment of property of a victim of the juvenile offense, the order of restitution may require that the juvenile do 1 or more of the following, as applicable:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraph (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of disposition.

(c) Pay the costs of the seizure or impoundment, or both.

(4) If a juvenile offense results in physical or psychological injury to a victim, the order of restitution may require that the juvenile do 1 or more of the following, as applicable:

(a) Pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care.

(b) Pay an amount equal to the cost of actual physical and occupational therapy and rehabilitation.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the juvenile offense.

(d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family that has been incurred as a result of the juvenile offense.

(e) Pay an amount equal to the costs of actual homemaking and child care expenses incurred as a result of the

juvenile offense.

(5) If a juvenile offense resulting in bodily injury also results in the death of a victim, the order of restitution may require that the juvenile pay an amount equal to the cost of actual funeral and related services.

(6) If the victim or victim's estate consents, the order of restitution may require that the juvenile make restitution in services in lieu of money.

(7) If the victim is deceased, the court shall order that the restitution be made to the victim's estate.

(8) The court shall order restitution to the crime victims compensation board or to any individuals, partnerships, corporations, associations, governmental entities, or any other legal entities that have compensated the victim or victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. The court shall also order restitution, for the costs of services provided, to persons or entities that have provided services to the victim as a result of the juvenile offense. Services that are subject to restitution under this subsection include, but are not limited to, shelter, food, clothing, and transportation. However, an order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person or entity under that order is made. The court shall not order restitution to be paid to a victim or victim's estate if the victim or victim's estate has received or is to receive compensation for that loss, and the court shall state on the record with specificity the reasons for its actions. If an entity entitled to restitution under this subsection for compensating the victim or the victim's estate cannot or refuses to be reimbursed for that compensation, the restitution paid for that entity shall be deposited by the state treasurer in the crime victim's rights fund created under section 4 of Act No. 196 of the Public Acts of 1989, being section 780.904 of the Michigan Compiled Laws, or its successor fund.

(9) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victims compensation board made after an order of restitution under this section.

(10) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the juvenile make restitution under this section within a specified period or in specified installments.

(11) If the juvenile is placed on probation, any restitution ordered under this section shall be a condition of that probation. The court may revoke probation if the juvenile fails to comply with the order and if the juvenile has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the juvenile's employment status, earning ability, and financial resources, the willfulness of the juvenile's failure to pay, and any other special circumstances that may have a bearing on the juvenile's ability to pay.

(12) A juvenile who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the court to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the juvenile or his or her immediate family, the court may modify the method of payment.

(13) An order of restitution entered under this section remains effective until it is satisfied in full. An order of restitution is a judgment and lien against all property of the individual ordered to pay restitution for the amount specified in the order of restitution. The lien may be recorded as provided by law. An order of restitution may be enforced by the prosecuting attorney, a victim, a victim's estate, or any other person or entity named in the order to receive the restitution in the same manner as a judgment in a civil action or a lien.

(14) Notwithstanding any other provision of this section, a juvenile shall not be detained for a violation of probation, or otherwise, for failure to pay restitution as ordered under this section unless the court determines that the juvenile has the resources to pay the ordered restitution and has not made a good faith effort to do so.

(15) If the court determines that the juvenile is or will be unable to pay all of the restitution ordered, after notice to the juvenile's parent and an opportunity for the parent to be heard, the court may order the parent or parents having supervisory responsibility for the juvenile at the time of the acts upon which an order of restitution is based to pay any portion of the restitution ordered that is outstanding. An order under this subsection does not relieve the juvenile of his or her obligation to pay restitution, but the amount owed by the juvenile shall be offset by any amount paid by his or her parent. As used in this subsection, "parent" does not include a foster parent.

(16) If the court orders a parent to pay restitution under subsection (15), the court shall take into account the financial resources of the parent and the burden that the payment of restitution will impose, with due regard to any other moral or legal financial obligations that the parent may have. If a parent is required to pay restitution under subsection (15), the court shall provide for payment to be made in specified installments and within a specified period of time.

(17) A parent who has been ordered to pay restitution under subsection (15) may petition the court for a modification of the amount of restitution owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent.

(18) In each case in which payment of restitution is ordered as a condition of probation, the juvenile caseworker or probation officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. The final review shall be conducted not less than 60 days before the expiration of the

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probationary period. If the juvenile caseworker or probation officer determines the restitution is not being paid as ordered, the juvenile caseworker or probation officer shall file a written report of the violation with the court on a form prescribed by the state court administrative office. The report shall include a statement of the amount of the arrearage and any reasons for the arrearage that are known by the juvenile caseworker or probation officer. The juvenile caseworker or probation officer shall immediately provide a copy of the report to the prosecuting attorney. If a motion is filed or other proceedings are initiated to enforce payment of restitution and the court determines that restitution is not being paid or has not been paid as ordered by the court, the court shall promptly take action necessary to compel compliance.

(19) If the court determines that an individual who is ordered to pay restitution under this section is remanded to the jurisdiction of the department of corrections, the court shall provide a copy of the order of restitution to the department of corrections when the court determines that the individual is remanded to the department's jurisdiction.

History: Add. 1993, Act 344, Eff. May 1, 1994 ;-- Am. 1996, Act 123, Eff. May 1, 1996 ;-- Am. 1996, Act 561, Eff. June 1, 1997
Popular Name: Probate Code
Popular Name: Juvenile Code

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712A.31 Determining amount of restitution; factors in disposition report; disclosure of matters described in subsection (1); burden of demonstrating amount or type of restitution.

Sec. 31.

(1) In determining the amount of restitution to order under section 30 of this chapter, the court shall consider the amount of the loss sustained by any victim as a result of the juvenile offense. In determining whether to order the juvenile's supervisory parent to pay restitution under section 30(15) of this chapter, the court shall consider the financial resources of the juvenile's supervisory parent and the other factors specified in section 30(16) of this chapter.

(2) The court may order the person preparing a report for the purpose of disposition to obtain information pertaining to the factors set forth in subsection (1). That person shall include the information collected in the disposition report or in a separate report, as the court directs.

(3) The court shall disclose to the juvenile, the juvenile's supervisory parent, and the prosecuting attorney all portions of the disposition or other report pertaining to the matters described in subsection (1).

(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by a preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the juvenile offense shall be on the prosecuting attorney. The burden of demonstrating the financial resources of the juvenile's supervisory parent and the other factors specified in section 30(16) of this chapter shall be on the supervisory parent.

History: Add. 1993, Act 344, Eff. May 1, 1994 ;-- Am. 1996, Act 561, Eff. June 1, 1997
Popular Name: Probate Code
Popular Name: Juvenile Code

712A.32 Order to appear for identification; notice of right to attorney; appointment of attorney.

Sec. 32.

(1) If a complaint or petition is filed with the court against a juvenile for violating a criminal law of this state or of a local unit of government of this state, the court may, at the request of the person or entity submitting the complaint or petition, order the juvenile to appear at a place and time designated by the court for identification by another person. Identification under this section may include identification in a corporeal lineup.

(2) If the court orders identification proceedings under this section, the court shall notify the juvenile and the juvenile's parent, guardian, or custodian that he or she has the right to consult an attorney and to have an attorney present during the identification proceedings. If the juvenile and the juvenile's parent, guardian, or custodian cannot afford an attorney but request an attorney, the court shall appoint an attorney to represent the juvenile.

History: Add. 1996, Act 251, Eff. Jan. 1, 1997
Popular Name: Probate Code
Popular Name: Juvenile Code

Chapter XIIB

712B.1 Chapter; short title.

Sec. 1.

This chapter shall be known and may be cited as the "Michigan Indian family preservation act".

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

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712B.3 Definitions.

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 of the social security act, 42 USC 670 to 679c, and also include, but are not limited to, doing or addressing all of the following:

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

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

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

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

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

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

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

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

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

(x) Identifying community resources offering housing, financial, and transportation assistance and in-home

support services, in-home intensive treatment services, community support services, and specialized services for members of the Indian child's family with special needs, and providing information about those resources to the Indian child's family, and actively assisting the Indian child's family or offering active assistance in accessing those resources.

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

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

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

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

(A) Foster home or institution.

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

(C) A juvenile guardianship under chapter XIIA.

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

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

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

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

(vi) Child custody proceeding does not include a placement based on an act that, if committed by an adult, would be a crime or based on an award, in a divorce proceeding, of custody to 1 of the parents.

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

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

(e) "Department" means the department of health and human services or a successor department or agency.

(f) "Extended family members" means that term as defined by the law or custom of the Indian child's tribe or, in the absence of that law or custom, means a person who has reached the age of 18 and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent and includes the term "relative" as that term is defined in section 13a(j) of chapter XIIA.

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

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

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

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

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

(i) A member of an Indian tribe.

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

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

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

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

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

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

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

(i) Section 5213 or 5219 of the estates and protected individuals code, 1998 PA 386, MCL 700.5213 and 700.5219.

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

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

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

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

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

(u) "Secretary" means the Secretary of the Interior.

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

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

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History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013 ;-- Am. 2016, Act 26, Eff. May 30, 2016
Popular Name: Probate Code

712B.5 Best interests of child; duties of courts.

Sec. 5.

In Indian child custody proceedings, the best interests of the Indian child shall be determined, in consultation with the Indian child's tribe, in accordance with the Indian child welfare act, and the policy specified in this section. Courts shall do both of the following:

(a) Protect the best interests of Indian children and promote the stability and security of Indian tribes and families.

(b) Ensure that the department uses practices, in accordance with the Indian child welfare act, this chapter, and other applicable law, that are designed to prevent the voluntary or involuntary out-of-home care placement of Indian children and, when an out-of-home care placement, adoptive placement, or preadoptive placement is necessary, place an Indian child in a placement that reflects the unique values of the Indian child's tribal culture and that is best able to assist the Indian child in establishing, developing, and maintaining a political, cultural, and social relationship with the Indian child's tribe and tribal community.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

712B.7 Jurisdiction; exclusive; emergency; transfer; good cause determination; right to intervene or

participate in proceeding; full faith and credit to public acts, records, and judicial proceedings.

Sec. 7.

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

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

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

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

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

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

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

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

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

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

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History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013 ;-- Am. 2016, Act 26, Eff. May 30, 2016
Popular Name: Probate Code

712B.9 Child custody proceeding; notification to parent, Indian custodian, and tribe; additional preparation days; suspension of proceedings; prejudice by lack of notice; determination as to which tribe child is member; circumstances leading to belief child is an Indian; determining, documenting, and contacting extended family; determination or testimony by authorized person; documentation of efforts.

Sec. 9.

(1) In a child custody proceeding, if the court knows or has reason to know that an Indian child is involved, the petitioner shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending child custody proceeding and of the right to intervene. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary in the same manner described in this subsection. The secretary has 15 days after receipt of notice to provide the requisite notice to the parent or Indian custodian and the tribe.

(2) No foster care placement or termination of parental rights proceeding shall be held until at least 10 days after receipt of notice by the parent or Indian custodian and the tribe or the secretary. The parent or Indian custodian or the tribe shall, upon request, be granted up to 20 additional days to prepare for the proceeding. If the petitioner or court later discovers that the child may be an Indian child, all further proceedings shall be suspended until notice is received by the tribe or the secretary as set forth in this subsection. If the court determines after a hearing that the parent or tribe was prejudiced by lack of notice, the prior decisions made by the court shall be vacated and the case shall proceed from the first hearing. The petitioner has the burden of proving lack of prejudice.

(3) The department shall actively seek to determine whether a child at initial contact is an Indian child. If the

department is able to make an initial determination as to which Indian tribe or tribes a child brought to its attention may be a member, the department shall exercise due diligence to contact the Indian tribe or tribes in writing so that the tribe may verify membership or eligibility for membership. If the department is unable to make an initial determination as to which tribe or tribes a child may be a member, the department shall, at a minimum, contact in writing the tribe or tribes located in the county where the child is located and the secretary.

(4) Circumstances under which a court, the department, or other party to a child custody proceeding has reason to believe a child involved in a child custody proceeding is an Indian include, but are not limited to, any of the following:

(a) Any party to the case, Indian tribe, Indian organization, or public or private agency informs the court that the child is an Indian child.

(b) Any public or state-licensed agency involved in child protection services or family support has discovered information that suggests that the child is an Indian child.

(c) The child who is the subject of the proceeding gives the court reason to believe he or she is an Indian child.

(d) The residence or the domicile of the child, his or her biological parents, or the Indian custodian is known by the court to be or is shown to be a predominantly Indian community.

(e) An officer of the court involved in the proceeding has knowledge that the child may be an Indian child.

(5) The department shall exercise due diligence to determine, document, and contact the Indian child's extended family members in accordance with the fostering connections to success and increasing adoptions act of 2008, Public Law 110-351. If applicable, determinations and documentation should be conducted in consultation with the child or parent's tribe.

(6) A written determination or oral testimony by a person authorized by the Indian tribe to speak on its behalf, regarding a child's membership or eligibility for membership in a tribe, is conclusive as to that tribe.

(7) The petitioner shall document all efforts made to determine a child's membership or eligibility for membership in an Indian tribe and shall provide them, upon request, to the court, Indian tribe, Indian child, Indian child's lawyer-guardian ad litem, parent, or Indian custodian.

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History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

712B.11 Examination of reports or documents by parties.

Sec. 11.

Each party to a foster care or termination of parental rights proceeding involving an Indian child has a right to examine all reports or other documents filed with the court upon which any decision with respect to that proceeding may be based.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

712B.13 Guardianship; adoptive placement; termination of parental rights; consent.

Sec. 13.

(1) If both parents or Indian custodian voluntarily consent to a petition for guardianship under section 5204 or 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204 and 700.5205, or if a parent consents to adoptive placement or the termination of his or her parental rights for the express purpose of adoption by executing a release under sections 28 and 29 of chapter X, or consent under sections 43 and 44 of chapter X, the following requirements must be met:

(a) To be valid, consent under this section must be executed on a form approved by the state court administrative office, in writing, recorded before a judge of a court of competent jurisdiction, and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian

custodian understood. Any consent given before, or within 10 days after, birth of the Indian child is not valid.

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

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

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

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

(2) Consent described under subsection (1) must contain the following information:

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

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

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

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

(e) The signature of the consenting parent, parents, or Indian custodian recorded before the judge, verifying an oath of understanding of the significance of the voluntary placement and the parent's right to file a written demand to terminate the voluntary placement or consent at any time.

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

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

(3) If the placement is for purposes of adoption, a consent under subsection (1) of the Indian child's parent must be executed in conjunction with either a consent to adopt, as required by sections 43 and 44 of chapter X, or a release, as required by sections 28 and 29 of chapter X. A parent who executes a consent under this section may withdraw his or her consent at any time before entry of a final order of adoption by filing a written demand requesting the return of the Indian child. Once a demand is filed with the court, the court shall order the return of the Indian child. Withdrawal of consent under this section constitutes a withdrawal of a release executed under sections 28 and 29 of chapter X or a consent to adopt executed under sections 43 and 44 of chapter X.

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

(5) A release executed under sections 28 and 29 of chapter X during a pendency of a proceeding under section 2(b) of chapter XIIA is subject to section 15 of this chapter. If the release follows the initiation of a proceeding under section 2(b) of chapter XIIA, the court shall make a finding that culturally appropriate services were offered.

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

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

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

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

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

(e) That the parent or guardian understands that it serves the welfare of the Indian child for the parent to keep the child placing agency, court, or department informed of any health problems that the parent develops that could affect the Indian child.

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

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History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013 ;-- Am. 2016, Act 26, Eff. May 30, 2016
Popular Name: Probate Code

712B.15 Failure of parent to provide consent; requirements; removal of child from parent or Indian custodian; clear and convincing evidence; termination of parental rights; remedial services and rehabilitative programs; determination that continued custody likely to result in serious emotional or physical damage.

Sec. 15.

(1) If an Indian child is the subject of a child protective proceeding under section 2(b) of chapter XIIA, including instances in which the parent executed a release under section 28 of chapter X during the pendency of that proceeding, or a guardianship proceeding under section 5204 or 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204 and 700.5205, and if a parent does not provide consent as described in section 13 of this chapter, or a guardianship proceeding under section 19a or 19c of chapter XIIA, the following requirements must be met:

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

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

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

(2) An Indian child may be removed from a parent or Indian custodian, placed into a foster care placement, or, for an Indian child already taken into protective custody, remain removed from a parent or Indian custodian pending further proceedings, only upon clear and convincing evidence that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family, that the active efforts were unsuccessful, and that the continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child. The active efforts must take into account the prevailing social and cultural conditions and way of life of the Indian child's tribe. The evidence must include the testimony of at least 1 qualified expert witness, who has knowledge of the child rearing practices of the Indian child's tribe, that the continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child.

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

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

(5) Any Indian child who is the subject of any action for termination of parental rights under state law, any parent or Indian custodian from whose custody the Indian child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate the action upon a showing that the action violated any provision of this section.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013 ;-- Am. 2016, Act 26, Eff. May 30, 2016
Popular Name: Probate Code

712B.17 Qualified expert witness.

Sec. 17.

(1) If the testimony of a qualified expert witness is required, the court shall accept either of the following in the following order of preference:

(a) A member of the Indian child's tribe, or witness approved by the Indian child's tribe, who is recognized by the tribal community as knowledgeable in tribal customs and how the tribal customs pertain to family organization and child rearing practices.

(b) A person with knowledge, skill, experience, training, or education and who can speak to the Indian child's

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tribe and its customs and how the tribal customs pertain to family organization and child rearing practices.

(2) A party to a child custody proceeding may present his or her own qualified expert witness to rebut the testimony of the petitioner's qualified expert witness.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

712B.19 Improper removal of child from custody.

Sec. 19.

If a court determines at a hearing that a petitioner in an Indian child custody proceeding has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and immediately return the child to his or her parent or Indian custodian unless returning the child to his or her parent or Indian custodian would subject the child to a substantial and immediate danger or threat of danger.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

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712B.21 Appointment of counsel.

Sec. 21.

(1) In a case in which the court determines indigency, the parent or Indian custodian has the right to court-appointed counsel in a removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that the appointment is in the best interest of the child. If state law makes no provision for appointment of counsel in those proceedings, the court shall promptly notify the secretary upon appointment of counsel.

(2) If state law does not require the appointment of a lawyer-guardian ad litem for the child, the court may, in its discretion, appoint a lawyer-guardian ad litem for the child upon a finding that the appointment is in the best interest of the child.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

712B.23 Placement; least restrictive setting; order of preference; documentation.

Sec. 23.

(1) Except for a placement for guardianship under section 5204 or 5205 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204 and 700.5205, where both parents submit a consent for the guardianship, an Indian child shall be placed in the least restrictive setting that most approximates a family and in which his or her special needs, if any, may be met. The child shall be placed within reasonable proximity to his or her home, taking into account any special needs of the child. Absent good cause to the contrary, the foster care or preadoptive placement of an Indian child must be in the following order of preference:

(a) A member of the Indian child's extended family.

(b) A foster home licensed, approved, or specified by the Indian child's tribe.

(c) An Indian foster home licensed or approved by the department.

(d) An institution for children approved by an Indian tribe or operated by an Indian organization that has a

program suitable to meet the Indian child's needs.

(2) Absent good cause to the contrary, the adoptive placement of an Indian child must be in the following order of preference:

(a) A member of the child's extended family.

(b) A member of the Indian child's tribe.

(c) An Indian family.

(3) The burden of establishing good cause not to follow the order of preference is on the party requesting the deviation.

(4) The court shall not find good cause to deviate from the placement preferences stated in this section without first ensuring that all possible placements required under this section have been thoroughly investigated and eliminated. All efforts made under this section must be provided to the court in writing or stated on the record. The court shall address efforts to place an Indian child in accordance with this section at each hearing until the placement meets the requirements of this section.

(5) The court's determination of good cause to not follow the order of preference shall be based on 1 or more of the following conditions:

(a) A request was made by a child of sufficient age.

(b) A child has an extraordinary physical or emotional need as established by testimony of an expert witness.

(6) In the case of a placement under subsection (1) or (2), if the Indian child's tribe establishes a different order of preference, the department or court ordering the placement shall follow the tribe's order of preference.

(7) A record of each placement of an Indian child shall be maintained by the department or court evidencing the efforts to comply with the order of preference specified in this section. The record shall be made available at any time upon the request of the secretary or Indian child's tribe.

(8) The standards to be applied in meeting the placement preferences established in this section shall be the prevailing social and cultural standards of the Indian tribe or tribes in which the parent or extended family resides or maintains social and cultural ties.

(9) Nothing in this chapter or section prevents the emergency removal, protective custody, or subsequent placement of an Indian child who is a resident of or is domiciled on a reservation but is temporarily located off the reservation.

(10) All efforts made to identify, locate, and place a child according to this section shall be documented and, upon request, made available to the court, tribe, Indian child, Indian child's lawyer-guardian ad litem, parent, or Indian custodian.

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History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

712B.25 Involuntary guardianship; investigation; report; notice of pending proceeding; consent; withdrawal; termination of voluntary guardianship; potential applicability of Indian child welfare act.

Sec. 25.

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

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

(b) The identity and location of the Indian child's parents, if known.

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

(i) The tribe or tribes of which the Indian child is a member or eligible for membership.

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

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

(2) Notice of the pending proceeding must be given as prescribed by Michigan supreme court rule, the Indian child welfare act, and section 9 of this chapter. If the court knows or has reason to know that the proceeding involves an Indian child, the court shall conduct a hearing to determine all of the following:

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

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

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

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

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

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

(5) The voluntary guardianship is terminated when the court receives from a parent or Indian custodian notice to withdraw consent to the guardianship, and the Indian child shall be immediately returned to the parent or Indian custodian.

(6) If the court discovers a child may be an Indian child after a guardianship is ordered, the court shall provide notice of the guardianship and the potential applicability of this chapter and the Indian child welfare act, in compliance with Michigan court rules, this chapter, and the Indian child welfare act, to the tribe, the parents or Indian custodian, and the current guardian on a form approved by the state court administrative office.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013 ;-- Am. 2016, Act 26, Eff. May 30, 2016
Popular Name: Probate Code

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712B.27 Voluntary placement consent; visitation; notice of pending proceeding; providing certain information to Indian individual reaching age of 18; withdrawal of consent by parent; petition for return of custody.

Sec. 27.

(1) If a release or consent to adoption under chapter X is executed, consent to voluntary placement of an Indian child must also be executed by both parents of the Indian child in accordance with section 13 of this chapter.

(2) At any time during an adoption proceeding, a court may order visitation between the Indian child and 1 or more members of the Indian child's tribe and extended family members.

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

(4) Upon application by an Indian individual who has reached the age of 18 and who was subject to adoptive placement, the court that entered the order of adoption shall inform the individual of his or her tribal affiliation, if known, of the individual's biological parents, and provide any information as necessary to protect any rights from the individual's tribal relationship.

(5) After the entry of a final order of adoption of an Indian child in any state court, the parent may withdraw consent on the grounds that consent was obtained through fraud or duress and may petition the court to vacate the final order of adoption. Upon a finding that the consent was obtained through fraud or duress, the court shall vacate the final order of adoption and return the child to the parent. No adoption that has been effective for at least 2 years may be invalidated under the provisions of this subsection unless otherwise permitted under state law.

(6) Notwithstanding state law to the contrary, whenever a final order of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant the petition unless there is a showing, in a proceeding subject to the provisions of section 1912 of the Indian child welfare act, 25 USC 1912, that the return of custody is not in the best interests of the child.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

712B.29 Child taken into custody under section 14 of chapter XIIA; termination of subsequent placement;

condition; initiation of child custody proceeding; duties of court.

Sec. 29.

(1) If an Indian child is taken into custody under section 14 of chapter XIIA, the subsequent placement shall terminate immediately when the removal and placement are no longer necessary to prevent imminent physical damage or harm to the child.

(2) If a child is taken into custody under section 14 of chapter XIIA and the child is under the exclusive jurisdiction of an Indian tribe or is domiciled on a reservation but temporarily located off the reservation, the court shall immediately initiate a child custody proceeding and do either of the following:

(a) Transfer the child to the jurisdiction of the appropriate Indian tribe.

(b) Return the child to the parent or Indian custodian.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

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712B.31 Agreements.

Sec. 31.

(1) The state is authorized to enter into agreements with tribes in this state regarding the care and custody of Indian children, funding of the care and custody of Indian children, and jurisdiction over child custody proceedings, including agreements that may provide for transfer of jurisdiction on a case-by-case basis and agreements that provide for concurrent jurisdiction between the state and Indian tribes.

(2) Unless the agreement provides otherwise, both of the following apply:

(a) The agreements described in subsection (1) may be revoked by either party upon 180 days' written notice to the other party.

(b) Revocation of an agreement does not affect any action or proceeding over which the court already has jurisdiction.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

712B.33 Department review of cases; monitoring; standards and procedures.

Sec. 33.

The department, in consultation with Indian tribes in this state, shall establish standards and procedures for the department's review of cases subject to this chapter and methods for monitoring the department's compliance with provisions of the Indian child welfare act and this chapter.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

712B.35 Providing secretary and tribal enrollment officer with copy of court decree or order; other information.

Sec. 35.

(1) A Michigan court entering a final decree or order in any Indian child adoptive placement shall provide the

secretary and the tribal enrollment officer of the appropriate tribe with a copy of the decree or order together with other information as may be necessary to show the following:

(a) The name, date of birth, and tribal affiliation of the child.

(b) The names and addresses of the biological parents, if known.

(c) The names and addresses of the adoptive parents.

(d) The identity of any agency having files or information relating to the adoptive placement.

(2) If court records contain a statement of identifying information of the biological parent or parents that their identity remains confidential, the court shall include the statement of identifying information with the other information sent to the secretary and the tribal enrollment officer of the appropriate Indian tribe described in subsection (1).

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

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712B.37 Census.

Sec. 37.

The department shall publish annually a census with no individually identifiable information of all Indian children in the department's care and custody. The census shall include, by county and statewide, information regarding the Indian children on all of the following:

(a) Legal status.

(b) Placement information and whether it complies with this chapter.

(c) Age.

(d) Sex.

(e) Tribe in which the child is a member or eligible for membership.

(f) Accumulated length of time in foster care.

(g) Other demographic information considered appropriate concerning all Indian children who are the subject of child custody proceedings.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

712B.39 Invalidation of actions; petition.

Sec. 39.

Any Indian child who is the subject of an action for foster care placement or termination of parental rights under state law, any parent or Indian custodian from whose custody an Indian child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate the action upon a showing that the action violated any provision of sections 7, 9, 11, 13, 15, 21, 23, 25, 27, and 29 of this chapter.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

712B.41 Severability.

Sec. 41.

If any provision of this chapter or its application to any person or circumstance is held invalid for any reason in a

court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this chapter that can be given effect without the invalid provision or application. For this purpose, the provisions of this chapter are severable.

History: Add. 2012, Act 565, Imd. Eff. Jan. 2, 2013
Popular Name: Probate Code

Chapter XIII
MISCELLANEOUS AND REPEALS

713.1-713.6 Repealed. 1978, Act 642, Eff. July 1, 1979.

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