



SENATE BILL No. 850

September 23, 1993, Introduced by Senators CONROY, WELBORN, HART, STABENOW, SCHWARZ, EHLERS, BERRYMAN, GEAKE, CHERRY, DINGELL and POLLACK and referred to the Committee on Family Law, Criminal Law, and Corrections.

A bill to amend section 19b of chapter XIIIA of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

as amended by Act No. 314 of the Public Acts of 1990, being section 712A.19b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 19b of chapter XIIIA of Act No. 288 of
2 the Public Acts of 1939, as amended by Act No. 314 of the Public
3 Acts of 1990, being section 712A.19b of the Michigan Compiled
4 Laws, is amended to read as follows:

5 CHAPTER XIIIA

6 Sec. 19b. (1) Except as provided in subsection (4), if a
7 child remains in foster care in the temporary custody of the
8 court following a review hearing under section 19(3) of this
9 chapter or a permanency planning hearing under section 19a of
10 this chapter or if a child remains in the custody of a guardian
11 or limited guardian, upon petition of the prosecuting attorney,
12 child, guardian, custodian, or agency, the court shall hold a
13 hearing to determine if the parental rights to a child should be
14 terminated and, if all parental rights to the child are termi-
15 nated, the child placed in permanent custody of the court.

16 (2) Not less than 14 days before a hearing to determine if
17 the parental rights to a child should be terminated, notice of
18 the hearing shall be served upon all of the following:

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

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

22 (c) The child's parents.

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

25 (e) If the child has a guardian ad litem, the guardian ad
26 litem for the child.

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

3 (g) The attorney for the child.

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

5 (i) The prosecutor.

6 (3) The court may terminate the parental rights of a parent
7 to a child if the court finds, by clear and convincing evidence,
8 1 or more of the following:

9 (a) The child has been deserted under either of the follow-
10 ing circumstances:

11 (i) If the parent of a child is unidentifiable and has
12 deserted the child for 28 or more days and has not sought custody
13 of the child during that period. For the purposes of this sec-
14 tion, a parent is unidentifiable if the parent's identity cannot
15 be ascertained after reasonable efforts have been made to locate
16 and identify the parent.

17 (ii) The parent of a child has deserted the child for 91 or
18 more days and has not sought custody of the child during that
19 period.

20 (b) The child or a sibling of the child has suffered physi-
21 cal injury or physical or sexual abuse under either of the fol-
22 lowing circumstances:

23 (i) A parent's act caused the physical injury or physical or
24 sexual abuse and the court finds that there is a reasonable like-
25 lihood that the child will suffer from injury or abuse in the
26 foreseeable future if placed in the parent's home.

1 (ii) A parent who had the opportunity to prevent the
2 physical injury or physical or sexual abuse failed to do so and
3 the court finds that there is a reasonable likelihood that the
4 child will suffer injury or abuse in the foreseeable future if
5 placed in the parent's home.

6 (c) The parent was a respondent in a proceeding brought
7 under this chapter, 182 or more days have elapsed since the issu-
8 ance of an initial dispositional order, and the court, by clear
9 and convincing evidence, finds either of the following:

10 (i) The conditions that led to the adjudication continue to
11 exist and there is no reasonable likelihood that the conditions
12 will be rectified within a reasonable time considering the age of
13 the child.

14 (ii) Other conditions exist that cause the child to come
15 within the jurisdiction of the court; ~~—~~ the parent has received
16 recommendations to rectify those conditions; ~~—~~ the conditions
17 have not been rectified by the parent after the parent has
18 received notice ~~—~~ AND a hearing, and HAS been given a reason-
19 able opportunity to rectify the conditions; ~~—~~ and there is no
20 reasonable likelihood that the conditions will be rectified
21 within a reasonable time considering the age of the child.

22 (d) The parent of a child has placed the child in a limited
23 guardianship under section 424a of the revised probate code, Act
24 No. 642 of the public acts of 1978, being section 700.424a of the
25 Michigan Compiled Laws, and has substantially failed, without
26 good cause, to comply with a limited guardianship placement plan
27 described in section 424a of Act No. 642 of the Public Acts of

1 1978 regarding the child to the extent that such noncompliance
2 has resulted in a disruption of the parent-child relationship.

3 (e) The parent of a child who has a guardian under the
4 revised probate code, Act No. 642 of the Public Acts of 1978,
5 being sections 700.1 to 700.993 of the Michigan Compiled Laws,
6 has substantially failed, without good cause, to comply with a
7 court-structured plan described in section 424b or 424c of Act
8 No. 642 of the Public Acts of 1978, being sections 700.424b and
9 700.424c of the Michigan Compiled Laws, regarding the child to
10 the extent that ~~such~~ THE noncompliance has resulted in a dis-
11 ruption of the parent-child relationship.

12 (f) The child has a guardian under the revised probate code,
13 Act No. 642 of the Public Acts of 1978, ~~being sections 700.1 to~~
14 ~~700.993 of the Michigan Compiled Laws,~~ and both of the following
15 have occurred:

16 (i) The parent, having the ability to support or assist in
17 supporting the minor, has failed or neglected, without good
18 cause, to provide regular and substantial support for the minor
19 for a period of 2 years or more before the filing of the petition
20 or, if a support order has been entered, has failed to substan-
21 tially comply with the order for a period of 2 years or more
22 before the filing of the petition.

23 (ii) The parent, having the ability to visit, contact, or
24 communicate with the minor, has regularly and substantially
25 failed or neglected, without good cause, to do so for a period of
26 2 years or more before the filing of the petition.

1 (g) The parent, without regard to intent, fails to provide
2 proper care or custody for the child OR FAILS TO DEMONSTRATE THE
3 ABILITY TO PROVIDE AND MAINTAIN A STABLE AND NURTURING
4 PARENT-CHILD RELATIONSHIP AND BOND, and there is no reasonable
5 expectation that the parent will be able to provide ~~proper care~~
6 ~~and custody~~ THESE within a reasonable time considering the age
7 of the child.

8 (h) The parent is imprisoned for such a period that the
9 child will be deprived of a normal home for a period exceeding 2
10 years, and the parent has not provided for the child's proper
11 care and custody, and there is no reasonable expectation that the
12 parent will be able to provide proper care and custody within a
13 reasonable time considering the age of the child.

14 (i) Parental rights to 1 or more siblings of the child have
15 been terminated due to serious and chronic neglect or physical or
16 sexual abuse, and prior attempts to rehabilitate the parents have
17 been unsuccessful.

18 (4) If a petition to terminate the parental rights to a
19 child is filed, the court may enter an order terminating parental
20 rights under subsection (3) at the initial dispositional
21 hearing.