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2

1 (D) "DOMESTIC VIOLENCE" MEANS THAT TERM AS DEFINED IN
2 SECTION 1 OF 1978 PA 389, MCL 400.1501.

3 (E) "EMERGENCY SERVICE PROVIDER" MEANS A UNIFORMED OR OTHER-
4 WISE IDENTIFIED EMPLOYEE OR CONTRACTOR OF A FIRE DEPARTMENT, HOS-
5 PITAL, OR POLICE STATION WHEN SUCH AN INDIVIDUAL IS INSIDE THE
6 PREMISES AND ON DUTY.

7 (F) "FIRE DEPARTMENT" MEANS AN ORGANIZED FIRE DEPARTMENT AS
8 THAT TERM IS DEFINED IN SECTION 1 OF THE FIRE PREVENTION CODE,
9 1941 PA 207, MCL 29.1.

10 (G) "GROSS NEGLIGENCE" MEANS CONDUCT SO RECKLESS AS TO
11 DEMONSTRATE A SUBSTANTIAL LACK OF CONCERN FOR WHETHER AN INJURY
12 RESULTS.

13 (H) "HOSPITAL" MEANS A HOSPITAL THAT IS LICENSED UNDER ARTI-
14 CLE 17 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20101 TO
15 333.22260.

16 (I) "LAWYER-GUARDIAN AD LITEM" MEANS AN ATTORNEY APPOINTED
17 UNDER SECTION 2 OF THIS CHAPTER. A LAWYER-GUARDIAN AD LITEM REP-
18 RESENTS THE NEWBORN, AND HAS THE POWERS AND DUTIES, AS SET FORTH
19 IN SECTION 17D OF CHAPTER XIIA.

20 (J) "NEWBORN" MEANS A CHILD WHO A PHYSICIAN REASONABLY
21 BELIEVES TO BE NOT MORE THAN 72 HOURS OLD.

22 (K) "POLICE STATION" MEANS THAT TERM AS DEFINED IN SECTION
23 43 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.43.

24 (L) "PREPLACEMENT ASSESSMENT" MEANS AN ASSESSMENT OF A PRO-
25 SPECTIVE ADOPTIVE PARENT AS DESCRIBED IN SECTION 23F OF CHAPTER
26 X.

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1 (M) "SURRENDER" MEANS TO LEAVE A NEWBORN WITH AN EMERGENCY
2 SERVICE PROVIDER WITHOUT EXPRESSING AN INTENT TO RETURN FOR THE
3 NEWBORN.

4 SEC. 2. (1) THE COURT HAS JURISDICTION OVER A NEWBORN WHO
5 IS SURRENDERED TO AN EMERGENCY SERVICE PROVIDER AS PROVIDED IN
6 SECTION 3 OF THIS CHAPTER. THE COURT MAY APPOINT A
7 LAWYER-GUARDIAN AD LITEM TO REPRESENT A NEWBORN IN PROCEEDINGS
8 UNDER THIS CHAPTER.

9 (2) EXCEPT AS PROVIDED IN SECTION 5 OF THIS CHAPTER, THE
10 REPORTING REQUIREMENT OF SECTION 3 OF THE CHILD PROTECTION LAW,
11 1975 PA 238, MCL 722.623, DOES NOT APPLY REGARDING A CHILD SUR-
12 RENDERED TO AN EMERGENCY SERVICE PROVIDER AS PROVIDED IN
13 SECTION 3 OF THIS CHAPTER.

14 (3) UNLESS THIS CHAPTER SPECIFICALLY PROVIDES OTHERWISE, A
15 PROVISION IN ANOTHER CHAPTER OF THIS ACT DOES NOT APPLY TO A PRO-
16 CEEDING UNDER THIS CHAPTER. UNLESS THIS CHAPTER SPECIFICALLY
17 PROVIDES OTHERWISE, THE CHILD CUSTODY ACT OF 1970, 1970 PA 91,
18 MCL 722.21 TO 722.30, DOES NOT APPLY TO A PROCEEDING UNDER THIS
19 CHAPTER.

20 (4) A HOSPITAL AND A CHILD PLACING AGENCY, AND THEIR AGENTS
21 AND EMPLOYEES, ARE IMMUNE IN A CIVIL ACTION FOR DAMAGES FOR AN
22 ACT OR OMISSION IN ACCEPTING OR TRANSFERRING A NEWBORN UNDER THIS
23 CHAPTER, EXCEPT FOR AN ACT OR OMISSION CONSTITUTING GROSS NEGLI-
24 GENCE OR WILLFUL OR WANTON MISCONDUCT. TO THE EXTENT NOT PRO-
25 TECTED BY THE IMMUNITY CONFERRED BY 1964 PA 170, MCL 691.1401 TO
26 691.1415, AN EMPLOYEE OR CONTRACTOR OF A FIRE DEPARTMENT OR
27 POLICE STATION HAS THE SAME IMMUNITY THAT THIS SUBSECTION

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1 PROVIDES TO A HOSPITAL'S OR CHILD PLACING AGENCY'S AGENT OR
2 EMPLOYEE.

3 SEC. 3. (1) IF A PARENT SURRENDERS A CHILD WHO MAY BE A
4 NEWBORN TO AN EMERGENCY SERVICE PROVIDER, THE EMERGENCY SERVICE
5 PROVIDER SHALL COMPLY WITH THE REQUIREMENTS OF THIS SECTION UNDER
6 THE ASSUMPTION THAT THE CHILD IS A NEWBORN. THE EMERGENCY SERV-
7 ICE PROVIDER SHALL, WITHOUT A COURT ORDER, IMMEDIATELY ACCEPT THE
8 NEWBORN, TAKING THE NEWBORN INTO TEMPORARY PROTECTIVE CUSTODY.
9 THE EMERGENCY SERVICE PROVIDER SHALL MAKE A REASONABLE EFFORT TO
10 DO ALL OF THE FOLLOWING:

11 (A) TAKE ACTION NECESSARY TO PROTECT THE PHYSICAL HEALTH AND
12 SAFETY OF THE NEWBORN.

13 (B) INFORM THE PARENT THAT BY SURRENDERING THE NEWBORN, THE
14 PARENT IS RELEASING THE NEWBORN TO A CHILD PLACING AGENCY TO BE
15 PLACED FOR ADOPTION.

16 (C) INFORM THE PARENT THAT THE PARENT HAS 28 DAYS TO PETI-
17 TION THE COURT TO REGAIN CUSTODY OF THE NEWBORN.

18 (D) PROVIDE THE PARENT WITH WRITTEN MATERIAL APPROVED BY OR
19 PRODUCED BY THE FAMILY INDEPENDENCE AGENCY THAT INCLUDES, BUT IS
20 NOT LIMITED TO, ALL OF THE FOLLOWING STATEMENTS:

21 (i) BY SURRENDERING THE NEWBORN, THE PARENT IS RELEASING THE
22 NEWBORN TO A CHILD PLACING AGENCY TO BE PLACED FOR ADOPTION.

23 (ii) THE PARENT HAS 28 DAYS AFTER SURRENDERING THE NEWBORN
24 TO PETITION THE COURT TO REGAIN CUSTODY OF THE NEWBORN.

25 (iii) AFTER THE 28-DAY PERIOD TO PETITION FOR CUSTODY
26 ELAPSES, THERE WILL BE A HEARING TO TERMINATE PARENTAL RIGHTS.

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1 (iv) THERE WILL BE PUBLIC NOTICE OF THIS HEARING, AND THE
2 NOTICE WILL NOT CONTAIN THE PARENT'S NAME.

3 (v) THE PARENT WILL NOT RECEIVE PERSONAL NOTICE OF THIS
4 HEARING.

5 (vi) INFORMATION THE PARENT PROVIDES TO AN EMERGENCY SERVICE
6 PROVIDER WILL NOT BE MADE PUBLIC.

7 (vii) A PARENT CAN CONTACT THE SAFE DELIVERY LINE ESTAB-
8 LISHED UNDER SECTION 20 OF THIS CHAPTER FOR MORE INFORMATION.

9 (2) AFTER PROVIDING A PARENT WITH THE INFORMATION DESCRIBED
10 IN SUBSECTION (1), AN EMERGENCY SERVICE PROVIDER SHALL MAKE A
11 REASONABLE ATTEMPT TO DO ALL OF THE FOLLOWING:

12 (A) ENCOURAGE THE PARENT TO PROVIDE ANY RELEVANT FAMILY OR
13 MEDICAL INFORMATION.

14 (B) PROVIDE THE PARENT WITH THE PAMPHLET PRODUCED UNDER SEC-
15 TION 20 OF THIS CHAPTER AND INFORM THE PARENT THAT HE OR SHE CAN
16 RECEIVE COUNSELING OR MEDICAL ATTENTION.

17 (C) INFORM THE PARENT THAT INFORMATION THAT HE OR SHE PRO-
18 VIDES WILL NOT BE MADE PUBLIC.

19 (D) ASK THE PARENT TO IDENTIFY HIMSELF OR HERSELF.

20 (E) INFORM THE PARENT THAT IN ORDER TO PLACE THE NEWBORN FOR
21 ADOPTION THE STATE IS REQUIRED TO MAKE A REASONABLE ATTEMPT TO
22 IDENTIFY THE OTHER PARENT, AND THEN ASK THE PARENT TO IDENTIFY
23 THE OTHER PARENT.

24 (F) INFORM THE PARENT THAT THE CHILD PLACING AGENCY THAT
25 TAKES TEMPORARY PROTECTIVE CUSTODY OF THE NEWBORN CAN PROVIDE
26 CONFIDENTIAL SERVICES TO THE PARENT.

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1 (G) INFORM THE PARENT THAT THE PARENT MAY SIGN A RELEASE FOR
2 THE NEWBORN TO BE USED AT THE PARENTAL RIGHTS TERMINATION
3 HEARING.

4 SEC. 5. (1) AN EMERGENCY SERVICE PROVIDER THAT IS NOT A
5 HOSPITAL AND THAT TAKES A NEWBORN INTO TEMPORARY PROTECTIVE CUS-
6 TODY UNDER SECTION 3 OF THIS CHAPTER SHALL TRANSFER THE NEWBORN
7 TO A HOSPITAL. THE HOSPITAL SHALL ACCEPT A NEWBORN WHO AN EMER-
8 GENCY SERVICE PROVIDER TRANSFERS TO THE HOSPITAL IN COMPLIANCE
9 WITH THIS CHAPTER, TAKING THE NEWBORN INTO TEMPORARY PROTECTIVE
10 CUSTODY.

11 (2) A HOSPITAL THAT TAKES A NEWBORN INTO TEMPORARY PROTEC-
12 TIVE CUSTODY UNDER THIS CHAPTER SHALL HAVE THE NEWBORN EXAMINED
13 BY A PHYSICIAN. IF A PHYSICIAN WHO EXAMINES THE NEWBORN EITHER
14 DETERMINES THAT THERE IS REASON TO SUSPECT THE NEWBORN HAS
15 EXPERIENCED CHILD ABUSE OR CHILD NEGLECT, OTHER THAN BEING SUR-
16 RENDERED TO AN EMERGENCY SERVICE PROVIDER UNDER SECTION 3 OF THIS
17 CHAPTER, OR COMES TO A REASONABLE BELIEF THAT THE CHILD IS NOT A
18 NEWBORN, THE PHYSICIAN SHALL IMMEDIATELY REPORT TO THE DEPARTMENT
19 AS REQUIRED BY SECTION 3 OF THE CHILD PROTECTION LAW, 1975
20 PA 238, MCL 722.623.

21 (3) IF A PHYSICIAN IS NOT REQUIRED TO REPORT TO THE DEPART-
22 MENT AS PROVIDED IN SUBSECTION (2), THE HOSPITAL SHALL NOTIFY A
23 CHILD PLACING AGENCY THAT THE HOSPITAL HAS TAKEN A NEWBORN INTO
24 TEMPORARY PROTECTIVE CUSTODY UNDER THIS CHAPTER.

25 SEC. 7. UPON RECEIPT OF NOTICE FROM A HOSPITAL UNDER
26 SECTION 5 OF THIS CHAPTER, THE CHILD PLACING AGENCY SHALL DO ALL
27 OF THE FOLLOWING:

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1 (A) IMMEDIATELY ASSUME THE CARE, CONTROL, AND TEMPORARY
2 PROTECTIVE CUSTODY OF THE NEWBORN.

3 (B) IF A PARENT IS KNOWN AND WILLING, IMMEDIATELY MEET WITH
4 THE PARENT.

5 (C) MAKE A TEMPORARY PLACEMENT OF THE NEWBORN WITH A PRO-
6 SPECTIVE ADOPTIVE PARENT WHO HAS AN APPROVED PREPLACEMENT ASSESS-
7 MENT AND RESIDES WITHIN THE STATE.

8 (D) IMMEDIATELY REQUEST ASSISTANCE FROM LAW ENFORCEMENT
9 OFFICIALS TO INVESTIGATE AND DETERMINE, THROUGH THE MISSING CHIL-
10 DREN INFORMATION CLEARINGHOUSE, THE NATIONAL CENTER FOR MISSING
11 AND EXPLOITED CHILDREN, AND ANY OTHER NATIONAL AND STATE
12 RESOURCES, WHETHER THE NEWBORN IS A MISSING CHILD.

13 (E) NOT LATER THAN 48 HOURS AFTER A TRANSFER OF PHYSICAL
14 CUSTODY TO A PROSPECTIVE ADOPTIVE PARENT, PETITION THE COURT IN
15 THE COUNTY IN WHICH THE PROSPECTIVE ADOPTIVE PARENT RESIDES TO
16 PROVIDE AUTHORITY TO PLACE THE NEWBORN AND PROVIDE CARE FOR THE
17 NEWBORN. THE PETITION SHALL INCLUDE ALL OF THE FOLLOWING:

18 (i) THE DATE OF THE TRANSFER OF PHYSICAL CUSTODY.

19 (ii) THE NAME AND ADDRESS OF THE EMERGENCY SERVICE PROVIDER
20 TO WHOM THE NEWBORN WAS SURRENDERED.

21 (iii) ANY INFORMATION, EITHER WRITTEN OR VERBAL, THAT WAS
22 PROVIDED BY AND TO THE PARENT WHO SURRENDERED THE NEWBORN. THE
23 EMERGENCY SERVICE PROVIDER THAT ORIGINALLY ACCEPTED THE NEWBORN
24 AS REQUIRED BY SECTION 3 OF THIS CHAPTER SHALL PROVIDE THIS
25 INFORMATION TO THE CHILD PLACING AGENCY.

26 (F) WITHIN 28 DAYS, MAKE REASONABLE EFFORTS TO IDENTIFY AND
27 LOCATE A PARENT WHO DID NOT SURRENDER THE NEWBORN. IF THE

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1 IDENTITY AND ADDRESS OF THAT PARENT ARE UNKNOWN, THE CHILD
2 PLACING AGENCY SHALL PROVIDE NOTICE BY PUBLICATION IN A NEWSPAPER
3 OF GENERAL CIRCULATION IN THE COUNTY WHERE THE NEWBORN WAS
4 SURRENDERED.

5 SEC. 10. (1) IF A BIOLOGICAL PARENT WANTS CUSTODY OF A NEW-
6 BORN WHO WAS SURRENDERED UNDER SECTION 3 OF THIS CHAPTER, THE
7 PARENT MUST, WITHIN 28 DAYS AFTER THE NEWBORN WAS SURRENDERED,
8 FILE AN ACTION [WITH THE COURT] FOR CUSTODY. THE PARENT SHALL FILE
THE CUSTODY

9 ACTION IN 1 OF THE FOLLOWING [COUNTIES]:

10 (A) IF THE PARENT HAS LOCATED THE NEWBORN, THE [COUNTY]
11 WHERE THE NEWBORN IS LOCATED.

12 (B) IF SUBDIVISION (A) DOES NOT APPLY AND THE PARENT KNOWS
13 THE LOCATION OF THE EMERGENCY SERVICE PROVIDER TO WHOM THE NEW-
14 BORN WAS SURRENDERED, THE [COUNTY] WHERE THE EMERGENCY SERV-
15 ICE PROVIDER IS LOCATED.

16 (C) IF NEITHER SUBDIVISION (A) NOR (B) APPLY, THE [COUNTY
17] WHERE THE PARENT IS LOCATED.

18 (2) BEFORE HOLDING A CUSTODY HEARING IN AN ACTION FILED
19 UNDER THIS SECTION, THE COURT SHALL DETERMINE WHETHER THE INDI-
20 VIDUAL FILING THE CUSTODY ACTION IS THE NEWBORN'S BIOLOGICAL
21 PARENT.

22 [SEC. 11. (1) IN A CUSTODY ACTION FILED UNDER THIS CHAPTER,
23 THE COURT SHALL ORDER THAT EACH PARTY CLAIMING PATERNITY OR
24 MATERNITY AND THE CHILD SUBMIT TO BLOOD OR TISSUE TYPING
25 DETERMINATIONS, WHICH MAY INCLUDE, BUT ARE NOT LIMITED TO,
26 DETERMINATIONS OF RED CELL ANTIGENS, RED CELL ISOENZYMES, HUMAN

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1 LEUKOCYTE ANTIGENS, SERUM PROTEINS, OR DNA IDENTIFICATION PROFILING,
2 TO DETERMINE WHETHER EACH PARTY IS LIKELY TO BE, OR IS NOT, A
3 BIOLOGICAL PARENT OF THE CHILD. IF THE COURT ORDERS A BLOOD OR
4 TISSUE TYPING OR DNA IDENTIFICATION PROFILING TO BE CONDUCTED AND A
5 PARTY REFUSES TO SUBMIT TO THE TYPING OR DNA IDENTIFICATION
6 PROFILING, IN ADDITION TO ANY OTHER REMEDIES AVAILABLE, THE COURT
7 MAY DO EITHER OF THE FOLLOWING:

8 (A) DISMISS THE CUSTODY ACTION IN REGARD TO THE PARTY WHO
9 REFUSES.

10 (B) IF A HEARING IS HELD, ALLOW THE DISCLOSURE OF THE FACT OF
THE REFUSAL UNLESS GOOD CAUSE IS SHOWN FOR NOT DISCLOSING THE FACT
OF REFUSAL.

(2) A BLOOD OR TISSUE TYPING OR DNA IDENTIFICATION PROFILING
SHALL BE CONDUCTED BY A PERSON ACCREDITED FOR PATERNITY OR MATERNITY
DETERMINATIONS BY A NATIONALLY RECOGNIZED SCIENTIFIC ORGANIZATION,
INCLUDING, BUT NOT LIMITED TO, THE AMERICAN ASSOCIATION OF BLOOD
BANKS.

(3) THE COURT SHALL FIX THE COMPENSATION OF AN EXPERT AT A
REASONABLE AMOUNT. EXCEPT FOR AN INDIVIDUAL WHO THE COURT
DETERMINES IS INDIGENT, THE COURT SHALL DIRECT EACH PARTY CLAIMING
PATERNITY OR MATERNITY TO PAY THE COMPENSATION FOR HIS OR HER OWN
TESTING PLUS A PORTION OF THE COMPENSATION FOR TESTING THE CHILD
EQUAL TO THE TOTAL AMOUNT DIVIDED BY THE NUMBER OF PARTIES CLAIMING
PATERNITY AND MATERNITY. BEFORE BLOOD OR TISSUE TYPING OR DNA
IDENTIFICATION PROFILING IS CONDUCTED, THE COURT MAY ORDER A PART OR
ALL OF THE COMPENSATION PAID IN ADVANCE. DOCUMENTATION OF THE
GENETIC TESTING EXPENSES IS ADMISSIBLE AS EVIDENCE OF THE AMOUNT,
WHICH EVIDENCE CONSTITUTES PRIMA FACIE EVIDENCE OF THE AMOUNT OF
THOSE EXPENSES WITHOUT THIRD PARTY FOUNDATION TESTIMONY.

SEC. 12. (1) SUBJECT TO SUBSECTION (2), THE RESULT OF BLOOD OR
TISSUE TYPING OR A DNA IDENTIFICATION PROFILE MADE UNDER THIS
CHAPTER AND THE SUMMARY REPORT SHALL BE SERVED ON THE PARTY WHO WAS
THE TEST SUBJECT. THE SUMMARY REPORT SHALL BE FILED WITH THE COURT.
OBJECTION TO THE DNA IDENTIFICATION PROFILE OR SUMMARY REPORT IS
WAIVED UNLESS MADE IN WRITING, SETTING FORTH THE SPECIFIC BASIS FOR
THE OBJECTION, WITHIN 14 CALENDAR DAYS AFTER SERVICE ON THE PARTY.
THE COURT SHALL NOT SCHEDULE A HEARING ON THE ISSUE OF PATERNITY OR
MATERNITY UNTIL AFTER THE EXPIRATION OF THE 14-DAY PERIOD. IF AN
OBJECTION IS NOT FILED, THE COURT SHALL ADMIT IN PROCEEDINGS UNDER
THIS CHAPTER THE RESULT OF THE BLOOD OR TISSUE TYPING OR THE DNA
IDENTIFICATION PROFILE AND THE SUMMARY REPORT WITHOUT REQUIRING
FOUNDATION TESTIMONY OR OTHER PROOF OF AUTHENTICITY OR ACCURACY. IF
AN OBJECTION IS FILED WITHIN THE 14-DAY PERIOD AND ON THE MOTION OF
A PARTY, THE COURT SHALL HOLD A HEARING TO DETERMINE THE
ADMISSIBILITY OF THE DNA IDENTIFICATION PROFILE OR SUMMARY REPORT.
THE OBJECTING PARTY HAS THE BURDEN OF PROVING BY CLEAR AND
CONVINCING EVIDENCE BY A QUALIFIED PERSON DESCRIBED IN SECTION 11 OF
THIS CHAPTER THAT FOUNDATION TESTIMONY OR OTHER PROOF OF
AUTHENTICITY OR ACCURACY IS NECESSARY FOR ADMISSION OF THE DNA
IDENTIFICATION PROFILE OR SUMMARY REPORT.

(2) IF THE PROBABILITY OF PATERNITY OR MATERNITY DETERMINED BY
THE QUALIFIED PERSON DESCRIBED IN SECTION 11 OF THIS CHAPTER
CONDUCTING THE BLOOD OR TISSUE TYPING OR DNA IDENTIFICATION
PROFILING IS 99% OR HIGHER, AND THE DNA IDENTIFICATION PROFILE AND
SUMMARY REPORT ARE ADMISSIBLE AS PROVIDED IN SUBSECTION (1),
PATERNITY OR MATERNITY IS PRESUMED. IF THE RESULTS OF THE ANALYSIS
OF GENETIC TESTING MATERIAL FROM 2 OR MORE PERSONS INDICATE A
PROBABILITY OF PATERNITY OR MATERNITY GREATER THAN 99%, THE
CONTRACTING LABORATORY SHALL CONDUCT ADDITIONAL GENETIC TESTING
UNTIL ALL BUT 1 OF THE PUTATIVE FATHERS OR PUTATIVE MOTHERS IS
ELIMINATED, UNLESS THE DISPUTE INVOLVES 2 OR MORE PUTATIVE FATHERS
OR PUTATIVE MOTHERS WHO HAVE IDENTICAL DNA.

(3) UPON THE ESTABLISHMENT OF THE PRESUMPTION OF PATERNITY OR

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MATERNITY AS PROVIDED IN SUBSECTION (2), THE PARTY WHO HAS THE

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BENEFIT OF THE PRESUMPTION MAY MOVE FOR SUMMARY DISPOSITION UNDER THE COURT RULES ON THE ISSUE OF HIS PATERNITY OR HER MATERNITY.

SEC. 13. (1) EXCEPT AS AUTHORIZED UNDER THIS CHAPTER, A PERSON SHALL NOT DISCLOSE INFORMATION OBTAINED FROM GENETIC TESTING THAT IS AUTHORIZED UNDER THIS CHAPTER.

(2) IF A PARTY WHO IS TESTED AS PART OF AN ACTION UNDER THIS CHAPTER IS FOUND TO BE THE CHILD'S BIOLOGICAL PARENT, THE CONTRACTING LABORATORY SHALL RETAIN THE GENETIC TESTING MATERIAL OF THE PARENT AND THE CHILD FOR NO LONGER THAN THE PERIOD OF YEARS PRESCRIBED BY THE NATIONAL STANDARDS UNDER WHICH THE LABORATORY IS ACCREDITED. IF A PARTY IS FOUND NOT TO BE THE CHILD'S BIOLOGICAL PARENT, THE CONTRACTING LABORATORY SHALL DESTROY THE PARTY'S GENETIC TESTING MATERIAL AFTER IT IS USED IN THE ACTION, IN COMPLIANCE WITH SECTION 13811 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.13811, AND IN THE PRESENCE OF A WITNESS. THE WITNESS MAY BE AN INDIVIDUAL WHO IS A PARTY TO THE DESTRUCTION OF THE GENETIC TESTING MATERIAL. AFTER THE GENETIC TESTING MATERIAL IS DESTROYED, THE CONTRACTING LABORATORY SHALL MAKE AND KEEP A WRITTEN RECORD OF THE DESTRUCTION AND HAVE THE INDIVIDUAL WHO WITNESSED THE DESTRUCTION SIGN THE RECORD. THE CONTRACTING LABORATORY SHALL ALSO EXPUNGE THE CONTRACTING LABORATORY'S RECORDS REGARDING THE GENETIC TESTING PERFORMED ON THE GENETIC TESTING MATERIAL IN ACCORDANCE WITH THE NATIONAL STANDARDS UNDER WHICH THE LABORATORY IS ACCREDITED. THE CONTRACTING LABORATORY SHALL RETAIN THE GENETIC TESTING MATERIAL OF THE CHILD FOR NO LONGER THAN THE PERIOD OF YEARS PRESCRIBED BY THE NATIONAL STANDARDS UNDER WHICH THE LABORATORY IS ACCREDITED. AFTER A CONTRACTING LABORATORY DESTROYS AN INDIVIDUAL'S GENETIC TESTING MATERIAL AS PROVIDED IN THIS SUBSECTION, IT SHALL NOTIFY THE ADULT INDIVIDUAL, OR THE PARENT OR LEGAL GUARDIAN OF A MINOR INDIVIDUAL, BY CERTIFIED MAIL THAT THE GENETIC TESTING MATERIAL WAS DESTROYED.

(3) A CONTRACTING LABORATORY OR ANOTHER ENTITY INVOLVED WITH THE GENETIC TESTING ARE ALL REQUIRED TO PROTECT THE CONFIDENTIALITY OF GENETIC TESTING MATERIAL, EXCEPT AS REQUIRED FOR A PATERNITY OR MATERNITY DETERMINATION UNDER THIS CHAPTER. THE COURT AND ITS OFFICERS SHALL NOT USE OR DISCLOSE GENETIC TESTING MATERIAL FOR A PURPOSE OTHER THAN THE PATERNITY OR MATERNITY DETERMINATION AS AUTHORIZED BY THIS CHAPTER.

(4) A PERSON SHALL NOT SELL, TRANSFER, OR OFFER GENETIC TESTING MATERIAL OBTAINED UNDER THIS CHAPTER EXCEPT AS AUTHORIZED BY THIS CHAPTER.

(5) A CONTRACTING LABORATORY SHALL ANNUALLY CAUSE TO BE CONDUCTED AN INDEPENDENT AUDIT VERIFYING THE CONTRACTING LABORATORY'S COMPLIANCE WITH THIS SECTION AND SECTIONS 11 AND 12 OF THIS CHAPTER. THE AUDIT SHALL NOT DISCLOSE THE NAMES OF, OR OTHERWISE IDENTIFY, THE TEST SUBJECTS REQUIRED TO SUBMIT TO BLOOD OR TISSUE TYPING OR DNA IDENTIFICATION PROFILING UNDER SECTION 11 OF THIS CHAPTER DURING THE PREVIOUS YEAR. THE CONTRACTING LABORATORY SHALL FORWARD THE AUDIT TO THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES.

(6) A VIOLATION OF THIS SECTION IS A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$5,000.00. A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION IS A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$10,000.00, OR BOTH.]

11 SEC. [14]. (1) IN A CUSTODY ACTION UNDER THIS CHAPTER, THE
12 COURT SHALL DETERMINE CUSTODY OF THE NEWBORN BASED ON THE
13 NEWBORN'S BEST INTEREST. THE COURT SHALL CONSIDER, EVALUATE, AND
14 MAKE FINDINGS ON EACH FACTOR OF THE NEWBORN'S BEST INTEREST WITH
15 THE GOAL OF ACHIEVING PERMANENCE FOR THE NEWBORN AT THE EARLIEST
16 POSSIBLE DATE.

17 (2) A NEWBORN'S BEST INTEREST IN A CUSTODY ACTION UNDER THIS
18 CHAPTER IS ALL OF THE FOLLOWING FACTORS REGARDING A PARENT CLAIM-
19 ING PARENTHOOD OF THE NEWBORN:

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20 (A) THE LOVE, AFFECTION, AND OTHER EMOTIONAL TIES EXISTING

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21 BETWEEN THE NEWBORN AND THE PARENT.

22 (B) THE PARENT'S CAPACITY TO GIVE THE NEWBORN LOVE, AFFEC-
23 TION, AND GUIDANCE.

24 (C) THE PARENT'S CAPACITY AND DISPOSITION TO PROVIDE THE
25 NEWBORN WITH FOOD, CLOTHING, MEDICAL CARE, OR OTHER REMEDIAL CARE
26 RECOGNIZED AND PERMITTED UNDER THE LAWS OF THIS STATE IN PLACE OF
27 MEDICAL CARE, AND OTHER MATERIAL NEEDS.

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1 (D) THE PERMANENCE, AS A FAMILY UNIT, OF THE EXISTING OR
2 PROPOSED CUSTODIAL HOME.

3 (E) THE PARENT'S MORAL FITNESS.

4 (F) THE PARENT'S MENTAL AND PHYSICAL HEALTH.

5 (G) WHETHER THE PARENT HAS A HISTORY OF DOMESTIC VIOLENCE.

6 (H) IF THE PARENT IS NOT THE PARENT WHO SURRENDERED THE NEW-
7 BORN, THE OPPORTUNITY THE PARENT HAD TO PROVIDE APPROPRIATE CARE
8 AND CUSTODY OF THE NEWBORN BEFORE THE NEWBORN'S BIRTH OR
9 SURRENDER.

10 (I) ANY OTHER FACTOR CONSIDERED BY THE COURT TO BE RELEVANT
11 TO THE DETERMINATION OF THE NEWBORN'S BEST INTEREST.

12 SEC. [15]. BASED ON THE COURT'S FINDING OF THE NEWBORN'S BEST
13 INTEREST UNDER SECTION [14] OF THIS CHAPTER, THE COURT MAY ISSUE AN
14 ORDER THAT DOES 1 OF THE FOLLOWING:

15 (A) GRANTS LEGAL OR PHYSICAL CUSTODY, OR BOTH, OF THE NEW-
16 BORN TO THE PARENT, AND EITHER RETAINS OR RELINQUISHES
17 JURISDICTION.

18 (B) TERMINATES THE PARENT'S PARENTAL RIGHTS AND GIVES A
19 CHILD PLACING AGENCY CUSTODY AND CARE OF THE NEWBORN.

20 SEC. 17. (1) A PARENT WHO SURRENDERS A NEWBORN UNDER SEC-
21 TION 3 OF THIS CHAPTER AND WHO DOES NOT FILE A CUSTODY ACTION
22 UNDER SECTION 10 OF THIS CHAPTER IS PRESUMED TO HAVE KNOWINGLY
23 RELEASED HIS OR HER PARENTAL RIGHTS TO THE NEWBORN.

24 (2) IF A CUSTODY ACTION IS NOT FILED UNDER SECTION 10 OF
25 THIS CHAPTER, THE CHILD PLACING AGENCY SHALL PETITION THE COURT
26 FOR TERMINATION OF PARENTAL RIGHTS UNDER SECTION 19B OF CHAPTER
27 XIIA. IF THE AGENCY HAS COMPLIED WITH SECTION 7(F) OF THIS

1 CHAPTER, THE NOTICE UNDER THAT SECTION IS THE NOTICE TO THE
2 NEWBORN'S PARENTS REQUIRED BY SECTION 19B OF CHAPTER XIIIA.

3 CHAPTER XIIIA

4 ~~JUVENILES AND JUVENILE DIVISION~~

5 JURISDICTION, PROCEDURE, AND DISPOSITIONS INVOLVING MINORS

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 whether or not the prosecuting attorney is representing or acting
13 as legal consultant to the agency or any other party, or petition
14 of the child, guardian, custodian, concerned person as defined in
15 subsection (6), agency, or children's ombudsman as authorized in
16 section 7 of the children's ombudsman act, 1994 PA 204,
17 MCL 722.927, the court shall hold a hearing to determine if the
18 parental rights to a child should be terminated and, if all
19 parental rights to the child are terminated, the child placed in
20 permanent custody of the court. The court shall state on the
21 record or in writing its findings of fact and conclusions of law
22 with respect to whether or not parental rights should be
23 terminated. The court shall issue an opinion or order regarding
24 a petition for termination of parental rights within 70 days
25 after the commencement of the initial hearing on the petition.
26 However, the court's failure to issue an opinion within 70 days
27 does not dismiss the petition.

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

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

6 (b) The child's foster parent or custodian.

7 (c) The child's parents.

8 (d) If the child has a guardian, the child's guardian.

9 (e) If the child has a guardian ad litem, the child's guard-
10 ian ad litem.

11 (f) If tribal affiliation has been determined, the Indian
12 tribe's elected leader.

13 (g) The child's attorney and each party's attorney.

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

15 (i) The prosecutor.

16 (3) The court may terminate a parent's parental rights to a
17 child if the court finds, by clear and convincing evidence, 1 or
18 more of the following:

19 (a) The child has been deserted under ~~either~~ ANY of the
20 following circumstances:

21 (i) The child's parent is unidentifiable, has deserted the
22 child for 28 or more days, and has not sought custody of the
23 child during that period. For the purposes of this section, a
24 parent is unidentifiable if the parent's identity cannot be
25 ascertained after reasonable efforts have been made to locate and
26 identify the parent.

1 (ii) The child's parent has deserted the child for 91 or
2 more days and has not sought custody of the child during that
3 period.

4 (iii) THE CHILD'S PARENT VOLUNTARILY SURRENDERED THE CHILD
5 TO AN EMERGENCY SERVICE PROVIDER UNDER CHAPTER XII AND DID NOT
6 PETITION THE COURT TO REGAIN CUSTODY WITHIN 28 DAYS AFTER SURREN-
7 DERING THE CHILD.

8 (b) The child or a sibling of the child has suffered physi-
9 cal injury or physical or sexual abuse under 1 or more of the
10 following circumstances:

11 (i) The parent's act caused the physical injury or physical
12 or sexual abuse and the court finds that there is a reasonable
13 likelihood that the child will suffer from injury or abuse in the
14 foreseeable future if placed in the parent's home.

15 (ii) The parent who had the opportunity to prevent the phys-
16 ical injury or physical or sexual abuse failed to do so and the
17 court finds that there is a reasonable likelihood that the child
18 will suffer injury or abuse in the foreseeable future if placed
19 in the parent's home.

20 (iii) A nonparent adult's act caused the physical injury or
21 physical or sexual abuse and the court finds that there is a rea-
22 sonable likelihood that the child will suffer from injury or
23 abuse by the nonparent adult in the foreseeable future if placed
24 in the parent's home.

25 (c) The parent was a respondent in a proceeding brought
26 under this chapter, 182 or more days have elapsed since the

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1 issuance of an initial dispositional order, and the court, by
2 clear and convincing evidence, finds either of the following:

3 (i) The conditions that led to the adjudication continue to
4 exist and there is no reasonable likelihood that the conditions
5 will be rectified within a reasonable time considering the
6 child's age.

7 (ii) Other conditions exist that cause the child to come
8 within the court's jurisdiction, the parent has received recom-
9 mendations to rectify those conditions, the conditions have not
10 been rectified by the parent after the parent has received notice
11 and a hearing and has been given a reasonable opportunity to rec-
12 tify the conditions, and there is no reasonable likelihood that
13 the conditions will be rectified within a reasonable time consid-
14 ering the child's age.

15 (d) The child's parent has placed the child in a limited
16 guardianship under section ~~424a~~ of the revised probate code,
17 ~~1978 PA 642, MCL 700.424a~~ 5205 OF THE ESTATES AND PROTECTED
18 INDIVIDUALS CODE, 1998 PA 386, MCL 700.5205, and has substan-
19 tially failed, without good cause, to comply with a limited
20 guardianship placement plan described in ~~section 424a~~ of the
21 ~~revised probate code, 1978 PA 642, MCL 700.424a, or~~ section 5205
22 of the estates and protected individuals code, 1998 PA 386,
23 MCL 700.5205, regarding the child to the extent that the noncom-
24 pliance has resulted in a disruption of the parent-child
25 relationship.

26 (e) The child has a guardian under ~~the revised probate~~
27 ~~code, 1978 PA 642, MCL 700.1 to 700.993, or~~ the estates and

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1 protected individuals code, 1998 PA 386, MCL 700.1101 to
2 700.8102, and the parent has substantially failed, without good
3 cause, to comply with a court-structured plan described in
4 ~~section 424b or 424c of the revised probate code, 1978 PA 642,~~
5 ~~MCL 700.424b and 700.424c,~~ or section 5207 or 5209 of the
6 estates and protected individuals code, 1998 PA 386, MCL 700.5207
7 and 700.5209, regarding the child to the extent that the noncom-
8 pliance has resulted in a disruption of the parent-child
9 relationship.

10 (f) The child has a guardian under ~~the revised probate~~
11 ~~code, 1978 PA 642, MCL 700.1 to 700.993,~~ or the estates and pro-
12 tected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102,
13 and both of the following have occurred:

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

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

25 (g) The parent, without regard to intent, fails to provide
26 proper care or custody for the child and there is no reasonable
27 expectation that the parent will be able to provide proper care

1 and custody within a reasonable time considering the child's
2 age.

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

9 (i) Parental rights to 1 or more siblings of the child have
10 been terminated due to serious and chronic neglect or physical or
11 sexual abuse, and prior attempts to rehabilitate the parents have
12 been unsuccessful.

13 (j) There is a reasonable likelihood, based on the conduct
14 or capacity of the child's parent, that the child will be harmed
15 if he or she is returned to the home of the parent.

16 (k) The parent abused the child or a sibling of the child
17 and the abuse included 1 or more of the following:

18 (i) Abandonment of a young child.

19 (ii) Criminal sexual conduct involving penetration,
20 attempted penetration, or assault with intent to penetrate.

21 (iii) Battering, torture, or other severe physical abuse.

22 (iv) Loss or serious impairment of an organ or limb.

23 (v) Life threatening injury.

24 (vi) Murder or attempted murder.

25 (vii) Voluntary manslaughter.

26 (viii) Aiding and abetting, attempting to commit, conspiring
27 to commit, or soliciting murder or voluntary manslaughter.

1 (l) The parent's rights to another child were terminated as
2 a result of proceedings under section 2(b) of this chapter or a
3 similar law of another state.

4 (m) The parent's rights to another child were voluntarily
5 terminated following the initiation of proceedings under section
6 2(b) of this chapter or a similar law of another state.

7 (n) The parent is convicted of 1 or more of the following,
8 and the court determines that termination is in the child's best
9 interests because continuing the parent-child relationship with
10 the parent would be harmful to the child:

11 (i) A violation of section 316, 317, 520b, 520c, 520d, 520e,
12 or 520g of the Michigan penal code, 1931 PA 328, MCL 750.316,
13 750.317, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

14 (ii) A violation of a criminal statute, an element of which
15 is the use of force or the threat of force, and which subjects
16 the parent to sentencing under section 10, 11, or 12 of chapter
17 IX of the code of criminal procedure, 1927 PA 175, MCL 769.10,
18 769.11, and 769.12.

19 (iii) A federal law or law of another state with provisions
20 substantially similar to a crime or procedure listed or described
21 in subparagraph (i) or (ii).

22 (4) If a petition to terminate the parental rights to a
23 child is filed, the court may enter an order terminating parental
24 rights under subsection (3) at the initial dispositional
25 hearing. If a petition to terminate parental rights to a child
26 is filed, parenting time for a parent who is a subject of the
27 petition is automatically suspended and, except as otherwise

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1 provided in this subsection, remains suspended at least until a
2 decision is issued on the termination petition. If a parent
3 whose parenting time is suspended under this subsection estab-
4 lishes, and the court determines, that parenting time will not
5 harm the child, the court may order parenting time in the amount
6 and under the conditions the court determines appropriate.

7 (5) If the court finds that there are grounds for termina-
8 tion of parental rights, the court shall order termination of
9 parental rights and order that additional efforts for reunifica-
10 tion of the child with the parent not be made, unless the court
11 finds that termination of parental rights to the child is clearly
12 not in the child's best interests.

13 (6) As used in this section, "concerned person" means a
14 foster parent with whom the child is living or has lived who has
15 specific knowledge of behavior by the parent constituting grounds
16 for termination under subsection (3)(b) or (g) and who has con-
17 tacted the family independence agency, the prosecuting attorney,
18 the child's attorney, and the child's guardian ad litem, if any,
19 and is satisfied that none of these persons intend to file a
20 petition under this section.

21 Enacting section 1. Section 19b of chapter XIIIA of the pro-
22 bate code of 1939, 1939 PA 288, MCL 712A.19b, as amended by this
23 amendatory act, and chapter XII of the probate code of 1939, 1939
24 PA 288, as added by this amendatory act, do not apply to a pro-
25 ceeding that arises before the effective date of this amendatory
26 act.

[Enacting section 2. This amendatory act takes effect January
1, 2001.]

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1 Enacting section [3]. This amendatory act does not take
2 effect unless all of the following bills of the 90th Legislature
3 are enacted into law:

4 (a) Senate Bill No. 1053.

5 (b) Senate Bill No. 1187.

6 (c) House Bill No. 5543.