

**SUBSTITUTE FOR  
SENATE BILL NO. 1052**

A bill to amend 1939 PA 288, entitled  
"Probate code of 1939,"  
by amending section 19b of chapter XIIA (MCL 712A.19b), as  
amended by 2000 PA 46, and by adding chapter XII.

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

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CHAPTER XII

SAFE DELIVERY OF NEWBORNS

SEC. 1. (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 FAMILY INDEPENDENCE AGENCY.

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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 FOR CUSTODY. THE PARENT SHALL FILE THE CUSTODY  
9 ACTION IN 1 OF THE FOLLOWING JURISDICTIONS:

10       (A) IF THE PARENT HAS LOCATED THE NEWBORN, THE JURISDICTION  
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 JURISDICTION WHERE THE EMERGENCY SERV-  
15 ICE PROVIDER IS LOCATED.

16       (C) IF NEITHER SUBDIVISION (A) NOR (B) APPLY, THE JURISDIC-  
17 TION 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. IN A CUSTODY ACTION FILED UNDER THIS CHAPTER,  
23 PATERNITY OR MATERNITY SHALL BE DETERMINED THROUGH GENETIC TEST-  
24 ING BY COMPLYING WITH THE PROCEDURE AND RESTRICTIONS PRESCRIBED  
25 IN SECTIONS 6 AND 6A OF THE PATERNITY ACT, 1956 PA 205,  
26 MCL 722.716 AND 722.716A, WITH THE FOLLOWING MODIFICATIONS:



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1 (A) PATERNITY SHALL BE READ AS INCLUDING MATERNITY.

2 (B) THE COURT SHALL ORDER ONLY THE NEWBORN AND THE  
3 INDIVIDUAL CLAIMING PARENTHOOD IN THE CUSTODY ACTION TO SUBMIT TO  
4 GENETIC TESTING. IF THE INDIVIDUAL CLAIMING PARENTHOOD REFUSES  
5 OR FAILS TO SUBMIT TO GENETIC TESTING WITHOUT GOOD CAUSE, THE  
6 COURT SHALL DISMISS THE CUSTODY ACTION.

7 (C) EXCEPT FOR AN INDIVIDUAL WHO THE COURT DETERMINES IS  
8 INDIGENT, THE COURT SHALL ORDER THE INDIVIDUAL CLAIMING PARENT-  
9 HOOD TO PAY FOR BOTH THE INDIVIDUAL'S AND THE NEWBORN'S GENETIC  
10 TESTING EXPENSES.

11 SEC. 12. (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:

20 (A) THE LOVE, AFFECTION, AND OTHER EMOTIONAL TIES EXISTING  
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. 13. BASED ON THE COURT'S FINDING OF THE NEWBORN'S BEST  
13 INTEREST UNDER SECTION 12 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.

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1 Enacting section 2. 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.