

HOUSE BILL No. 5000

July 17, 2003, Introduced by Reps. Elkins, Lipsey, Minore, Hunter, Tobocman, Gillard, McConico, Sak, Rivet, Dennis and Plakas and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 21a of chapter X and sections 2 and 3 of chapter XII (MCL 710.21a, 712.2, and 712.3), section 21a of chapter X as added by 1982 PA 72, section 2 of chapter XII as added by 2000 PA 232, and section 3 of chapter XII as amended by 2002 PA 688.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 21a. (1) 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 ~~which~~ **that** will safeguard and promote the best interests of each adoptee in need of adoption and ~~which~~ **that** will protect the rights of all

1 parties concerned. If conflicts arise between the rights of the
2 adoptee and the rights of another, the rights of the adoptee
3 shall be paramount.

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

7 (2) If a parent or guardian with legal and physical custody
8 of a child contacts a child placing agency or the department with
9 the intent to place the child for adoption, this chapter governs
10 the proceedings regarding the child's adoption, and procedures
11 prescribed or authorized under chapter XII do not apply to that
12 child's adoption. By way of example and not limitation, a parent
13 or guardian with legal and physical custody of a child may
14 demonstrate the intent to place the child for adoption by
15 executing an adoption procedure authorized under this chapter.

16 CHAPTER XII

17 Sec. 2. (1) The court has jurisdiction over a newborn who
18 is surrendered to an emergency service provider as provided in
19 section 3 of this chapter. The court may appoint a
20 lawyer-guardian ad litem to represent a newborn in proceedings
21 under this chapter.

22 (2) If, at any time during a proceeding under this chapter,
23 the court determines that the child was not surrendered in the
24 sense in which surrender is defined in section 1 of this chapter,
25 was not surrendered in compliance with section 2 of this chapter,
26 or does not fall under the jurisdiction of this chapter for some
27 other reason, the court shall relinquish jurisdiction under this

1 chapter. The court shall retain jurisdiction over the child to
2 determine if the child's case shall be governed by chapter X or
3 XIIIA or by another statute.

4 (3) ~~-(2)-~~ Except as provided in section 5 of this chapter,
5 the reporting requirement of section 3 of the child protection
6 law, 1975 PA 238, MCL 722.623, does not apply regarding a child
7 surrendered to an emergency service provider as provided in
8 section 3 of this chapter.

9 (4) ~~-(3)-~~ Unless this chapter specifically provides
10 otherwise, a provision in another chapter of this act does not
11 apply to a proceeding under this chapter. Unless this chapter
12 specifically provides otherwise, the child custody act of 1970,
13 1970 PA 91, MCL 722.21 to ~~722.30~~ 722.31, does not apply to a
14 proceeding under this chapter.

15 (5) If a child placing agency that has care, control, and
16 temporary protective custody of a child determines that the child
17 was not surrendered in the sense in which surrender is defined in
18 section 1 of this chapter, was not surrendered in compliance with
19 section 2 of this chapter, or does not fall under the
20 jurisdiction of this chapter for some other reason, the child
21 placing agency shall not use the procedures prescribed and
22 authorized under this chapter to administer the child's case.

23 (6) ~~-(4)-~~ A hospital and a child placing agency, and their
24 agents and employees, are immune in a civil action for damages
25 for an act or omission in accepting or transferring a newborn
26 under this chapter, except for an act or omission constituting
27 gross negligence or willful or wanton misconduct. To the extent

1 not protected by the immunity conferred by 1964 PA 170, MCL
2 691.1401 to ~~691.1415~~ **691.1419**, an employee or contractor of a
3 fire department or police station has the same immunity that this
4 subsection provides to a hospital's or child placing agency's
5 agent or employee.

6 Sec. 3. (1) If a parent surrenders a child who may be a
7 newborn to an emergency service provider, the emergency service
8 provider shall comply with the requirements of this section under
9 the assumption that the child is a newborn. The emergency
10 service provider shall, without a court order, immediately accept
11 the newborn, taking the newborn into temporary protective
12 custody. The emergency service provider shall make a reasonable
13 effort to do all of the following:

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

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

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

21 (d) Provide the parent with written material approved by or
22 produced by the family independence agency that includes, but is
23 not limited to, all of the following statements:

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (f) Inform the parent that the child placing agency that
27 takes temporary protective custody of the newborn can provide

1 confidential services to the parent.

2 (g) Inform the parent that the parent may sign a release for
3 the newborn ~~which~~ **that** may be used at the parental rights
4 termination hearing.

5 (3) A newborn whose birth is described in the born alive
6 infant protection act, **2002 PA 687, MCL 333.1071 to 333.1073**, and
7 who is in a hospital setting or transferred to a hospital under
8 section 3(1) of the born alive infant protection act, **2002 PA**
9 **687, MCL 333.1073**, is a newborn surrendered as provided in this
10 act. An emergency service provider who has received a newborn
11 ~~pursuant to~~ **under** the born alive infant protection act, **2002 PA**
12 **687, MCL 333.1071 to 333.1073**, shall do all of the following:

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

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

20 (c) Provide humane comfort care if the newborn is determined
21 to have no chance of survival due to gestational immaturity in
22 light of available neonatal medical treatment or other condition
23 incompatible with life. **A parent's execution of a release as**
24 **part of the process set forth in this section shall not, in and**
25 **of itself, be considered a demonstration, under section 21a of**
26 **chapter X, of the intent to place the child for adoption using**
27 **the procedures of chapter X.**