

SUBSTITUTE FOR
SENATE BILL NO. 498

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 13b of chapter XIIA (MCL 712A.13b), as amended
by 2008 PA 201.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

1
2 Sec. 13b. (1) If a child under the court's jurisdiction under
3 section 2(b) of this chapter, or under MCI jurisdiction, control,
4 or supervision, is placed in foster care, the agency ~~shall~~**must** not
5 change the child's placement **before complying with the requirements**
6 **of this section**, except ~~under 1~~**when any** of the following
7 circumstances **apply**:

8 (a) The person providing the foster care requests or agrees to

1 the change.

2 (b) **A contracted social services agency of a federally**
3 **recognized tribal government is providing primary case management.**

4 (c) ~~(b) Even though if~~ the person providing the foster care
5 **placement** objects to a proposed change in placement, **when** 1 of the
6 following applies:

7 (i) The court orders the child returned home.

8 (ii) The change in placement is less than 30 days after the
9 child's initial removal from ~~his or her~~ **the child's** home.

10 ~~(iii) The change in placement is less than 90 days after the~~
11 ~~child's initial removal from his or her home, and the new placement~~
12 ~~is with a relative.~~

13 (iii) **The court orders the child to be moved.**

14 (iv) **The child is an MCI ward and the move is a result of the**
15 **MCI superintendent's denial of consent to adoption by the**
16 **caregiver.**

17 (v) **The child is an Indian child and the foster care placement**
18 **or the proposed placement is within or to the placement preferences**
19 **listed in section 23 of chapter XIIB.**

20 (vi) ~~(iv)~~ The change in placement is in accordance with other
21 provisions of this section.

22 (2) Except as provided in subsections (1) and (7), before a
23 change in foster care placement takes effect, the agency ~~shall~~ **must**
24 do all of the following:

25 (a) Notify **the foster care review board, under** the state court
26 administrative office, of ~~the~~ **any** proposed change in placement.
27 Notice under this subdivision may be given by ordinary mail or by
28 electronic means as agreed by the department and the state court
29 administrative office.

1 (b) Notify the foster parents of the intended change in
2 placement and inform them that, if they disagree with the decision,
3 they may appeal within 3 days to a foster care review board. A
4 foster parent may appeal orally, but must submit the appeal in
5 writing immediately following the oral appeal. The agency shall
6 provide the foster parents with the address and telephone number of
7 a foster care review board with jurisdiction over the child.

8 (c) Maintain the current placement for not less than the time
9 for appeal to the foster care review board and if a foster parent
10 appeals, until the foster care review board determination.

11 (d) Notify the court with jurisdiction over the child, **notify**
12 **the child's tribe, as applicable,** and notify the child's lawyer
13 guardian ad litem of the **proposed** change in placement. Notice to
14 the court under this subdivision may be given by ordinary mail or
15 by electronic means as agreed by the department and the court that
16 has jurisdiction over the child. The notice provided under this
17 subdivision does not affect the department's placement discretion
18 and shall include all of the following information:

19 (i) The reason for the change in placement.

20 (ii) The number of times the child's placement has been
21 changed.

22 (iii) Whether or not the child will be required to change
23 schools.

24 (iv) Whether or not the change will separate or reunite
25 siblings or affect sibling visitation.

26 (v) **If the child is an Indian child the notice shall include**
27 **the following additional information:**

28 (A) **A statement that the child is an Indian child.**

29 (B) **A list of active efforts the agency took to place the**

1 child in compliance with section 23 of chapter XIIB, including how
2 the placement meets the standards provided in section 23(8) of
3 chapter XIIB.

4 (3) Upon receipt of an appeal from foster parents under
5 subsection (2) or (7), the foster care review board shall
6 investigate the **proposed** change in foster care placement within 7
7 days and shall report its findings and recommendations **about the**
8 **proposed placement change, including whether or not the foster care**
9 **review board determines that the placement change is in the child's**
10 **best interests**, within 3 days after completion of the investigation
11 to the court or, if the child is under MCI jurisdiction, control,
12 or supervision, the MCI superintendent, to the foster care parents,
13 to the parents, **to the child's tribe, if applicable**, and to the
14 agency. **If the child is an Indian child the report shall include**
15 **the following additional information:**

16 (a) A statement that the child is an Indian child.

17 (b) A list of active efforts the agency took to place the
18 child in compliance with section 23 of chapter XIIB.

19 (4) If the child is an Indian child, the Indian child's tribe
20 must be invited to participate in the investigation and the foster
21 care review board must follow the best interests of the child
22 standards and procedures identified in section 5 of chapter XIIB.
23 If after investigation the foster care review board determines that
24 the move is in the child's best interests, the agency may move the
25 child.

26 (5) If after investigation the foster care review board
27 determines that the move is not in the child's best interest, the
28 agency shall maintain the current placement until a finding and
29 order by the court or, if the child is under MCI jurisdiction,

1 control, or supervision, a decision by the MCI superintendent. The
2 agency shall not return a child to a placement from which the child
3 was removed under subsection (7) unless the court orders that
4 placement's restoration under subsection (6) or the MCI
5 superintendent approves that placement's restoration under this
6 subsection. The foster care review board shall notify the court, or
7 if the child is under MCI jurisdiction, control, or supervision,
8 the MCI superintendent, about the board's and agency's
9 disagreement. The court shall set a hearing date and provide notice
10 to the foster parents, each interested party, and the prosecuting
11 attorney if the prosecuting attorney has appeared in the case. The
12 court shall set the hearing no sooner than 7 and no later than 14
13 days after receipt of the notice from the foster care review board.
14 The rules of evidence do not apply to a hearing required by this
15 subsection. Within 14 days after notification under this
16 subsection, the MCI superintendent shall make a decision regarding
17 the child's placement and shall inform each interested party what
18 the decision is.

19 (6) After hearing testimony from the agency and any other
20 interested party, **including the Indian child's tribe**, and
21 considering any other evidence bearing upon the proposed change in
22 placement, the court shall order the continuation or restoration of
23 the placement unless the court finds that the proposed change in
24 placement is in the child's best interests.

25 (7) If the agency has reasonable cause to believe that the
26 child has suffered sexual abuse or nonaccidental physical injury,
27 or that there is substantial risk of harm to the child's **physical**
28 **or** emotional well-being, the agency may change the child's foster
29 care placement without complying with subsection (1) or (2)(b) or

1 (c). The agency shall include in the child's file documentation of
2 its justification for action under this subsection. If a foster
3 parent objects to the removal of a child under this subsection, ~~he~~
4 ~~or she~~ **the foster parent** may appeal to the foster care review board
5 within 3 days after the child's removal. The foster parent may
6 appeal orally, but must submit the appeal in writing immediately
7 following the oral appeal.

8 (8) At the time of or immediately following a child's removal
9 under subsection (7), the agency shall inform the foster parents
10 about the removal and that, if they disagree with the decision,
11 they may appeal within 3 days to a foster care review board in the
12 manner provided in subsection (7). The agency shall provide the
13 foster parents with the address and telephone number of a foster
14 care review board with jurisdiction over the child.

15 (9) **If an Indian child, not already removed from foster care**
16 **review board consideration by subsection (1) (b) or (c) (v), under the**
17 **court's jurisdiction under section 2(b) of this chapter, or under**
18 **MCI jurisdiction, control, or supervision, is placed in foster**
19 **care, the agency or MCI must not change the child's placement or**
20 **make a recommendation for placement change before notifying the**
21 **Indian child's tribe, and before a change in an Indian child's**
22 **foster care placement takes effect, the agency, or MCI, where**
23 **applicable, must do all the following:**

24 (a) **Except as provided by subsection (1) (c) (i), (1) (c) (iii), or**
25 **(7), the agency or MCI, where applicable, must notify an Indian**
26 **child's tribe at least 3 days before any proposed placement change**
27 **of an Indian child. Notification under this subdivision may be**
28 **given by ordinary mail and email to the designated Indian child**
29 **welfare act agent with receipt 3 days before the beginning of the**

1 foster care review board investigation.

2 (b) At the time of or immediately following an Indian child's
3 removal under subsection (7), the agency or MCI must inform the
4 Indian child's tribe of the child's placement.

5 (c) The agency, foster care review board, and MCI must comply
6 with section 23 of chapter XIIB for any placement change, including
7 a placement following a removal under subsection (7).

8 (10) As used in this section, "Indian child" and "Indian
9 child's tribe" mean those terms as defined in section 3 of chapter
10 XIIB.