

Act No. 175  
Public Acts of 1990  
Approved by the Governor  
July 2, 1990  
Filed with the Secretary of State  
July 2, 1990

**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1990**

Introduced by Reps. Honigman, Jondahl, Ciaramitaro, Murphy, Stabenow, Gubow, Perry Bullard,  
Strand, Dolan, Munsell, Law and London

# ENROLLED HOUSE BILL No. 4407

AN ACT to amend sections 22, 26, 27, 28, 43, 68, and 68a of chapter X 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," sections 22, 26, 28, and 43 as amended by Act No. 72 of the Public Acts of 1982 and sections 27 and 68 as amended and section 68a as added by Act No. 505 of the Public Acts of 1988, being sections 710.22, 710.26, 710.27, 710.28, 710.43, 710.68, and 710.68a of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 22, 26, 27, 28, 43, 68, and 68a of chapter X of Act No. 288 of the Public Acts of 1939, sections 22, 26, 28, and 43 as amended by Act No. 72 of the Public Acts of 1982 and sections 27 and 68 as amended and section 68a as added by Act No. 505 of the Public Acts of 1988, being sections 710.22, 710.26, 710.27, 710.28, 710.43, 710.68, and 710.68a of the Michigan Compiled Laws, are amended to read as follows:

## CHAPTER X

Sec. 22. As used in this chapter:

- (a) "Adoptee" means the person who is to be adopted, regardless of whether the person is a child or an adult.
- (b) "Best interests of the adoptee" or "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court to be applied to give the adoptee permanence at the earliest possible date:
  - (i) The love, affection, and other emotional ties existing between the adopting person or persons or the putative father, and the adoptee.

(ii) The capacity and disposition of the adopting person or persons or the putative father to give the adoptee love, affection, and guidance, and to educate and create a milieu that fosters the religion, racial identity, and culture of the adoptee.

(iii) The capacity and disposition of the adopting person or persons or the putative father to provide the adoptee with food, clothing, education, permanence, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.

(iv) The length of time the adoptee has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(v) The permanence as a family unit of the proposed adoptive home, or the home of the putative father.

(vi) The moral fitness of the adopting person or persons or of the putative father.

(vii) The mental and physical health of the adopting person or persons or of the putative father, and of the adoptee.

(viii) The home, school, and community record of the adoptee.

(ix) The reasonable preference of the adoptee, if the adoptee is 14 years of age or less and if the court deems the adoptee to be of sufficient age to express a preference.

(x) The ability and willingness of the adopting person or persons to adopt the adoptee's siblings.

(xi) Any other factor considered by the court to be relevant to a particular adoption proceeding, or to a putative father's request for child custody.

(c) "Biological parent" means a person whose rights were terminated pursuant to this chapter or chapter XIIA.

(d) "Born out of wedlock" means a child begotten and born to a woman who was not married from the conception to the date of birth of the child, or a child which the court has determined to be a child born during a marriage but not the issue of that marriage.

(e) "Child" means a person less than 18 years of age.

(f) "Child placing agency" means a private organization licensed to place children for adoption.

(g) "Consent" means a duly executed document in which all parental rights over a specific child are voluntarily relinquished to the court for adoptive placement with the petitioner.

(h) "Court" means the probate court of this state, and when the context requires, the court having jurisdiction over adoption in another state or country.

(i) "Department" means the state department of social services.

(j) "Petitioner" means the person or persons who file an adoption petition with the court.

(k) "Release" means a duly executed document in which all parental rights over a specific child are voluntarily relinquished to the department or to a child placing agency.

(l) "Stepparent" means a person who adopts a child 1 of whose parents is the adopting person's spouse.

(m) "Within the fifth degree by marriage, blood, or adoption" means any of the following relationships: parent, step-parent, grandparent, step-grandparent, brother, step-brother, sister, step-sister, uncle, step-uncle, aunt, step-aunt, first cousin, step-first cousin, great aunt, step-great aunt, great uncle, step-great uncle, great grandparent, step-great grandparent, first cousin once removed, step-first cousin once removed, great great grandparent, step-great great grandparent, great great uncle, step-great great uncle, great great aunt, step-great great aunt, great great great grandparent, or step-great great great grandparent.

Sec. 26. (1) Subsequent to or concurrent with the filing of the adoption petition but before the hearing on the petition by the court, the petitioner, the department, an employee or agent of the court, or a child placing agency, as appropriate, shall file the following documentation:

(a) Except in instances of parental consent to adoption, a copy of each release or order terminating parental rights over the child which has a bearing upon the authority of a person to execute the consent to adoption.

(b) A copy of the order of commitment, if a commitment was made to a child placing agency or to the department.

(c) Proof of a guardian's appointment and authorization to execute the release or consent to the child's adoption.

(d) A copy of the consent to adoption as required in this chapter.

(e) A copy of the adoptee's birth certificate, verification of birth, hospital birth registration, or other satisfactory proof of date and place of birth, if obtainable, unless this filing is waived by written order of the judge of probate.

(f) The report of the investigation prepared pursuant to section 46 of this chapter.

(g) If the petition alleges nonsupport and noncommunication by a parent, as described in section 51(6), an affidavit verifying that fact.

(h) Any additional facts considered necessary by the court.

(2) Before or at the time of the hearing on the adoption petition, the court shall inform the adoptee, if he or she is 14 years old or older, and the adoptive parents of the provisions described in sections 68 and 68a. This subsection also applies to a stepparent adoption and the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

(3) Before or at the time of the hearing on the adoption petition, the court shall provide the adoptee, if he or she is 14 years old or older, and the adoptive parents with a list of adoption support groups. This subsection also applies to a stepparent adoption and to the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

Sec. 27. (1) Nonidentifying information shall be maintained by a child placing agency, the department, or a court that places an adoptee under this chapter. The following nonidentifying information shall be maintained, if obtainable:

(a) Date, time, and place of birth of the adoptee including the hospital, city, county, and state.

(b) Medical history of the adoptee and biological parents.

(c) Ethnicity of the biological parents.

(d) Status of termination—voluntary or court ordered.

(e) Religious background of biological parents.

(f) Age and sex of siblings of the adoptee known at the time of the adoption.

(g) Educational level of biological parents.

(2) The information required by subsection (1) shall be supplemented by other nonidentifying background information that the child placing agency, department, or court considers appropriate.

(3) The department, a child placing agency, or a court that places an adoptee under this chapter shall maintain all of the following identifying information if obtainable:

(a) Name of the child before placement in adoption.

(b) Names of biological parents at the time of termination of parental rights.

(c) The most recent names and addresses of the biological parents.

(d) Names of the biological siblings at the time of termination.

(4) The court shall inform each biological parent at the time of termination of parental rights pursuant to this chapter or chapter 12A, that the biological parent may file a denial of release of the identifying information specified in subsection (3) with the department at any time and that the denial may be revoked at any time. The department shall develop a form for biological parents to deny or revoke a denial of release of identifying information and shall make the form available to the court. The court shall inform both biological parents, if known, of the provisions described in sections 68 and 68a.

(5) The department shall keep on file each statement concerning a child believed to be adopted that is submitted by a biological parent or adult biological sibling consenting to or denying release of identifying information, and shall transmit that statement to the proper child placing agency, department, or court upon request of the child placing agency, department, or court. The statement may be rescinded at any time by the biological parent or adult biological sibling. A statement made by a biological parent or adult biological sibling consenting to the release of identifying information shall include the current name and address of the biological parent or adult biological sibling. Once a request for information from the file has been received by the department, a subsequent statement submitted by a biological parent or adult biological sibling consenting to the release of identifying information or revoking a previous denial to release of identifying information, shall be transmitted to the requesting child placing agency, department, or court upon receipt.

(6) If a child placing agency ceases to operate, the agency's adoption records shall be forwarded to the department. A branch or associate agency of a child placing agency which ceases to operate shall forward its records to the central agency of the branch or associate agency.

(7) This section also applies to a stepparent adoption and to the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

(8) The information required by subsections (1) through (3) shall be maintained by the child placing agency, department, or court. An employee or agent of a child placing agency, the court, or the department, who intentionally destroys information required to be maintained under this section, is guilty of a misdemeanor.

Sec. 28. (1) Subject to this section and section 29, a release shall be executed:

(a) By each parent of a child to be adopted or the surviving parent, except under the following circumstances:

- (i) The rights of the parent have been terminated by a court of competent jurisdiction.
- (ii) A guardian of the child has been appointed.
- (iii) A guardian of a parent has been appointed.

(b) By the duly authorized representative of a child placing agency to whom the child has been committed by an order of the juvenile division of the probate court.

(c) By the duly authorized representative of the child placing agency to whom the child has been released.

(d) By the guardian of the child, if a guardian has been appointed.

(e) By the guardian of a parent.

(2) A release by a parent shall be executed only after the department or child placing agency has provided that parent with a list of adoption support groups.

(3) If the parent of the child to be adopted is an unemancipated minor, that parent's release is not valid unless a parent, guardian, or guardian ad litem of that minor parent has also executed the release.

(4) The guardian of the child to be adopted may not execute a release of the child pursuant to subsection (1) unless the guardian has first obtained authority to execute the release from the court which appointed the guardian.

(5) The guardian of a parent may not execute a release of the parent's child pursuant to subsection (1) unless the guardian has first obtained authority to execute the release from the court which appointed the guardian. Such a release shall have the same effect as if the release were executed by the parent.

(6) A release shall be given only to a child placing agency or to the department.

(7) Before the department arranges a release from a parent or guardian, a representative of the department shall advise the parent or guardian about child placing agencies serving the county and, upon the parent's or guardian's request, shall refer the parent or guardian to a child placing agency. After the release of a child by a parent or guardian to the department, the department shall advise the child placing agencies serving the county that the child is available for adoption.

(8) Where a child was released for adoption or committed to a child placing agency, that agency may release that child to the department and the department shall accept the release.

(9) Upon release of a child to the department pursuant to this section, the child shall become a state ward.

(10) Where applicable under this section, proof of the termination of parental rights, release of parental rights, appointment, authorization, or commitment shall accompany the release.

Sec. 43. (1) Subject to this section and sections 44 and 51 of this chapter, consent to adoption of a child shall be executed:

(a) By each parent of a child to be adopted or the surviving parent, except under the following circumstances:

- (i) The rights of the parent have been terminated by a court of competent jurisdiction.
- (ii) The child has been released for the purpose of adoption to a child placing agency or to the department.
- (iii) A guardian of the child has been appointed.
- (iv) A guardian of a parent has been appointed.
- (v) The child is not related to the petitioner within the fifth degree by marriage, blood, or adoption.
- (vi) A parent having legal custody of the child is married to the petitioner.

(b) By the duly authorized representative of the department or of a child placing agency to whom the child has been permanently committed by an order of the juvenile division of the probate court.

(c) By the juvenile division of the probate court having permanent custody of the child.

(d) By the duly authorized representative of the department or of a child placing agency to whom the child has been released.

(e) By the guardian of the child, if a guardian has been appointed.

(f) By the guardian of a parent.

(g) By the authorized representative of a child placing agency of another state or country which has authority to consent to adoption.

(2) If the child to be adopted is over 14 years of age, that child's consent shall be necessary before the court may enter an order of adoption.

(3) If the person to be adopted is an adult, that person's consent shall be necessary before the court may enter an order of adoption, but consent by any other person is not required.

(4) If the parent of the child to be adopted is an unemancipated minor, that parent's consent is not valid unless a parent, guardian, or guardian ad litem of that minor parent has also executed the consent.

(5) The guardian of the child to be adopted shall not execute a consent to that child's adoption pursuant to subsection (1) unless the guardian has first obtained authority to execute the consent from the court which appointed the guardian.

(6) The guardian of a parent shall not execute a consent to the adoption of the parent's child pursuant to subsection (1) unless the guardian has first obtained authority to execute the consent from the court which appointed the guardian. The consent shall have the same effect as if the consent were executed by the parent.

(7) The parent of a child shall not execute a consent unless the petitioner is related to the child within the fifth degree by marriage, blood, or adoption.

(8) If the petitioner for adoption is married to the parent having legal custody of the child and that parent has joined the petitioner in filing the petition for adoption, that parent shall not execute a consent to the adoption. The consent of the parent who does not have legal custody of the child and whose parental rights have not been terminated shall be executed before the court may enter an order of adoption under section 56 of this chapter.

Sec. 68. (1) All of the nonidentifying information required by section 27(1) and (2) of this chapter shall be made available in writing to the adoptive parents at the time of placement and thereafter within 63 days after receipt of a request for information, and shall be made available in writing to an adult adoptee within 63 days after receipt of a request for information.

(2) Within 63 days after a request for information is received, a child placing agency, court, or the department shall provide in writing to the biological parent or adult biological sibling requesting the information all of the nonidentifying information described in section 27(1) and (2) of this chapter.

(3) Within 63 days after a request for identifying information is received, a child placing agency, court, or the department shall provide in writing to the biological parent or adult biological sibling requesting the information the adult adoptee's most recent name and address and the identifying information described in section 27(3) of this chapter if the adult adoptee has given written consent to release of the information pursuant to this chapter.

(4) If the department or a child placing agency receives a request for adoption record information in their possession from an adult adoptee, biological parent, or adult biological sibling, the department or child placing agency shall provide the person requesting the information with the identity of the court that confirmed the adoption within 28 days after receipt of the request. If a court receives such a request, the court shall provide the person requesting the information with the identity of the child placing agency that handled the adoption.

(5) If the court that terminated parental rights receives from the biological parents or adult biological siblings of the adult adoptee a request for the identity of the agency, court, or department to which the child was committed, the court shall provide in writing the name of that agency, court, or department, if known, within 28 days after receipt of the request.

(6) For adoptions in which the biological parents' rights were terminated before September 12, 1980, a child placing agency, a court, or the department having the records of an adoptee and having received a written request from that adoptee as an adult for information identifying the adoptee's biological parents, shall release the identifying information described in section 27(3) of this chapter and other identifying information on file with the department as specified in section 27(5) of this chapter, in the following manner:

(a) All information on both biological parents shall be released to the adult adoptee, if both biological parents have on file with the department a statement consenting to release of identifying information.

(b) Information pertaining to 1 of the biological parents shall be released to the adult adoptee if that biological parent has on file with the department a statement consenting to release of identifying information.

(c) Information pertaining to 1 of the biological parents shall be released to the adult adoptee if that parent is deceased, or if a child of that parent who is now an adult and who is a sibling of the adoptee has on file with the department a consent to the release of identifying information of that deceased parent.

(d) All information on both biological parents shall be released to the adult adoptee, if both biological parents are deceased.

(7) For all adoptions in which the biological parents' rights were terminated after September 12, 1980, an adoptee not less than 18 years of age shall have the right to obtain the identifying information described in section 27(3) of this chapter and any additional information on file with the department as specified in section

27(5) of this chapter, except that if a biological parent has filed a statement currently in effect with the department denying consent to have identifying information released, identifying information shall not be released about that parent. The information shall be provided within 63 days after the date of the request.

(8) Upon receipt of a written request for identifying information from an adult adoptee, a child placing agency, court, or the department, if it maintains that adoption file, shall request information from the department file as specified in section 27(5) of this chapter, pursuant to the requirements of this section. Upon receipt of a response from the department file, a child placing agency, court, or the department shall notify the adoptee in writing, within 28 days after the receipt of the response, of the identifying information to which the adoptee is entitled, or, if the identifying information cannot be released pursuant to this section, the reason why the information cannot be released. The child placing agency, court, or the department shall retain a copy of the notice sent to the adult adoptee. Once the identifying information is released to the adult adoptee, and upon the request of the adult adoptee, biological parent, adult biological sibling, or adoptive parent, the child placing agency, court, or the department shall provide for counseling or shall provide a list of adoption support groups to that person.

(9) If a child placing agency, court, or the department receives written information concerning a physician-verified medical or genetic condition of a person biologically related to an adoptee and a request that the information be transmitted to the adoptee because of the serious threat it poses to the adoptee's life, the child placing agency, court, or department shall send a written copy of the information by first-class mail within 7 days after the request is received to the adoptee at his or her last known address. If the adoptee is less than 18 years of age, the information shall be sent by first-class mail within 7 days after the request is received to the adoptive parents at their last known address.

(10) If the letter described in subsection (9) is returned undelivered, the agency, court, or department shall make a reasonable effort to find the most recent address of the adoptee or minor adoptee's parents and shall again send the information by first-class mail within 21 days after receiving the returned letter.

(11) If a child placing agency, court, or the department receives written information concerning a physician-verified medical or genetic condition of a person biologically related to an adoptee, and the condition is not life-threatening to the adoptee, the child placing agency, court, or department shall place the information in its adoption files. If the child placing agency, court, or department receives a written request for the information from the adult adoptee or minor adoptee's adoptive parents, it shall release a written copy of the information to the adult adoptee or to the minor adoptee's adoptive parents within 63 days after the request for the information was made.

(12) If a child placing agency, court, or the department receives written information concerning a physician-verified medical or genetic condition that threatens the life of an adoptee and for which a biologically related person could give life-saving aid, and receives a request from or on behalf of the adoptee that the information be transmitted, the child placing agency, court, or department shall send a written copy of the information by first-class mail within 7 days after the request is received to the biological parents or adult biological siblings of the adoptee at their last known address.

(13) If the information described in subsection (12) is returned undelivered, the agency, court, or department shall make a reasonable effort to find the most recent address of the biological parents or adult biological siblings and shall again send the information by first-class mail within 21 days after receiving the returned letter.

(14) If a child placing agency, court, or the department provides an adoptee with the name of either of the adoptee's biological parents, that child placing agency, court, or department shall notify the department of public health of that fact. Upon receipt of notification by the child placing agency, court, or department, the department of public health shall insure that the original birth certificate on file for the adoptee has been sealed and that a new birth certificate has been prepared in conformance with section 67 of this chapter.

(15) An employee or agent of a child placing agency, the court, or the department, who intentionally releases identifying information in violation of this section, is guilty of a misdemeanor.

(16) This section also applies to a stepparent adoption and to the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption.

(17) As used in this section, "adult adoptee" means a person who was adopted as a child who is now 18 years of age or older or a person who was 18 years of age or older at the time of adoption.

(18) A child placing agency, a court, and the department may require a fee of \$60.00 or the actual cost of supplying the information, whichever is less, for supplying information under this section. The child placing agency, the court, and the department may waive a part or all of the fee in case of indigency or hardship.

Sec. 68a. (1) The department shall develop and publish an information pamphlet explaining the release of information from adoption records pursuant to this act.

(2) If the department, a child placing agency, or the court is contacted by an adoptee, adult biological sibling, biological parent, or adoptive parent, within 14 days after the date of the contact, it shall provide the adoptee, adult biological sibling, biological parent, or adoptive parent with all of the following:

- (a) A copy of the information pamphlet described in subsection (1).
- (b) A list of adoption support groups.
- (c) Information about the provisions described in this section and section 68.

(3) If a child placing agency, court, or the department receives a written request from an adoptee, adult biological sibling, biological parent, adoptive parent, or any other person biologically related to an adoptee that the requester's current address be placed in its adoption files, the child placing agency, court, or the department shall place the information in its adoption files.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved .....

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Governor.