

HOUSE BILL No. 4587

April 10, 1989, Introduced by Reps. Terrell, DeMars, Hunter, Stallworth, Honigman, Bennane, Harrison, Leland, Joe Young, Sr., Kilpatrick, Power, Sikkema, Martin and Bandstra and referred to the Committee on Judiciary.

A bill to amend sections 2828, 2829, 2830, 2872, 5203, 5205, 5207, 5209, and 6122 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

section 5203 as amended and sections 5205, 5207, and 5209 as added by Act No. 490 of the Public Acts of 1988 and section 6122 as added by Act No. 224 of the Public Acts of 1987, being sections 333.2828, 333.2829, 333.2830, 333.2872, 333.5203, 333.5205, 333.5207, 333.5209, and 333.6122 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2828, 2829, 2830, 2872, 5203, 5205,
2 5207, 5209, and 6122 of Act No. 368 of the Public Acts of 1978,
3 section 5203 as amended and sections 5205, 5207, and 5209 as
4 added by Act No. 490 of the Public Acts of 1988 and section 6122
5 as added by Act No. 224 of the Public Acts of 1987, being

1 sections 333.2828, 333.2829, 333.2830, 333.2872, 333.5203,
2 333.5205, 333.5207, 333.5209, and 333.6122 of the Michigan
3 Compiled Laws, are amended to read as follows:

4 Sec. 2828. (1) If an applicant does not submit the minimum
5 documentation required by rules for delayed registration of a
6 birth or if the state registrar has reasonable cause to question
7 the validity or adequacy of the applicant's sworn statement or
8 the documentary evidence, the state registrar shall not register
9 the delayed certificate of birth and shall advise the applicant
10 of the reasons for this action and of the applicant's right of
11 appeal to the ~~probate court of~~ DOMESTIC RELATIONS COURT FOR the
12 county of residence or birth.

13 (2) The department may provide for the dismissal of an
14 application which is not actively prosecuted.

15 (3) If, on the basis of the evidence presented, the court
16 finds that the individual for whom a delayed certificate of birth
17 is sought was born in this state, the court shall make findings
18 as to the place and date of birth, parentage, and other findings
19 required by the case and shall issue an order on a form pre-
20 scribed and furnished by the state registrar to establish a cer-
21 tificate of birth. The order shall include the birth data to be
22 registered, a description of the evidence presented, and the date
23 of the court's action.

24 (4) The clerk of the court shall forward the order to the
25 state registrar not later than the tenth day of the calendar
26 month following the month in which the order was entered. The

1 order shall be registered by the state registrar and shall
2 constitute the certificate of birth.

3 (5) The state registrar shall forward a copy of a delayed
4 registration to the local registrar of the district where the
5 birth occurred.

6 Sec. 2829. (1) For each adoption ordered by the ~~probate~~
7 DOMESTIC RELATIONS court in this state, the court shall prepare a
8 report of adoption on a form prescribed and furnished by the
9 state registrar. The report shall:

10 (a) Include the facts necessary to locate and identify the
11 certificate of live birth of the individual adopted.

12 (b) Provide information necessary to establish a new certif-
13 icate of live birth of the individual adopted.

14 (c) Identify the adoption order.

15 (d) Be certified by the ~~probate register or~~ clerk OF THE
16 COURT.

17 (2) When an adoption order is amended or annulled, the court
18 shall prepare a report which shall include the facts necessary to
19 identify the original adoption report and the facts amended in
20 the adoption order necessary to properly amend the birth record.

21 (3) Not later than the tenth day of the calendar month, the
22 ~~probate register or~~ clerk OF THE COURT shall forward:

23 (a) To the state registrar, reports of adoption orders, and
24 amendments and annulments of the orders, entered during the pre-
25 ceding month for individuals born in this state.

26 (b) To the appropriate registration authority in another
27 state, the United States department of state, or the United

1 States immigration and naturalization service, reports of
2 adoption orders, and amendments and annulments of the orders,
3 entered during the preceding month for individuals born outside
4 this state.

5 (4) A birth certificate issued to an adopted individual
6 shall conform to the requirements of ~~sections 67 and 68~~ SECTION
7 9451 of ~~chapter 10 of~~ THE REVISED JUDICATURE ACT OF 1961, Act
8 No. ~~288~~ 236 of the Public Acts of ~~1939, as amended,~~ 1961,
9 being ~~sections 710.67 and 710.68~~ SECTION 600.9451 of the
10 Michigan Compiled Laws.

11 Sec. 2830. (1) If a child whose birth occurred outside the
12 United States, a territory of the United States, or Canada, is
13 adopted by a resident of this state under the laws of this state,
14 the ~~probate~~ DOMESTIC RELATIONS court, on motion of the adopting
15 parent, shall file a delayed registration of birth on a form pro-
16 vided by the department. The delayed registration shall contain
17 the date and place of birth and other facts specified by the
18 department.

19 (2) If the date and place of birth cannot be documented from
20 foreign records or a medical assessment of the development of the
21 child indicates that the date of birth as stated in the immigra-
22 tion records is not correct, the court shall determine the facts
23 and establish a date and place of birth and may file a delayed
24 registration of birth as provided in subsection (1).

25 (3) Upon the petition of a child adopted in this state whose
26 birth occurred outside the United States, a territory of the
27 United States, or Canada or UPON a petition of the child's

1 adoptive parents, the court which issued an order of adoption for
2 that child before ~~the effective date of this section~~ SEPTEMBER
3 30, 1978, may issue a delayed registration of birth for the
4 adopted child as provided in subsection (1).

5 Sec. 2872. (1) Upon written request and receipt of an
6 acknowledgment of paternity from the ~~probate~~ DOMESTIC RELATIONS
7 court of a child born out of wedlock, the state registrar shall
8 create a new certificate of birth to show paternity. Upon the
9 written request of the parents, the surname of the child shall be
10 changed on the certificate to that designated by the parents.
11 The certificate shall not be marked "amended". The original cer-
12 tificate of live birth shall be sealed in accordance with section
13 2832.

14 (2) Upon receipt of a certified copy of a court order chang-
15 ing the name of an individual born in this state and upon request
16 of the individual or the individual's parents, guardian, or legal
17 representative, the state registrar shall affix an addendum to
18 the individual's certificate of live birth, which shall state the
19 individual's new name and identify the court order. The state
20 registrar shall create a new live birth certificate and seal the
21 original certificate only if the court order changing the
22 individual's name specifically directs the state registrar to do
23 so or if the request relates to a minor whose name is changed
24 pursuant to section ~~1 of chapter 1~~ 9501 of THE REVISED JUDICA-
25 TURE ACT OF 1961, Act No. ~~288~~ 236 of the Public Acts of ~~1939~~,
26 ~~as amended~~, 1961, being section ~~711.1~~ 600.9501 of the Michigan
27 Compiled Laws.

1 Sec. 5203. (1) Upon a determination by a department
2 representative or a local health officer that an individual is a
3 carrier and is a health threat to others, the department repre-
4 sentative or local health officer shall issue a warning notice to
5 the individual requiring the individual to cooperate with the
6 department or local health department in efforts to prevent or
7 control transmission of serious communicable diseases or
8 infections. The warning notice may also require the individual
9 to participate in education, counseling, or treatment programs,
10 and to undergo medical tests to verify the person's status as a
11 carrier.

12 (2) A warning notice issued under subsection (1) shall be in
13 writing, except that in urgent circumstances, the warning notice
14 may be an oral statement, followed by a written statement within
15 3 days. A warning notice shall be individual and specific and
16 shall not be issued to a class of persons. A written warning
17 notice shall be served either by registered mail, return receipt
18 requested, or personally by an individual who is employed by, or
19 under contract to, the department or a local health department.

20 (3) A warning notice issued under subsection (1) shall
21 include a statement that unless the individual takes the action
22 requested in the warning notice, the department representative or
23 local health officer shall seek an order from the ~~probate~~
24 DOMESTIC RELATIONS court, pursuant to this part. The warning
25 notice shall also state that, except in cases of emergency, the
26 individual to whom the warning notice is issued has the right to

1 notice and a hearing and other rights provided in this part
2 before the ~~probate~~ DOMESTIC RELATIONS court issues an order.

3 Sec. 5205. (1) If a department representative or a local
4 health officer knows or has reasonable grounds to believe that an
5 individual has failed or refused to comply with a warning notice
6 issued under section 5203, the department or local health depart-
7 ment may petition the ~~probate~~ DOMESTIC RELATIONS court for the
8 county of Ingham or for the county served by the local health
9 department for an order as described in subsection (3).

10 (2) A petition filed under subsection (1) shall state all of
11 the following:

12 (a) The grounds and underlying facts that demonstrate that
13 the individual is a health threat to others and, unless an emer-
14 gency order is sought under section 5207, has failed or refused
15 to comply with a warning notice issued under section 5203.

16 (b) The petitioner's effort to alleviate the health threat
17 to others before the issuance of the warning notice, unless an
18 emergency order is sought under section 5207.

19 (c) The type of relief sought.

20 (d) A request for a court hearing on the allegations set
21 forth in the petition.

22 (3) Upon receipt of a petition filed under subsection (1),
23 the ~~probate~~ DOMESTIC RELATIONS court shall fix a date for hear-
24 ing that shall be as soon as possible, but not later than 14 days
25 after the date the petition is filed. Notice of the petition and
26 the time and place of the hearing shall be served personally on
27 the individual and the petitioner not less than 3 days before the

1 date of the hearing. Notice of the hearing shall include notice
2 of the individual's right to appear at the hearing, the right to
3 present and cross-examine witnesses, and the right to counsel as
4 provided in subsection (7). The individual and the petitioner
5 may waive notice of hearing, and upon filing of the waiver in
6 writing, the ~~probate~~ DOMESTIC RELATIONS court may hear the
7 petition immediately.

8 (4) Upon a finding by the ~~probate~~ DOMESTIC RELATIONS court
9 that the department or local health department has proven the
10 allegations set forth in the petition by clear and convincing
11 evidence, the ~~probate~~ DOMESTIC RELATIONS court may issue 1 or
12 more of the following orders:

13 (a) An order that the individual participate in a designated
14 education program.

15 (b) An order that the individual participate in a designated
16 counseling program.

17 (c) An order that the individual participate in a designated
18 treatment program.

19 (d) An order that the individual undergo medically accepted
20 tests to verify the individual's status as a carrier or for
21 diagnosis.

22 (e) An order that the individual notify or appear before
23 designated health officials for verification of status, testing,
24 or other purposes consistent with monitoring.

25 (f) An order that the individual cease and desist conduct
26 that constitutes a health threat to others.

1 (g) An order that the individual live part-time or full-time
2 in a supervised setting for the period and under the conditions
3 set by the ~~probate~~ DOMESTIC RELATIONS court.

4 (h) Subject to subsection (5), an order that the individual
5 be committed to an appropriate facility for the period and under
6 the conditions set by the ~~probate~~ DOMESTIC RELATIONS court. A
7 commitment ordered under this subdivision shall not be for more
8 than 6 months, unless the director of the facility, upon motion,
9 shows good cause for continued commitment.

10 (i) Any other order considered just by the ~~probate~~
11 DOMESTIC RELATIONS court.

12 (5) The ~~probate~~ DOMESTIC RELATIONS court shall not issue
13 an order authorized under subsection (4)(h) unless the ~~probate~~
14 DOMESTIC RELATIONS court first considers the recommendation of a
15 commitment review panel appointed by the ~~probate~~ DOMESTIC
16 RELATIONS court under this subsection to review the need for com-
17 mitment of the individual to a health facility. The commitment
18 review panel shall consist of 3 physicians appointed by the
19 ~~probate~~ DOMESTIC RELATIONS court from a list of physicians sub-
20 mitted by the department. Not less than 2 of the physicians
21 shall have training and experience in the diagnosis and treatment
22 of serious communicable diseases and infections. However, upon
23 the motion of the individual who is the subject of the order, the
24 ~~probate~~ DOMESTIC RELATIONS court shall appoint as 1 member of
25 the commitment review panel a physician who is selected by the
26 individual. The commitment review panel shall do all of the
27 following:

1 (a) Review the record of the proceeding.

2 (b) Interview the individual, or document the reasons why
3 the individual was not interviewed.

4 (c) Recommend either commitment or an alternative or alter-
5 natives to commitment, and document the reasons for the
6 recommendation.

7 (6) An individual committed to a facility under
8 subsection (4)(h) may appeal to the ~~probate~~ DOMESTIC RELATIONS
9 court for a commitment review panel recommendation as to whether
10 or not the patient's commitment should be terminated. Upon the
11 filing of a claim of appeal under this subsection, the ~~probate~~
12 DOMESTIC RELATIONS court shall reconvene the commitment review
13 panel appointed under subsection (5) as soon as practicable, but
14 not more than 14 days after the filing of the claim of appeal.
15 Upon reconvening, the commitment review panel shall do all of the
16 following:

17 (a) Review the appeal and any other information considered
18 relevant by the commitment review panel.

19 (b) Interview the individual, or document the reasons why
20 the individual was not interviewed.

21 (c) Recommend to the ~~probate~~ DOMESTIC RELATIONS court
22 either termination or continuation of the commitment, and docu-
23 ment the reasons for the recommendation.

24 (7) Upon receipt of the recommendation of the commitment
25 review panel under subsection (6), the ~~probate~~ DOMESTIC
26 RELATIONS court may terminate or continue the commitment.

1 (8) The cost of implementing an order issued under
2 subsection (4) shall be borne by the individual who is the
3 subject of the order, unless the individual is unable to pay all
4 or a part of the cost, as determined by the ~~probate~~ DOMESTIC
5 RELATIONS court. If the ~~probate~~ DOMESTIC RELATIONS court
6 determines that the individual is unable to pay all or a part of
7 the cost of implementing the order, then the state shall pay all
8 of the cost or that part of the cost that the individual is
9 unable to pay, upon the certification of the department.

10 (9) An individual who is the subject of a petition filed
11 under this section or an affidavit filed under section 5207 shall
12 have the right to counsel at all stages of the proceedings. If
13 the individual is unable to pay the cost of counsel, the
14 ~~probate~~ DOMESTIC RELATIONS court shall appoint counsel for the
15 individual.

16 (10) An order issued by the ~~probate~~ DOMESTIC RELATIONS
17 court under this section may be appealed to the circuit court.
18 The circuit court shall hear the appeal within 30 days after the
19 date the claim of appeal is filed with the circuit court.
20 However, an order issued by the ~~probate~~ DOMESTIC RELATIONS
21 court under this section shall not be stayed pending appeal,
22 unless ordered by the circuit court on motion for good cause.

23 (11) An individual committed to a facility under this sec-
24 tion who leaves the facility before the date designated in the
25 commitment order without the permission of the ~~probate~~ DOMESTIC
26 RELATIONS court is guilty of contempt.

1 Sec. 5207. (1) To protect the public health in an emergency,
2 upon the filing of an affidavit by a department representative or
3 a local health officer, the ~~probate~~ DOMESTIC RELATIONS court
4 may order the department representative, local health officer, or
5 a peace officer to take an individual whom the ~~probate~~ DOMESTIC
6 RELATIONS court has reasonable cause to believe is a carrier and
7 is a health threat to others into custody and transport the indi-
8 vidual to an appropriate emergency care or treatment facility for
9 observation, examination, testing, diagnosis, or treatment and,
10 if determined necessary by the ~~probate~~ DOMESTIC RELATIONS
11 court, temporary detention. If the individual is already insti-
12 tutionalized in a facility, the DOMESTIC RELATIONS court may
13 order the facility to temporarily detain the individual. An
14 order issued under this subsection may be issued in an ex parte
15 proceeding upon an affidavit of a department representative or a
16 local health officer. The ~~probate~~ DOMESTIC RELATIONS court
17 shall issue an order under this subsection upon a determination
18 that reasonable cause exists to believe that there is a substan-
19 tial likelihood that the individual is a carrier and a health
20 threat to others. An order under this subsection may be executed
21 on any day and at any time, and shall be served upon the individ-
22 ual who is the subject of the order immediately upon apprehension
23 or detention.

24 (2) An affidavit filed by a department representative or a
25 local health officer under subsection (1) shall set forth the
26 specific facts upon which the order is sought including, but not
27 limited to, the reasons why an emergency order is sought.

1 (3) An individual temporarily detained under subsection (1)
2 shall not be detained longer than 72 hours, excluding Saturdays,
3 Sundays, and legal holidays, without a court hearing to determine
4 if the temporary detention should continue.

5 (4) Notice of a hearing under subsection (3) shall be served
6 upon the individual not less than 24 hours before the hearing is
7 held. The notice shall contain all of the following
8 information:

9 (a) The time, date, and place of the hearing.

10 (b) The grounds and underlying facts upon which continued
11 detention is sought.

12 (c) The individual's right to appear at the hearing.

13 (d) The individual's right to present and cross-examine
14 witnesses.

15 (e) The individual's right to counsel, including the right
16 to counsel designated by the ~~probate~~ DOMESTIC RELATIONS court,
17 as described in section 5205(9).

18 (5) The ~~probate~~ DOMESTIC RELATIONS court may order that
19 the individual continue to be temporarily detained if the court
20 finds, by a preponderance of the evidence, that the individual
21 would pose a health threat to others if released. An order under
22 this subsection to continued temporary detention shall not con-
23 tinue longer than 5 days, unless a petition is filed under sec-
24 tion 5205. If a petition is filed under section 5205, the tempo-
25 rary detention shall continue until a hearing on the petition is
26 held under section 5205.

1 Sec. 5209. This part does not limit the power of the
2 department, a local health department, or the ~~probate~~ DOMESTIC
3 RELATIONS court to deal with the prevention and control of commu-
4 nicable diseases and infections.

5 Sec. 6122. As used in this section and sections 6123 to
6 6126:

7 (a) "Court" means the ~~probate~~ DOMESTIC RELATIONS court for
8 the county in which a minor, for whom a request for substance
9 abuse treatment and rehabilitation services has been made, either
10 resides or is found.

11 (b) "Minor" means an individual 14 or more years of age and
12 less than 18 years of age.

13 (c) "Person in loco parentis" means an individual who is not
14 the parent or guardian of a child or minor but who has legal cus-
15 tody of the child or minor and is providing support and care for
16 the child or minor.

17 (d) "Physiological dependency" means addiction to alcohol or
18 drugs which alters the body's physical or psychological status,
19 or both.

20 (e) "Program" means a hospital, clinic, organization, or
21 health professional licensed under this act by the office of sub-
22 stance abuse services to provide treatment services or screening
23 and assessment services.

24 Section 2. (1) This amendatory act shall take effect
25 January 1, 1990.

1 (2) This amendatory act shall not take effect unless Senate
2 Bill No. _____ or House Bill No. 4567 (request no. 01659'89) of
3 the 85th Legislature is enacted into law.