

HOUSE BILL No. 5746

May 10, 1990, Introduced by Reps. Hertel, Palamara, DeMars, Perry Bullard, Berman, Griffin and Jonker and referred to the Committee on Judiciary.

A bill to amend sections 24a, 28, 29, 36, 37, 39, 43, and 51 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,"

section 24a as added and sections 28, 29, 36, 39, 43, and 51 as amended by Act No. 72 of the Public Acts of 1982, being sections

1 Section 1. Sections 24a, 28, 29, 36, 37, 39, 43, and 51 of
2 chapter X of Act No. 288 of the Public Acts of 1939, section 24a
3 as added and sections 28, 29, 36, 39, 43, and 51 as amended by
4 Act No. 72 of the Public Acts of 1982, being sections 710.24a,
5 710.28, 710.29, 710.36, 710.37, 710.39, 710.43, and 710.51 of the
6 Michigan Compiled Laws, are amended and section 43a is added to
7 chapter X to read as follows:

9 Sec. 24a. (1) Interested parties in a petition for adop-
10 tion include, but shall not be limited to:

13 (c) A minor parent, adult parent, or surviving parent of a
14 minor adoptee, unless:

15 (i) The rights of the parent have been terminated by a court
16 of competent jurisdiction.

17 (ii) A guardian of the adoptee, with specific authority to
18 consent to adoption, has been appointed.

19 (iii) A guardian of the parent, with specific authority to
20 consent to adoption, has been appointed.

21 (iv) The rights of the parent have been released.

22 (v) The parent has consented to the granting of the
23 petition.

1 (d) The department or a child placing agency to which the
2 adoptee has been, or for purposes of subsection (2) is proposed
3 to be, released or committed by an order of the juvenile division
4 of the probate court.

5 (e) A parent, guardian, or guardian ad litem of an unemanci-
6 pated minor parent of the adoptee.

7 (f) The juvenile division of the probate court with per-
8 manent custody of the adoptee.

9 (g) A court with continuing jurisdiction over the adoptee.

10 (h) A child placing agency of another state or country which
11 has authority to consent to adoption.

12 (i) The guardian or guardian ad litem of an interested
13 party.

14 (2) Interested parties in a petition for a hearing to iden-
15 tify the father of a child and to determine or terminate his
16 rights include, but shall not be limited to:

17 (a) The persons ~~set forth~~ DESCRIBED in subsection (1).

18 (b) A putative father of the child.

19 (3) Interested parties in a proceeding relating to the exe-
20 cution of a voluntary release include, but shall not be limited
21 to:

22 (a) The adoptee, if over 5 years of age.

23 (b) The department or a child placing agency to which the
24 adoptee is proposed to be released.

25 (c) The person executing the release of parental rights.

26 (4) INTERESTED PARTIES IN A PETITION BY THE GUARDIAN OF A
27 CHILD OR BY THE GUARDIAN OF A PARENT OF A CHILD FOR AUTHORITY TO

1 EXECUTE A RELEASE OF THE CHILD OR EXECUTE A CONSENT TO THE
2 CHILD'S ADOPTION INCLUDE, BUT SHALL NOT BE LIMITED TO:

3 (A) THE PERSONS DESCRIBED IN SUBSECTION (1).

4 (B) A PUTATIVE FATHER OF THE CHILD, UNLESS HIS RIGHTS TO THE
5 CHILD HAVE BEEN TERMINATED BY A COURT OF COMPETENT JURISDICTION.

6 (5) ~~(4)~~ The court shall not appoint a guardian of the
7 adoptee or of a parent solely for the purpose of defeating that
8 parent's status as an interested party under this section.

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

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

13 (i) The rights of the parent have been terminated by a court
14 of competent jurisdiction.

15 (ii) A guardian of the child has been appointed.

16 (iii) A guardian of a parent has been appointed.

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

20 (c) By the duly authorized representative of the child plac-
21 ing agency to whom the child has been released.

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

24 (e) By the guardian of a parent.

25 (2) If the parent of the child to be adopted is an unemanci-
26 pated minor, that parent's release is not valid unless a parent,

1 guardian, or guardian ad litem of that minor parent has also
2 executed the release.

3 (3) The guardian of the child to be adopted may not execute
4 a release of the child pursuant to subsection (1) unless the
5 guardian has first obtained authority to execute the release from
6 the court which appointed the guardian PURSUANT TO SECTION 43A OF
7 THIS CHAPTER.

8 (4) The guardian of a parent may not execute a release of
9 the parent's child pursuant to subsection (1) unless the guardian
10 has first obtained authority to execute the release from the
11 court which appointed the guardian PURSUANT TO SECTION 43A OF
12 THIS CHAPTER. Such a release shall have the same effect as if
13 the release were executed by the parent.

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

16 (6) Before the department arranges a release from a parent
17 or guardian, a representative of the department shall advise the
18 parent or guardian about child placing agencies serving the
19 county and, upon the parent's or guardian's request, shall refer
20 the parent or guardian to a child placing agency. After the
21 release of a child by a parent or guardian to the department, the
22 department shall advise the child placing agencies serving the
23 county that the child is available for adoption.

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

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

3 (9) Where applicable under this section, proof of the termi-
4 nation of parental rights, release of parental rights, appoint-
5 ment, authorization, or commitment shall accompany the release.

6 Sec. 29. (1) Except as otherwise provided in this section,
7 a release shall be by a separate instrument executed before a
8 judge of probate or before a referee of the court. If a parent's
9 or guardian's release is executed before a judge or referee as
10 provided in this subsection, a verbatim record of testimony
11 related to execution of the release shall be made.

12 (2) If the person from whom a release is required is in the
13 armed services or is in prison, the release may be executed and
14 acknowledged before a person authorized by law to administer
15 oaths.

16 (3) If the release is to be given by a duly authorized rep-
17 resentative of a child placing agency which has jurisdiction of
18 the child to be adopted, the release may be executed and acknowl-
19 edged before a person authorized by law to administer oaths.

20 (4) If the release is executed in another state or country,
21 the court having jurisdiction over the adoption proceeding in
22 this state shall determine whether the release was executed in
23 accordance with the laws of that state or country and shall not
24 proceed unless it finds that the release was so executed.

25 (5) A release by a parent or a guardian of the child shall
26 not be executed until after such investigation as the court deems
27 proper and until after the judge, referee, or other person

1 authorized in subsection (2) has fully explained to the parent or
2 guardian the legal rights of the parent or guardian and the fact
3 that the parent or guardian by virtue of the release voluntarily
4 relinquishes permanently his or her rights to the child; and, if
5 the child is over 5 years of age, the court has determined that
6 the child is best served by the release.

7 (6) Upon the release of a child by a parent, ~~or guardian,~~
8 the court immediately shall issue an order terminating the rights
9 of that parent ~~or guardian~~ to that child. UPON THE RELEASE OF
10 A CHILD BY THE GUARDIAN OF A PARENT, THE COURT IMMEDIATELY SHALL
11 ISSUE AN ORDER TERMINATING THE RIGHTS OF THAT PARENT TO THAT
12 CHILD. UPON THE RELEASE OF A CHILD BY THE GUARDIAN OF THE CHILD,
13 THE COURT IMMEDIATELY SHALL ISSUE AN ORDER TERMINATING THE RIGHTS
14 OF BOTH PARENTS OR THE SURVIVING PARENT AND THAT GUARDIAN TO THAT
15 CHILD. If the rights of both parents, the surviving parent, or
16 the guardian have been terminated, the court shall issue an order
17 committing the child to the child placing agency or department to
18 which the release was given.

19 (7) The court shall authorize foster care funding pending
20 expiration of the period of appeal or rehearing as provided in
21 sections 64 and 65 of this chapter, and pending disposition of
22 any appeal or rehearing, for all persons committed to a child
23 placing agency. Foster care funding authorized under this sub-
24 section shall exclude the administrative costs of the child plac-
25 ing agency. The costs of foster care shall be paid through the
26 use of the child care fund as provided by section 117c of Act
27 No. 280 of the Public Acts of 1939, as amended, being section

1 400.117c of the Michigan Compiled Laws, or by any successor
2 statute. When foster care funding is authorized pursuant to this
3 subsection, the court shall send a copy of the order to the
4 department. Upon receiving a copy of this order, the department
5 shall reimburse the court child care fund of the county where the
6 court order for foster care funding was made in the total amount
7 of the court ordered payment. The reimbursement shall be made
8 monthly.

9 (8) Entry of an order terminating the rights of both parents
10 pursuant to subsection (6) shall terminate the jurisdiction of
11 the circuit court over the child in any divorce or separate main-
12 tenance action.

13 (9) Upon petition of the same person or persons who executed
14 the release and of the department or child placing agency to
15 which the child was released, the court with which the release
16 was filed may grant a hearing to consider whether the release
17 should be revoked. A release may not be revoked if the child has
18 been placed for adoption unless the child is placed pursuant to
19 section 41(2) of this chapter and a petition for rehearing or
20 claim of appeal is filed within the time required. A verbatim
21 record of testimony related to a petition to revoke a release
22 shall be made.

23 Sec. 36. (1) If a child is claimed to be born out of wed-
24 lock and the mother executes or proposes to execute a release or
25 consent relinquishing her rights to the child or joins in a peti-
26 tion for adoption filed by her husband OR, IF A CHILD IS CLAIMED
27 TO BE BORN OUT OF WEDLOCK AND THE GUARDIAN OF THE MOTHER OR

1 GUARDIAN OF THE CHILD FILES OR PROPOSES TO FILE A PETITION FOR AN
2 ORDER GRANTING AUTHORITY TO EXECUTE A RELEASE OF THE CHILD OR
3 EXECUTE A CONSENT TO THE CHILD'S ADOPTION BY THAT GUARDIAN OR BY
4 ANOTHER PERSON PURSUANT TO SECTION 43A OF THIS CHAPTER, and the
5 release or consent of the natural father cannot be obtained, the
6 judge of probate shall hold a hearing as soon as practical to
7 determine whether the child was born out of wedlock, to determine
8 the identity of the father, and to determine or terminate the
9 rights of the father as provided in this section and sections 37
10 and 39 of this chapter.

11 (2) Proof of service of a notice of intent to release or
12 consent or the putative father's verified acknowledgment of
13 notice of intent to release or consent shall be filed with the
14 court, if the notice was given to the putative father. The court
15 shall request the vital records division of the department of
16 public health to send to the court a copy of any notice of intent
17 to claim paternity of the particular child which the division has
18 received.

19 (3) Notice of the hearing shall be served upon the
20 following:

21 (a) A putative father who has timely filed a notice of
22 intent to claim paternity as provided in section 33 or 34 of this
23 chapter.

24 (b) A putative father who was not served a notice of intent
25 to release or consent at least 30 days before the expected date
26 of confinement specified in the notice of intent to release or
27 consent.

1 (c) Any other male who was not served pursuant to section
2 34(1) of this chapter with a notice of intent to release or con-
3 sent and who the court has reason to believe may be the father of
4 the child.

5 (4) The notice of hearing shall inform the putative father
6 that his failure to appear at the hearing shall constitute a
7 denial of his interest in custody of the child, which denial
8 shall result in the court's termination of his rights to the
9 child.

10 (5) Proof of service of the notice of hearing required by
11 subsection (3) shall be filed with the court. A verified
12 acknowledgment of service by the party to be served is proof of
13 personal service. Notice of the hearing shall not be required if
14 the putative father is present at the hearing. A waiver of
15 notice of hearing by a person entitled to receive it is
16 sufficient.

17 (6) The court shall receive evidence as to the identity of
18 the father of the child. Based upon the evidence received, the
19 court shall enter a finding identifying the father or declaring
20 that the identity of the father cannot be determined.

21 (7) If the court finds that the father of the child is a
22 person who did not receive either a timely notice of intent to
23 release or consent pursuant to section 34(1) of this chapter or a
24 notice required pursuant to subsection (3), and who has neither
25 waived his right to notice of hearing nor is present at the hear-
26 ing, the court shall adjourn further proceedings until that
27 person is served with a notice of hearing.

1 Sec. 37. (1) If the court has proof that the person whom
2 it determines pursuant to section 36 to be the father of the
3 child was timely served with a notice of intent to release or
4 consent pursuant to section 34(1) or was served with or waived
5 the notice of hearing required by section 36(3), the court may
6 permanently terminate the rights of the putative father under any
7 of the following circumstances:

8 (a) The putative father submits a verified affirmation of
9 his paternity and a denial of his interest in custody of the
10 child.

11 (b) The putative father files a disclaimer of paternity.
12 For purposes of this section, the filing of the disclaimer of
13 paternity shall constitute a waiver of notice of hearing and
14 shall constitute a denial of his interest in custody of the
15 child.

16 (c) The putative father was served with a notice of intent
17 to release or consent in accordance with section 34(1), at least
18 30 days before the expected date of confinement specified in that
19 notice but failed to file an intent to claim paternity either
20 before the expected date of confinement or before the birth of
21 the child.

22 (d) The putative father is given proper notice of hearing in
23 accordance with section 36(3) or 36(5) but either fails to appear
24 at the hearing or appears and denies his interest in custody of
25 the child.

26 (2) If the identity of the father cannot be determined, or
27 if the identity of the father is known but his whereabouts cannot

1 be determined, the court shall take evidence to determine the
2 facts in the matter. The court may terminate the rights of the
3 putative father if the court finds from the evidence that reason-
4 able effort has been made to identify and locate the father and
5 that any of the following circumstances exist:

6 (a) The putative father, whose identity is not known, has
7 not made provision for the child's care and did not provide sup-
8 port for the mother during her pregnancy or during her
9 confinement.

10 (b) The putative father, whose identity is known but whose
11 whereabouts are unknown, has not provided support for the mother
12 FOR AT LEAST 90 DAYS PRECEDING THE HEARING REQUIRED UNDER SECTION
13 36, AND has not shown any interest in the child — and has not
14 made provision for the child's care, for at least 90 days OR THE
15 NUMBER OF DAYS SINCE THE BIRTH OF THE CHILD, WHICHEVER IS LESS,
16 preceding the hearing required under section 36.

17 Sec. 39. (1) If the putative father does not come within
18 the provisions of subsection (2), and if the putative father
19 appears at the hearing and requests custody of the child, the
20 court shall inquire into his fitness and his ability to properly
21 care for the child and shall determine whether the best interests
22 of the child will be served by granting custody to him. If the
23 court finds that it would not be in the best interest of the
24 child to grant custody to the putative father, the court shall
25 terminate his rights to the child.

26 (2) If the putative father has established a custodial
27 relationship with the child or has provided support or care for

1 the mother during pregnancy or for either mother or child after
2 the child's birth during the 90 days before notice of the hearing
3 was served upon him, the rights of the putative father shall not
4 be terminated except by proceedings in accordance with section
5 51(6) of this chapter or section 2 of chapter XIIA.

6 (3) If the parental rights of the mother are terminated pur-
7 suant to this chapter or other law and if the court awards cus-
8 tody of a child out of wedlock to the putative father, the court
9 shall enter an order granting custody to the putative father and
10 legitimating the child for all purposes. The judge of probate
11 shall duly record the legitimation in accordance with section 111
12 of Act No. 642 of the Public Acts of 1978, as amended, being
13 section 700.111 of the Michigan Compiled Laws.

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

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

19 (i) The rights of the parent have been terminated by a court
20 of competent jurisdiction.

21 (ii) The child has been released for the purpose of adoption
22 to a child placing agency or to the department.

23 (iii) A guardian of the child has been appointed.

24 (iv) A guardian of a parent has been appointed.

25 (v) The child is not related to the petitioner within the
26 fourth degree of affinity or consanguinity.

1 (vi) A parent having legal custody of the child is married
2 to the petitioner.

3 (b) By the duly authorized representative of the department
4 or of a child placing agency to whom the child has been per-
5 manently committed by an order of the juvenile division of the
6 probate court.

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

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

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

14 (f) By the guardian of a parent.

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

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

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

24 (4) If the parent of the child to be adopted is an unemanci-
25 pated minor, that parent's consent is not valid unless a parent,
26 guardian, or guardian ad litem of that minor parent has also
27 executed the consent.

1 (5) The guardian of the child to be adopted shall not
2 execute a consent to that child's adoption BY THAT GUARDIAN OR BY
3 ANOTHER PERSON pursuant to subsection (1) unless the guardian has
4 first obtained authority to execute the consent from the court
5 which appointed the guardian PURSUANT TO SECTION 43A OF THIS
6 CHAPTER.

7 (6) The guardian of a parent shall not execute a consent to
8 the adoption of the parent's child BY THAT GUARDIAN OR BY ANOTHER
9 PERSON pursuant to subsection (1) unless the guardian has first
10 obtained authority to execute the consent from the court which
11 appointed the guardian PURSUANT TO SECTION 43A OF THIS CHAPTER.
12 The consent shall have the same effect as if the consent were
13 executed by the parent.

14 (7) The parent of a child shall not execute a consent unless
15 ~~the~~ 1 OF THE FOLLOWING APPLIES:

16 (A) THE petitioner is related to the child within the fourth
17 degree of affinity or consanguinity.

18 (B) THE PETITIONER IS THE GUARDIAN OF THE CHILD UNDER THE
19 LAWS OF ANOTHER STATE OR COUNTRY AND THAT STATE OR COUNTRY PRO-
20 HIBITS THE GUARDIAN FROM CONSENTING TO THE CHILD'S ADOPTION BY
21 THAT GUARDIAN OR BY ANOTHER PERSON, AND THE PETITIONER WAS
22 APPOINTED THE CHILD'S GUARDIAN BEFORE THE EFFECTIVE DATE OF THE
23 AMENDATORY ACT THAT ADDED THIS SUBDIVISION.

24 (C) THE PETITIONER IS THE LIMITED GUARDIAN OF THE CHILD
25 UNDER SECTION 424A OF THE REVISED PROBATE CODE, ACT NO. 642 OF
26 THE PUBLIC ACTS OF 1978, BEING SECTION 700.424A OF THE MICHIGAN
27 COMPILED LAWS, AND THE PETITIONER WAS APPOINTED THE CHILD'S

1 LIMITED GUARDIAN BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT
2 THAT ADDED THIS SUBDIVISION.

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

11 SEC. 43A. (1) IF THE GUARDIAN OF A CHILD DESIRES TO OBTAIN
12 AUTHORITY TO EXECUTE A RELEASE OF THE CHILD AS REQUIRED BY SEC-
13 TION 28(3) OF THIS CHAPTER OR EXECUTE A CONSENT TO THE CHILD'S
14 ADOPTION BY THAT GUARDIAN OR BY ANOTHER PERSON AS REQUIRED BY
15 SECTION 43(5) OF THIS CHAPTER, THE GUARDIAN SHALL PETITION THE
16 COURT THAT APPOINTED THE GUARDIAN FOR AN ORDER GRANTING THAT
17 AUTHORITY TO THE GUARDIAN.

18 (2) IF THE GUARDIAN OF A PARENT OF A CHILD DESIRES TO OBTAIN
19 AUTHORITY TO EXECUTE A RELEASE OF THE PARENT'S CHILD AS REQUIRED
20 BY SECTION 28(4) OF THIS CHAPTER OR EXECUTE A CONSENT TO THE
21 ADOPTION OF THE PARENT'S CHILD BY THAT GUARDIAN OR BY ANOTHER
22 PERSON AS REQUIRED BY SECTION 43(6) OF THIS CHAPTER, THE GUARDIAN
23 SHALL PETITION THE COURT WHICH APPOINTED THE GUARDIAN FOR AN
24 ORDER GRANTING THAT AUTHORITY TO THE GUARDIAN.

25 (3) NOTICE OF HEARING OF A PETITION DESCRIBED IN SUBSECTION
26 (1) OR (2) FOR AUTHORITY TO EXECUTE A RELEASE OF THE CHILD OR
27 EXECUTE A CONSENT TO THE CHILD'S ADOPTION BY THAT GUARDIAN OR BY

1 ANOTHER PERSON SHALL BE SERVED BY THE GUARDIAN ON THE INTERESTED
2 PARTIES DESCRIBED IN SECTION 24A(4) OF THIS CHAPTER. THE NOTICE
3 OF HEARING SHALL BE SERVED ON THE INTERESTED PARTIES AS PROVIDED
4 IN THE MICHIGAN COURT RULES OF 1985.

5 (4) UPON HEARING, THE COURT SHALL AUTHORIZE THE GUARDIAN OF
6 THE CHILD OR THE GUARDIAN OF THE PARENT TO EXECUTE A RELEASE OF
7 THE CHILD OR EXECUTE A CONSENT TO THE CHILD'S ADOPTION BY THAT
8 GUARDIAN OR BY ANOTHER PERSON IF THE COURT IS SATISFIED THAT THE
9 BEST INTERESTS OF THE CHILD WILL BE SERVED BY THE RELEASE OF THE
10 CHILD OR THE CONSENT TO THE CHILD'S ADOPTION, SUBJECT TO
11 SECTION 31 OF THIS CHAPTER.

12 Sec. 51. (1) Not later than 14 days after receipt of the
13 report of investigation, except as provided in subsections (2),
14 and (5), the judge of probate shall examine the report and shall
15 enter an order terminating the rights of ~~the child's parent or~~
16 ~~parents, if there was a parental consent~~ A PARENT OF THE CHILD,
17 IF THAT PARENT OR THAT PARENT'S GUARDIAN EXECUTED A CONSENT TO
18 THE CHILD'S ADOPTION, or the rights of any person in loco paren-
19 tis, if there was a consent by other than parents, OR THE RIGHTS
20 OF THE CHILD'S PARENT OR PARENTS, IF THERE WAS A CONSENT BY THE
21 GUARDIAN OF THE CHILD if the judge is satisfied as to both of the
22 following:

23 (a) The genuineness of consent to the adoption and the legal
24 authority of the person or persons signing the consent.

25 (b) The best interests of the adoptee will be served by the
26 adoption.

1 (2) If it is necessary to hold a hearing before entering an
2 order terminating the rights of a parent, parents, or a person in
3 loco parentis, or if other good cause is shown, the time speci-
4 fied in subsection (1) shall be extended for an additional 14-day
5 period.

6 (3) Upon entry of an order terminating rights of parents or
7 persons in loco parentis, a child shall be a ward of the court
8 and a consent to adoption executed pursuant to section 43 of this
9 chapter shall not thereafter be withdrawn. Entry of the order
10 shall terminate the jurisdiction of the circuit court over the
11 child in a divorce or separate maintenance action. If the peti-
12 tioner for adoption is married to the parent having legal custody
13 of the child, the child shall not be made a ward of the court
14 after termination of the rights of the other parent.

15 (4) Without making the child a ward of the court, the court
16 may authorize placement of a child if the child is placed for
17 adoption in this state by a public or licensed private agency of
18 another state or country and if the law of the sending state or
19 country prohibits the giving of consent to adoption at the time
20 of placement. Before placement of the child in that instance,
21 the sending agency shall tender evidence as the court requires to
22 demonstrate that the agency possesses the necessary authority to
23 consent to the adoption at the time of entry of the final order
24 of adoption. After the sending agency has given evidence of its
25 ability to consent, the agency shall not do anything to jeopar-
26 dize its ability to grant the required consent before entry of

1 the final order of adoption. After the sending agency gives its
2 consent for the adoption, that consent shall not be withdrawn.

3 (5) If a parent having legal custody of the child is married
4 to the petitioner for adoption, the judge of probate shall not
5 enter an order terminating the rights of that parent.

6 (6) If the parents of a child are divorced, or if the par-
7 ents are unmarried but the father has acknowledged paternity or
8 is a putative father who meets the conditions in section 39(2) of
9 this chapter, and if the parent having legal custody of the child
10 subsequently marries and that parent's spouse petitions to adopt
11 the child, the court upon notice and hearing may issue an order
12 terminating the rights of the other parent if both of the follow-
13 ing occur:

14 (a) The other parent, having the ability to support, or
15 assist in supporting, the child, has failed or neglected to pro-
16 vide regular and substantial support for the child or if a sup-
17 port order has been entered, has failed to substantially comply
18 with the order, for a period of 2 years or more before the filing
19 of the petition.

20 (b) The other parent, having the ability to visit, contact,
21 or communicate with the child, has regularly and substantially
22 failed or neglected to do so for a period of 2 years or more
23 before the filing of the petition.

24 (7) IF THE PETITIONER FOR ADOPTION AND THE PARENT, PARENTS,
25 OR THE PERSON IN LOCO PARENTIS OF THE CHILD KNOW EACH OTHER'S
26 IDENTITY, THE COURT SHALL NOT FOR THAT REASON ALONE DETERMINE

1 THAT THE BEST INTERESTS OF THE CHILD WILL NOT BE SERVED BY THE
2 ADOPTION.

3 (8) ~~(7)~~ Unless otherwise ordered by the court, the pro-
4 spective adoptive parents with whom a child is placed pursuant to
5 a court order under this section may consent to all medical, sur-
6 gical, psychological, educational, and related services for the
7 child.