



# HOUSE BILL No. 4611

March 16, 1995, Introduced by Reps. Gubow and Nye and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 23d, 23f, 24, and 41 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 23d, 23f, and 24 as amended by Act No. 373 of the Public Acts of 1994 and section 41 as amended by Act No. 222 of the

Public Acts of 1994, being sections 710.23d, 710.23f, 710.24, and 710.41 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Sections 23d, 23f, 24, and 41 of chapter X of  
2 Act No. 288 of the Public Acts of 1939, sections 23d, 23f, and 24  
3 as amended by Act No. 373 of the Public Acts of 1994 and section  
4 41 as amended by Act No. 222 of the Public Acts of 1994, being  
5 sections 710.23d, 710.23f, 710.24, and 710.41 of the Michigan  
6 Compiled Laws, are amended to read as follows:

7 CHAPTER X

8 Sec. 23d. (1) In a direct placement, a parent or guardian  
9 with legal and physical custody of a child may make a temporary  
10 placement of the child as prescribed by this section. In an  
11 agency placement, a child placing agency with written authoriza-  
12 tion from the parent or guardian ~~pursuant to~~ AS PROVIDED IN  
13 section 23b of this chapter may make a temporary placement of the  
14 child as prescribed by this section. A temporary placement shall  
15 meet all of the following requirements:

16 (a) The prospective adoptive parent with whom a child is  
17 temporarily placed is a Michigan resident.

18 (b) In a direct placement, the parent or guardian is  
19 assisted by an adoption attorney or a child placing agency.

20 (c) In the presence of a witness who also signs the docu-  
21 ment, the parent, guardian, or representative of the child plac-  
22 ing agency signs a statement evidencing the transfer of physical  
23 custody of the child. If the parent making the temporary  
24 placement is an unemancipated minor, the statement is not valid

1 unless it is also signed in the presence of the witness by a  
2 parent or guardian of that minor parent. The statement shall  
3 contain all of the following:

4 (i) The date of the transfer of physical custody.

5 (ii) Language providing that the transfer is for the purpose  
6 of adoption by the prospective adoptive parent who is a Michigan  
7 resident.

8 (iii) Language indicating that unless the parent or guardian  
9 and the prospective adoptive parent agree otherwise, the prospec-  
10 tive adoptive parent has the authority to consent to all medical,  
11 surgical, psychological, educational, and related services for  
12 the child and language indicating that the parent or guardian  
13 otherwise retains full parental rights to the child being tempo-  
14 rarily placed and that the temporary placement may be revoked by  
15 the filing of a petition under subsection (5).

16 (iv) Language providing that the person making the transfer  
17 has read a preplacement assessment of the prospective adoptive  
18 parent completed or updated within 1 year before the date of the  
19 transfer with a finding that the prospective adoptive parent is  
20 suitable to be a parent of an adoptee. If a child placing agency  
21 makes the transfer of physical custody, the statement shall  
22 include a verification that the child placing agency has given  
23 the parent or guardian who authorized the temporary placement an  
24 opportunity to review the preplacement assessment.

25 (v) Even if only 1 parent is making the temporary placement,  
26 the name and address of both parents of the child, including in

1 the case of a child born out of wedlock, the name and the address  
2 of each putative father of the child, if known.

3 (d) In the presence of a witness who also signs the docu-  
4 ment, the prospective adoptive parent signs a statement setting  
5 forth the date of the transfer of physical custody and the name  
6 and address of the prospective adoptive parent and attesting to  
7 both of the following:

8 (i) That the prospective adoptive parent understands that  
9 the temporary placement will not become a formal placement until  
10 the parents consent or release their parental rights and the  
11 court orders the termination of parental rights and approves the  
12 placement and that the prospective adoptive parent must relin-  
13 quish custody of the child within 24 hours after being served  
14 with an order ~~pursuant to~~ ISSUED UNDER section 23e(2) of this  
15 chapter.

16 (ii) That the prospective adoptive parent agrees to reside  
17 with the child in Michigan until a change of residence is  
18 approved by the court after formal placement occurs.

19 (2) Not later than 2 days, excluding weekends and holidays,  
20 after a transfer of physical custody of a child ~~pursuant to~~  
21 UNDER subsection (1), the adoption attorney or child placing  
22 agency who assists with the temporary placement or the child  
23 placing agency that makes the temporary placement shall submit to  
24 the court in the county in which the prospective adoptive parent  
25 resides a report that contains all of the following:

26 (a) The date of the transfer of physical custody.

1 (b) The name and address of the parent or guardian or the  
2 child placing agency who made the temporary placement.

3 (c) The name and address of the prospective adoptive parent  
4 with whom the temporary placement was made.

5 (d) Even if only 1 parent is making the temporary placement,  
6 the name and address of both parents of the child, including, in  
7 the case of a child born out of wedlock, the name of each puta-  
8 tive father, if known.

9 (e) The documents required under subsection (1)(c) and (d)  
10 and, if applicable, the authorization required under section 23b  
11 of this chapter.

12 (3) Not later than 30 days after the transfer of physical  
13 custody of a child under this section, the adoption attorney or  
14 child placing agency who assists with the temporary placement or  
15 the child placing agency that makes the temporary placement shall  
16 submit to the court that received the report described in subsec-  
17 tion (2) a report indicating whether or not 1 of the following  
18 dispositions has occurred:

19 (a) A petition for adoption of the child has been filed.

20 (b) The child has been returned to the agency or to a parent  
21 or other person having legal custody.

22 (4) If the court has not received the report required under  
23 subsection (3) within 45 days after the transfer of physical cus-  
24 tody of a child, the probate register shall immediately investi-  
25 gate and determine whether an adoption petition has been filed or  
26 the child has been returned to a parent or other person having  
27 legal custody. If the report required under subsection (3) or

1 the probate register's investigation reveals that neither  
2 disposition has occurred AND IF A PETITION HAS NOT BEEN FILED  
3 UNDER SUBSECTION (5), (6), OR (7), the probate register shall  
4 immediately report to the prosecutor, who shall immediately file  
5 a petition in the court that received the report described in  
6 subsection (2) for disposition of the child ~~pursuant to~~ AS PRO-  
7 VIDED IN section 23e of this chapter. If a petition has been  
8 filed under subsection (5), (6), or (7), the prosecutor is not  
9 required to file a petition.

10 (5) A parent or guardian who wishes to regain custody of a  
11 child who has been placed temporarily shall file a petition in  
12 the court that received the report described in subsection (2)  
13 requesting that the temporary placement be revoked and that the  
14 child be returned to the parent or guardian. Upon request of the  
15 parent or guardian, the adoption attorney or child placing agency  
16 who assisted in making the temporary placement shall assist the  
17 parent or guardian in filing the petition to revoke the temporary  
18 placement. If the temporary placement was made by a child plac-  
19 ing agency ~~pursuant to section 23b(3)~~ AS AUTHORIZED UNDER SEC-  
20 TION 23B of this chapter, the child placing agency shall file the  
21 petition on behalf of a parent or guardian who wishes to regain  
22 custody of the child.

23 (6) If a prospective adoptive parent with whom a child has  
24 been temporarily placed is either unwilling or unable to proceed  
25 with the adoption, the prospective adoptive parent may file a  
26 petition in the court that received the report described in

1 subsection (2) for disposition of the child ~~pursuant to~~ AS  
2 PROVIDED IN section 23e of this chapter.

3 (7) If a child placing agency that temporarily placed a  
4 child is unable to proceed with an adoption because of the  
5 unavailability of a parent or guardian to execute a release, or  
6 if a child placing agency with legal custody of a child decides  
7 not to proceed with the adoption by a prospective adoptive parent  
8 with whom the child has been temporarily placed and the prospec-  
9 tive adoptive parent refuses upon the agency's request to return  
10 the child to the agency, the child placing agency shall file a  
11 petition in the court that received the report described in  
12 subsection (2) for disposition of the child ~~pursuant to~~ AS PRO-  
13 VIDED IN section 23e of this chapter.

14 (8) Except as otherwise agreed to by the parties, the pro-  
15 spective adoptive parent with whom a child is temporarily placed  
16 under this section may consent to all medical, surgical, psycho-  
17 logical, educational, and related services for the child.

18 (9) A hospital or attending practitioner shall not release a  
19 child to an individual or agency not otherwise legally entitled  
20 to the physical custody of the child unless all of the require-  
21 ments of subsection (1) are met.

22 Sec. 23f. (1) In a direct placement, an individual seeking  
23 to adopt may request at any time that a preplacement assessment  
24 be prepared by a child placing agency. ~~(2)~~ An individual  
25 requesting a preplacement assessment need not have located a pro-  
26 spective adoptee when the request is made or when the assessment  
27 is completed. ~~(3)~~ An individual may have more than 1

1 preplacement assessment or may request that an assessment, once  
2 initiated, not be completed.

3       (2) ~~(4)~~ If an individual is seeking to adopt a child from  
4 a particular child placing agency, the agency may require the  
5 individual to be assessed by its own employee, even if the indi-  
6 vidual has already had a favorable preplacement assessment com-  
7 pleted by another child placing agency.

8       (3) ~~(5)~~ A preplacement assessment shall be based upon per-  
9 sonal interviews and visits at the residence of the individual  
10 being assessed, interviews of others who know the individual, and  
11 reports received under this subsection. The assessment shall  
12 contain all of the following information about the individual  
13 being assessed:

14       (a) Age, nationality, race or ethnicity, and any religious  
15 preference.

16       (b) Marital and family status and history, including the  
17 presence of other children or adults in the household and the  
18 relationship of those individuals to the adoptive parent.

19       (c) Physical and mental health, including any history of  
20 substance abuse.

21       (d) Educational and employment history and any special  
22 skills and interests.

23       (e) Property and income, including outstanding financial  
24 obligations as indicated in a current financial report provided  
25 by the individual.

26       (f) Reason for wanting to adopt.



1 (g) Any previous request for an assessment or involvement in  
2 an adoptive placement and the outcome of the assessment or  
3 placement.

4 (h) Whether the individual has ever been the respondent in a  
5 domestic violence proceeding or a proceeding concerning a child  
6 who was allegedly abused, dependent, deprived, neglected, aban-  
7 doned, or delinquent, and the outcome of the proceeding.

8 (i) Whether the individual has ever been convicted of a  
9 crime.

10 (j) Whether the individual has located a parent interested  
11 in placing a child with the individual for adoption and a brief  
12 description of the parent and the child.

13 (k) Any fact or circumstance that raises a specific concern  
14 about the suitability of the individual as an adoptive parent,  
15 including the quality of the environment in the home, the func-  
16 tioning of other children in the household, and any aspect of the  
17 individual's familial, social, psychological, or financial cir-  
18 cumstances that may be relevant to a determination that the indi-  
19 vidual is not suitable. A specific concern is one that suggests  
20 that placement of any child, or a particular child, in the home  
21 of the individual would pose a risk of harm to the physical or  
22 psychological well-being of the child.

23 ~~(6) A child placing agency shall request an individual~~  
24 ~~seeking a preplacement assessment to provide a document from the~~  
25 ~~Michigan state police and the federal bureau of investigation~~  
26 ~~describing all of the individual's criminal convictions as shown~~  
27 ~~by that agency's records, or stating that the agency's records~~

~~1 indicate that the individual has not been convicted of a crime.  
2 Upon request of the individual and receipt of a signed authoriza-  
3 tion, the child placing agency shall obtain the criminal record  
4 from the law enforcement agency on the individual's behalf.~~

5 (4) EACH INDIVIDUAL WHO IS THE SUBJECT OF A PREPLACEMENT  
6 ASSESSMENT SHALL HAVE 2 SETS OF FINGERPRINTS TAKEN BY A LAW  
7 ENFORCEMENT AGENCY. UPON REQUEST OF AN INDIVIDUAL UNDER THIS  
8 SUBSECTION, A LAW ENFORCEMENT AGENCY SHALL TAKE 2 SETS OF THE  
9 INDIVIDUAL'S FINGERPRINTS ON FORMS FURNISHED BY THE DEPARTMENT OF  
10 STATE POLICE AND THE FEDERAL BUREAU OF INVESTIGATION. IF THE LAW  
11 ENFORCEMENT AGENCY CHARGES A FEE FOR THIS SERVICE, THE INDIVIDUAL  
12 REQUESTING THE SERVICE IS RESPONSIBLE FOR THE FEE. THE INDIVID-  
13 UAL SHALL SUBMIT THE FINGERPRINT FORMS TO THE DEPARTMENT OF STATE  
14 POLICE WITH THE APPROPRIATE STATE AND FEDERAL FEES. THE DEPART-  
15 MENT OF STATE POLICE SHALL COMPARE THE INDIVIDUAL'S FINGERPRINTS  
16 WITH STATE RECORDS AND SHALL SUBMIT THE OTHER SET OF FINGERPRINTS  
17 TO THE FEDERAL BUREAU OF INVESTIGATION FOR COMPARISON WITH FED-  
18 ERAL RECORDS. THE DEPARTMENT OF STATE POLICE SHALL SEND THE  
19 RESULTS OF THE COMPARISONS TO THE CHILD PLACING AGENCY PREPARING  
20 THE INDIVIDUAL'S PREPLACEMENT ASSESSMENT. THE CHILD PLACING  
21 AGENCY SHALL USE THE RESULTS IN PREPARING THE PREPLACEMENT  
22 ASSESSMENT.

23 (5) ~~(7)~~ A preplacement assessment shall contain a list of  
24 the sources of information on which it is based. If the child  
25 placing agency determines that the information assessed does not  
26 raise a specific concern, the child placing agency shall find  
27 that the individual is suited to be an adoptive parent. If the

1 child placing agency determines that the information assessed  
2 does raise a specific concern, the child placing agency shall  
3 find that the individual is not suitable to be an adoptive  
4 parent. The conclusion shall be supported by a written account  
5 of how 1 or more specific concerns pose a risk to the physical or  
6 psychological well-being of any child or a particular child. If  
7 the conclusion of a preplacement assessment regarding the suitability  
8 of the individual differs from the conclusion in a prior  
9 assessment, the child placing agency shall explain and justify  
10 the difference.

11 (6) ~~(8)~~ An individual who receives a preplacement assess-  
12 ment with a conclusion of unsuitability may seek a review of the  
13 assessment by the court after filing an adoption petition. The  
14 court may order an agent or employee of the court to make an  
15 investigation and report to the court before the hearing. If, at  
16 the hearing, the court finds by clear and convincing evidence  
17 that the conclusion of unsuitability is not justified, the person  
18 with legal custody of the child may place the child with that  
19 individual. If the court determines that the conclusion of  
20 unsuitability is justified, it shall order that the child shall  
21 not be placed with the individual.

22 Sec. 24. (1) If a person desires to adopt a child or an  
23 adult and to bestow upon the adoptee his or her family name, or  
24 to adopt a child or an adult without a change of name, with the  
25 intent to make the adoptee his or her heir, that person, together  
26 with his wife or her husband, if married, shall file a petition  
27 with the probate court of the county in which the petitioner

1 resides or where the adoptee is found. If there has been a  
2 temporary placement of the child, the petition for adoption shall  
3 be filed with the court that received the report described in  
4 section 23d(2) of this chapter.

5 (2) The petition for adoption shall be verified by each  
6 petitioner and shall contain the following information:

7 (a) The name, date and place of birth, and place of resi-  
8 dence of each petitioner, including the maiden name of the adopt-  
9 ing mother.

10 (b) Except as otherwise provided in subsection (5), the  
11 name, date and place of birth, and place of residence if known of  
12 the adoptee.

13 (c) The relationship, if any, of the adoptee to the  
14 petitioner.

15 (d) The full name by which the adoptee shall be known after  
16 adoption.

17 (e) The full description of the property, if any, of the  
18 adoptee.

19 (f) Unless the rights of the parents have been terminated by  
20 a court of competent jurisdiction or except as otherwise provided  
21 in subsection (5), the names of the parents of the adoptee and  
22 the place of residence of each living parent if known.

23 (g) Except as otherwise provided in subsection (5), the name  
24 and place of residence of the guardian of the person or estate of  
25 the adoptee, if any has been appointed.

26 (3) In a direct placement, the petitioner shall attach to  
27 the petition a verified statement certifying that the petitioner

1 has been informed of the availability of counseling services and  
2 whether the petitioner has received counseling.

3 (4) Except as otherwise provided in this subsection, in a  
4 direct placement, the petitioner shall attach a copy of a pre-  
5 placement assessment of the petitioner completed or updated  
6 within 1 year before the petition is filed with a finding that  
7 the petitioner is suitable to be a parent of an adoptee, copies  
8 of all other preplacement assessments of the petitioner, if any  
9 others have been completed, and a verified statement stating that  
10 no preplacement assessments of the petitioner have been completed  
11 other than those attached to the petition and explaining any pre-  
12 placement assessments of the petitioner that have been initiated  
13 but not completed. If the petitioner is seeking review of a pre-  
14 placement assessment under section ~~23f(8)~~ 23F of this chapter,  
15 the petitioner may comply with this subsection by attaching a  
16 copy of that preplacement assessment and a copy of the applica-  
17 tion for review, together with copies of all other preplacement  
18 assessments and the verified statement required by this section.

19 (5) In a direct placement in which the parties have elected  
20 not to exchange identifying information, the information required  
21 by subsection (2)(f) and (g) and the surname and place of resi-  
22 dence of the adoptee required under subsection (2)(b) may be  
23 omitted. The attorney or child placing agency assisting in the  
24 adoption shall file a verified statement containing the omitted  
25 information.

26 Sec. 41. (1) Except as provided in section 23d of this  
27 chapter, a child shall not be placed in a home for the purpose of

1 adoption until an order terminating parental rights has been  
2 entered ~~pursuant to~~ AS PROVIDED IN this chapter or chapter XIIIA  
3 and the court has formally approved placement under section 51 of  
4 this chapter. After an order terminating parental rights has  
5 been entered, the court shall enter any appropriate orders  
6 ~~pursuant to~~ AUTHORIZED BY sections 45, 46, and 51 of this  
7 chapter. ~~Such~~ THOSE orders shall not be withheld because the  
8 period specified for a rehearing or an appeal as of right has not  
9 expired, or because of the pendency of any rehearing or appeal as  
10 of right.

11 (2) If an order terminating parental rights is entered  
12 ~~pursuant to~~ AS PROVIDED IN this chapter or chapter XIIIA, the  
13 child may be placed in a home for the purpose of adoption during  
14 the period specified for a rehearing or an appeal as of right and  
15 the period during which a rehearing or appeal as of right is  
16 pending. ~~When a child placing agency, the court, or the depart-~~  
17 ~~ment formally places a child or the court approves placement of a~~  
18 ~~child pursuant to this subsection, the child placing agency,~~  
19 ~~court, or department~~ IF A CHILD IS PLACED DURING A PERIOD  
20 DESCRIBED IN THIS SUBSECTION, THE CHILD PLACING AGENCY, THE  
21 COURT, OR THE DEPARTMENT, WHICHEVER PLACES THE CHILD, OR, IF A  
22 PARENT OR GUARDIAN PLACES THE CHILD, THE COURT THAT APPROVES THE  
23 PLACEMENT shall inform the person or persons in whose home the  
24 child is placed that an adoption will not be ordered until 1 of  
25 the following occurs:

26 (a) The petition for rehearing is granted, at the rehearing  
27 the order terminating parental rights is not modified or set

1 aside, and subsequently the period for appeal as of right to the  
2 court of appeals has expired without an appeal being filed.

3 (b) The petition for rehearing is denied and the period for  
4 appeal as of right to the court of appeals has expired without an  
5 appeal being filed.

6 (c) There is a decision of the court of appeals affirming  
7 the order terminating parental rights.

8 (3) This section shall not be construed to prevent a child  
9 residing in a licensed foster home from being adopted by the  
10 foster parent or parents.

11 (4) This section does not apply if the petitioner for adop-  
12 tion is married to a parent having legal custody of the child.