

SUBSTITUTE FOR
SENATE BILL NO. 1442

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 19a of chapter XIIIA (MCL 712A.19a), as
amended by 2000 PA 46.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XIIIA

2 Sec. 19a. (1) Subject to subsection (2), if a child remains
3 in foster care and parental rights to the child have not been
4 terminated, the court shall conduct a permanency planning hearing
5 within ~~1 year after an original petition has been filed~~ **12**
6 **months after the child was removed from his or her home.** ~~Except~~
7 ~~as otherwise provided in section 19(4) of this chapter, the court~~
8 ~~shall hold a review hearing not more than 91 days after the~~
9 ~~original permanency planning hearing and every 91 days after that~~
10 ~~so long as the child is subject to the jurisdiction, control, or~~

1 ~~supervision of the court, or of the Michigan children's institute~~
2 ~~or other agency.~~ A Subsequent permanency planning hearings
3 shall be held no later than every 12 months after each preceding
4 permanency planning hearing during the continuation of foster
5 care. If proper notice for a permanency planning hearing is
6 provided, a permanency planning hearing may be combined with a
7 review hearing held under section ~~19(3) of this chapter~~ 19(2)
8 to (4) of this chapter, but no later than 12 months from the
9 removal of the child from his or her home, from the preceding
10 permanency planning hearing, or from the number of days required
11 under subsection (2). A permanency planning hearing shall not be
12 canceled or delayed beyond the number of months required by this
13 subsection or days as required under subsection (2), regardless
14 of whether there is a petition for termination of parental rights
15 pending.

16 (2) The court shall conduct a permanency planning hearing
17 within ~~28~~ 30 days after ~~a petition is adjudicated and the~~
18 ~~parent is found to have abused the child or a sibling of the~~
19 ~~child and the abuse included 1 or more of the following~~ there is
20 a judicial determination that reasonable efforts to reunite the
21 child and family are not required. Reasonable efforts to reunify
22 the child and family must be made in all cases except if any of
23 the following apply:

24 (a) ~~Abandonment of a young child~~ There is a judicial
25 determination that the parent has subjected the child to
26 aggravated circumstances as provided in section 8(1) and (2) of
27 the child protection law, 1975 PA 238, MCL 722.638.

1 (b) ~~Criminal sexual conduct involving penetration, attempted~~
 2 ~~penetration, or assault with intent to penetrate~~ The parent has
 3 been convicted of 1 or more of the following:

4 (i) Murder of another child of the parent.

5 (ii) Voluntary manslaughter of another child of the parent.

6 (iii) Aiding or abetting in the murder of another child of
 7 the parent or voluntary manslaughter of another child of the
 8 parent, the attempted murder of the child or another child of the
 9 parent, or the conspiracy or solicitation to commit the murder of
 10 the child or another child of the parent.

11 (iv) A felony assault that results in serious impairment of a
 12 body function to the child or another child of the parent.

13 (c) ~~Battering, torture, or other severe physical abuse~~ The
 14 parent has had rights to the child's siblings involuntarily
 15 terminated.

16 ~~(d) Loss or serious impairment of an organ or limb.~~

17 ~~(e) Life threatening injury.~~

18 ~~(f) Murder or attempted murder.~~

19 ~~(g) Voluntary manslaughter.~~

20 ~~(h) Aiding, abetting, attempting, conspiring, or soliciting~~
 21 ~~the commission of murder or voluntary manslaughter.~~

22 ~~(3) If a child remains in foster care and parental rights to~~
 23 ~~the child have not been terminated, the court shall conduct a~~
 24 ~~permanency planning hearing within 1 year after an initial~~
 25 ~~hearing under subsection (1) or (2), and within 1 year after each~~
 26 ~~subsequent hearing.~~

27 (3) ~~(4)~~ A permanency planning hearing shall be conducted to

1 review the status of the child and the progress being made toward
2 the child's return home or to show why the child should not be
3 placed in the permanent custody of the court.

4 (4) ~~—(5)—~~ Not less than 14 days before a permanency planning
5 hearing, written notice of the hearing and a statement of the
6 purposes of the hearing, including a notice that the hearing may
7 result in further proceedings to terminate parental rights, shall
8 be served upon all of the following:

9 (a) The agency. The agency shall advise the child of the
10 hearing if the child is 11 years of age or older.

11 (b) The foster parent or custodian of the child.

12 (c) If the parental rights to the child have not been
13 terminated, the child's parents.

14 (d) If the child has a guardian, the guardian for the child.

15 (e) If the child has a guardian ad litem, the guardian ad
16 litem for the child.

17 (f) If tribal affiliation has been determined, the elected
18 leader of the Indian tribe.

19 (g) The attorney for the child, the attorneys for each party,
20 and the prosecuting attorney if the prosecuting attorney has
21 appeared in the case.

22 (h) If the child is 11 years of age or older, the child.

23 (i) Other persons as the court may direct.

24 (5) ~~—(6)—~~ If parental rights to the child have not been
25 terminated and the court determines at a permanency planning
26 hearing that the return of the child to his or her parent would
27 not cause a substantial risk of harm to the child's life,

1 physical health, or mental well-being, the court shall order the
2 child returned to his or her parent. In determining whether the
3 return of the child would cause a substantial risk of harm to the
4 child, the court shall view the failure of the parent to
5 substantially comply with the terms and conditions of the case
6 service plan prepared under section 18f of this chapter as
7 evidence that return of the child to his or her parent would
8 cause a substantial risk of harm to the child's life, physical
9 health, or mental well-being. In addition to considering conduct
10 of the parent as evidence of substantial risk of harm, the court
11 shall consider any condition or circumstance of the child that
12 may be evidence that a return to the parent would cause a
13 substantial risk of harm to the child's life, physical health, or
14 mental well-being.

15 (6) ~~—(7)—~~ If the court determines at a permanency planning
16 hearing that the child should not be returned to his or her
17 parent, the court shall order the agency to initiate proceedings
18 to terminate parental rights to the child not later than 42 days
19 after the permanency planning hearing, unless the court finds
20 that initiating the termination of parental rights to the child
21 is clearly not in the child's best interests.

22 (7) ~~—(8)—~~ If the agency demonstrates under subsection ~~—(7)—~~
23 (6) that initiating the termination of parental rights to the
24 child is clearly not in the child's best interests, then the
25 court shall order either of the following alternative placement
26 plans:

27 (a) If the court determines that other permanent placement is

1 not possible, the child's placement in foster care shall continue
2 for a limited period to be stated by the court.

3 (b) If the court determines that it is in the child's best
4 interests **based upon compelling interests**, the child's placement
5 in foster care ~~shall~~ **may** continue on a long-term basis.

6 (8) ~~(9)~~ In making the determinations under this section,
7 the court shall consider any written or oral information
8 concerning the child from the child's parent, guardian,
9 custodian, foster parent, child caring institution, relative with
10 whom the child is placed, or guardian ad litem in addition to any
11 other evidence, including the appropriateness of parenting time,
12 offered at the hearing.