

SENATE BILL No. 892

October 13, 2009, Introduced by Senators HARDIMAN, JANSEN, BARCIA, GARCIA, VAN WOERKOM, BIRKHOLZ, ALLEN, PAPPAGEORGE, KAHN and GILBERT and referred to the Committee on Families and Human Services.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 43 of chapter X (MCL 710.43), as amended by 1996 PA 409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

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

1 a child placing agency or to the department.

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

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

4 (v) A parent having legal custody of the child is married to
5 the petitioner.

6 (b) By the authorized representative of the department **OR HIS**
7 **OR HER DESIGNEE** or of a child placing agency to whom the child has
8 been permanently committed by an order of the court.

9 (c) By the court or by a tribal court having permanent custody
10 of the child.

11 (d) By the authorized representative of the department **OR HIS**
12 **OR HER DESIGNEE** or of a child placing agency to whom the child has
13 been released.

14 (e) By the guardian of the child, subject to subsection (5),
15 if a guardian has been appointed.

16 (f) By the guardian of a parent, subject to subsection (6), if
17 a guardian has been appointed.

18 (g) By the authorized representative of a court or child
19 placing agency of another state or country that has authority to
20 consent to adoption.

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

24 (3) If the individual to be adopted is an adult, the
25 individual's consent is necessary before the court may enter an
26 order of adoption, but consent by any other individual is not
27 required.

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

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

9 (6) The guardian of a parent shall not execute a consent to
10 the adoption of the parent's child ~~pursuant~~**ACCORDING** to subsection
11 (1) unless the guardian has first obtained authority to execute the
12 consent from the court that appointed the guardian. The consent
13 shall have the same effect as if the consent were executed by the
14 parent.

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