

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4646**

A bill to amend 1939 PA 288, entitled  
"Probate code of 1939,"  
by amending sections 23d, 29, and 44 of chapter X (MCL 710.23d,  
710.29, and 710.44), section 23d as amended by 2004 PA 487 and  
sections 29 and 44 as amended by 1996 PA 409.

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

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CHAPTER X

Sec. 23d. (1) In a direct placement, a parent or guardian with  
legal and physical custody of a child may make a temporary  
placement of the child as prescribed by this section. In an agency  
placement, a child placing agency with written authorization from  
the parent or guardian as prescribed by section 23b of this chapter  
may make a temporary placement of the child as prescribed by this  
section. A temporary placement shall meet all of the following  
requirements:

1           (a) The prospective adoptive parent with whom a child is  
2 temporarily placed has had a preplacement assessment completed  
3 within 1 year before the date of the transfer with a finding that  
4 the prospective adoptive parent is suitable to be a parent of an  
5 adoptee.

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

8           (c) In the presence of a witness who also signs the document,  
9 the parent, guardian, or representative of the child placing agency  
10 signs a statement evidencing the transfer of physical custody of  
11 the child. If the parent making the temporary placement is an  
12 unemancipated minor, the statement is not valid unless it is also  
13 signed in the presence of the witness by a parent or guardian of  
14 that minor parent. The statement shall contain all of the  
15 following:

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

17           (ii) Language providing that the transfer is for the purpose of  
18 adoption by the prospective adoptive parent.

19           (iii) Language indicating that unless the parent or guardian and  
20 the prospective adoptive parent agree otherwise, the prospective  
21 adoptive parent has the authority to consent to all medical,  
22 surgical, psychological, educational, and related services for the  
23 child and language indicating that the parent or guardian otherwise  
24 retains full parental rights to the child being temporarily placed  
25 and that the temporary placement may be revoked by the filing of a  
26 petition under subsection (5).

27           (iv) Language providing that the person making the transfer has

1 read a preplacement assessment of the prospective adoptive parent  
2 completed or updated within 1 year before the date of the transfer  
3 with a finding that the prospective adoptive parent is suitable to  
4 be a parent of an adoptee. If a child placing agency makes the  
5 transfer of physical custody, the statement shall include a  
6 verification that the child placing agency has given the parent or  
7 guardian who authorized the temporary placement an opportunity to  
8 review the preplacement assessment.

9 (v) Even if only 1 parent is making the temporary placement,  
10 the name and address of both parents of the child, including in the  
11 case of a child born out of wedlock, the name and the address of  
12 each putative father of the child, if known.

13 (d) In the presence of a witness who also signs the document,  
14 the prospective adoptive parent signs a statement setting forth the  
15 date of the transfer of physical custody and the name and address  
16 of the prospective adoptive parent and attesting to all of the  
17 following:

18 (i) That the prospective adoptive parent understands that the  
19 temporary placement will not become a formal placement until the  
20 parents consent or release their parental rights and the court  
21 orders the termination of parental rights and approves the  
22 placement and that the prospective adoptive parent must relinquish  
23 custody of the child within 24 hours after being served with an  
24 order under section 23e(2) of this chapter.

25 (ii) That, if the prospective adoptive parent is a Michigan  
26 resident, the prospective adoptive parent agrees to reside with the  
27 child in Michigan until formal placement occurs.

1           (iii) That the prospective adoptive parent agrees to obtain  
2 approval in compliance with the interstate compact on the placement  
3 of children, 1984 PA 114, MCL 3.711 to 3.717, before the child is  
4 sent, brought, or caused to be sent or brought into a receiving  
5 state as that term is defined in section 1 of the interstate  
6 compact on the placement of children, 1984 PA 114, MCL 3.711.

7           (iv) That the prospective adoptive parent submits to this  
8 state's jurisdiction.

9           (2) Not later than 2 days, excluding weekends and holidays,  
10 after a transfer of physical custody of a child in accordance with  
11 subsection (1), the adoption attorney or child placing agency who  
12 assists with the temporary placement or the child placing agency  
13 that makes the temporary placement shall submit to the court in the  
14 county in which the child's parent or guardian or the prospective  
15 adoptive parent resides, or in which the child is found, a report  
16 that contains all of the following:

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

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

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

22           (d) Even if only 1 parent is making the temporary placement,  
23 the name and address of both parents of the child, including, in  
24 the case of a child born out of wedlock, the name of each putative  
25 father, if known.

26           (e) The documents required under subsection (1)(c) and (d)  
27 and, if applicable, the authorization required under section 23b of

1 this chapter.

2 (3) Not later than 30 days after the transfer of physical  
3 custody of a child under this section, the adoption attorney or  
4 child placing agency who assists with the temporary placement or  
5 the child placing agency that makes the temporary placement shall  
6 submit to the court that received the report described in  
7 subsection (2) a report indicating whether or not 1 of the  
8 following dispositions has occurred:

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

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

12 (4) If the court has not received the report required under  
13 subsection (3) within 45 days after the transfer of physical  
14 custody of a child, the court shall immediately investigate and  
15 determine whether an adoption petition has been filed or the child  
16 has been returned to a parent or other person having legal custody.  
17 If the report required under subsection (3) or the court's  
18 investigation reveals that neither disposition has occurred, the  
19 court shall immediately report to the prosecutor, who shall  
20 immediately file a petition in the court that received the report  
21 described in subsection (2) for disposition of the child as  
22 required by section 23e of this chapter. If a petition has been  
23 filed under subsection (5), (6), or (7), the prosecutor is not  
24 required to file a petition.

25 (5) A parent or guardian who wishes to regain custody of a  
26 child who has been placed temporarily shall file a petition in the  
27 court that received the report described in subsection (2)

1 requesting that the temporary placement be revoked and that the  
2 child be returned to the parent or guardian. Upon request of the  
3 parent or guardian, the adoption attorney or child placing agency  
4 who assisted in making the temporary placement shall assist the  
5 parent or guardian in filing the petition to revoke the temporary  
6 placement. If the temporary placement was made by a child placing  
7 agency under section 23b(3) of this chapter, the child placing  
8 agency shall file the petition on behalf of a parent or guardian  
9 who wishes to regain custody of the child.

10 (6) If a prospective adoptive parent with whom a child has  
11 been temporarily placed is either unwilling or unable to proceed  
12 with the adoption, the prospective adoptive parent may file a  
13 petition in the court that received the report described in  
14 subsection (2) for disposition of the child as required by section  
15 23e of this chapter.

16 (7) If a child placing agency that temporarily placed a child  
17 is unable to proceed with an adoption because of the unavailability  
18 of a parent or guardian to execute a release, or if a child placing  
19 agency with legal custody of a child decides not to proceed with  
20 the adoption by a prospective adoptive parent with whom the child  
21 has been temporarily placed and the prospective adoptive parent  
22 refuses upon the agency's request to return the child to the  
23 agency, the child placing agency shall file a petition in the court  
24 that received the report described in subsection (2) for  
25 disposition of the child as required by section 23e of this  
26 chapter.

27 (8) Except as otherwise agreed to by the parties, the

1 prospective adoptive parent with whom a child is temporarily placed  
2 under this section may consent to all medical, surgical,  
3 psychological, educational, and related services for the child.

4 (9) A hospital or attending practitioner shall not release a  
5 child to an individual or agency not otherwise legally entitled to  
6 the physical custody of the child unless all of the requirements of  
7 subsection (1) are met.

8 (10) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A PARENT  
9 OR GUARDIAN WHO HAS SIGNED AN OUT-OF-COURT RELEASE OR OUT-OF-COURT  
10 CONSENT BUT WISHES TO REQUEST REVOCATION OF THE OUT-OF-COURT  
11 RELEASE OR OUT-OF-COURT CONSENT SHALL SUBMIT A REQUEST FOR  
12 REVOCATION TO THE ADOPTION ATTORNEY REPRESENTING THE PARENT OR  
13 GUARDIAN OR THE CHILD PLACING AGENCY THAT ACCEPTED THE OUT-OF-COURT  
14 RELEASE OR WITNESSED THE OUT-OF-COURT CONSENT NOT MORE THAN 5 DAYS,  
15 EXCLUDING WEEKENDS AND HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE OR  
16 OUT-OF-COURT CONSENT WAS SIGNED. THE REQUEST FOR REVOCATION IS  
17 TIMELY IF DELIVERED TO THE ADOPTION ATTORNEY OR THE CHILD PLACING  
18 AGENCY NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND HOLIDAYS, AFTER  
19 THE OUT-OF-COURT RELEASE OR OUT-OF-COURT CONSENT WAS SIGNED. UPON  
20 RECEIPT OF A TIMELY REQUEST FOR REVOCATION, THE ADOPTION ATTORNEY  
21 OR THE CHILD PLACING AGENCY RECEIVING THE REQUEST FOR REVOCATION  
22 SHALL ASSIST THE PARENT OR GUARDIAN IN FILING THE PETITION TO  
23 REVOKE THE OUT-OF-COURT RELEASE OR OUT-OF-COURT CONSENT WITH THE  
24 COURT AS SOON AS PRACTICABLE. A PARENT OR GUARDIAN MAY FILE THIS  
25 PETITION WITH THE COURT ON HIS OR HER OWN. IF THE PARENT OR  
26 GUARDIAN FILES THE PETITION ON HIS OR HER OWN, THE PETITION MUST BE  
27 FILED WITH THE COURT NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND

1 HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE OR OUT-OF-COURT CONSENT  
2 WAS SIGNED.

3 Sec. 29. (1) Except as otherwise provided in ~~this section,~~  
4 **SUBSECTIONS (5) TO (11)**, a release shall be by a separate  
5 instrument executed before a judge of the court or a juvenile court  
6 referee. If a parent's or guardian's release is executed before a  
7 judge or referee as provided in this subsection, a verbatim record  
8 of testimony related to execution of the release shall be made.

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

13 (3) If the release is to be given by an authorized  
14 representative of a child placing agency that has jurisdiction of  
15 the child to be adopted, the release may be executed and  
16 acknowledged before an individual authorized by law to administer  
17 oaths.

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

24 **(5) A PARENT OR GUARDIAN MAY SIGN AN OUT-OF-COURT RELEASE IN**  
25 **FRONT OF AND WITNESSED BY AN ADOPTION ATTORNEY REPRESENTING THE**  
26 **PARENT OR GUARDIAN AND A CHILD PLACING AGENCY CASEWORKER. AN OUT-**  
27 **OF-COURT RELEASE SIGNED UNDER THIS SUBSECTION MUST COMPLY WITH ALL**



1 OF THE FOLLOWING:

2 (A) THE OUT-OF-COURT RELEASE SHALL NOT BE SIGNED UNTIL AFTER A  
3 72-HOUR WAITING PERIOD THAT BEGINS AT THE TIME OF THE CHILD'S BIRTH  
4 HAS EXPIRED.

5 (B) IF THE PARENT SIGNING THE OUT-OF-COURT RELEASE IS AN  
6 UNEMANCIPATED MINOR, THE OUT-OF-COURT RELEASE IS NOT VALID UNLESS  
7 IT IS ALSO SIGNED BY A PARENT OR GUARDIAN OF THAT UNEMANCIPATED  
8 MINOR PARENT IN THE PRESENCE OF THE WITNESSES DESCRIBED IN THIS  
9 SUBSECTION.

10 (C) AN OUT-OF-COURT RELEASE MUST BE ACCOMPANIED BY THE  
11 VERIFIED STATEMENT DESCRIBED IN SUBSECTION (6) AND A STATEMENT  
12 REGARDING RELINQUISHMENT OF PARENTAL RIGHTS THAT INCLUDES ALL OF  
13 THE FOLLOWING:

14 (i) THE RIGHT TO HAVE OR TO SEEK CARE AND CUSTODY OF THE CHILD.

15 (ii) THE RIGHT TO HAVE OR TO SEEK PARENTING TIME WITH THE  
16 CHILD.

17 (iii) THE RIGHT TO INHERIT FROM THE CHILD OR HAVE THE CHILD  
18 INHERIT FROM THE PARENT.

19 (iv) THE RIGHT TO SERVICES AND EARNINGS OF THE CHILD.

20 (v) THE RIGHT TO DETERMINE THE CHILD'S SCHOOLING, RELIGIOUS  
21 TRAINING, AND PARENTING PRACTICES.

22 (D) IN SEPARATE PARAGRAPHS WITH SUFFICIENT SPACE IN THE MARGIN  
23 FOR A PARENT TO PLACE HIS OR HER INITIALS BESIDE EACH PARAGRAPH,  
24 THE OUT-OF-COURT RELEASE MUST STATE THE FOLLOWING:

25 (i) I HAVE READ OR HAD READ TO ME EACH OF MY RIGHTS AS A PARENT  
26 DESCRIBED IN SECTION 29(5)(C) OF CHAPTER X OF THE PROBATE CODE OF  
27 1939, 1939 PA 288, MCL 710.29, AND I UNDERSTAND THESE RIGHTS.

1           (ii) I AM SIGNING THE OUT-OF-COURT RELEASE AS A FREE AND  
2 VOLUNTARY ACT ON MY PART, AND I HAVE BEEN ADVISED THAT I CANNOT BE  
3 FORCED TO SIGN THE OUT-OF-COURT RELEASE FOR ANY REASON.

4           (iii) I HAVE NOT BEEN GIVEN OR PROMISED ANY MONEY OR OTHER THING  
5 OF VALUE IN EXCHANGE FOR SIGNING THE OUT-OF-COURT RELEASE.

6           (iv) IF I SIGN THE OUT-OF-COURT RELEASE, I UNDERSTAND THAT I AM  
7 GIVING UP ALL OF MY PARENTAL RIGHTS AND AUTHORIZING THE COURT TO  
8 PERMANENTLY TERMINATE ALL OF MY PARENTAL RIGHTS, UNLESS THE COURT  
9 ALLOWS ME TO REVOKE MY OUT-OF-COURT RELEASE.

10           (v) IT HAS BEEN EXPLAINED TO ME AND I UNDERSTAND ALL OF THE  
11 FOLLOWING:

12           (A) I AM NOT REQUIRED TO SIGN AN OUT-OF-COURT RELEASE.

13           (B) I MAY MAKE A TEMPORARY PLACEMENT OF MY CHILD WITH THE  
14 PROSPECTIVE ADOPTIVE PARENT OR PARENTS, IF I HAVE NOT ALREADY DONE  
15 SO, OR I MAY CONTINUE THE TEMPORARY PLACEMENT I HAVE ALREADY MADE,  
16 UNTIL I CHOOSE TO SIGN A RELEASE IN COURT OR SIGN AN OUT-OF-COURT  
17 RELEASE.

18           (C) I MAY REQUEST REVOCATION OF THE OUT-OF-COURT RELEASE I  
19 HAVE SIGNED BY SUBMITTING A TIMELY WRITTEN REQUEST FOR REVOCATION.

20           (D) IF I REQUEST A REVOCATION OF THE OUT-OF-COURT RELEASE, I  
21 MUST APPEAR BEFORE THE COURT SO THE COURT MAY CONSIDER WHETHER TO  
22 GRANT THE REVOCATION.

23           (vi) I HAVE BEEN ADVISED THAT I MAY SUBMIT A REQUEST FOR  
24 REVOCATION IN WRITING TO THE ADOPTION ATTORNEY OR CHILD PLACING  
25 AGENCY THAT ACCEPTED THE OUT-OF-COURT RELEASE NOT MORE THAN 5 DAYS,  
26 EXCLUDING WEEKENDS AND HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE WAS  
27 SIGNED OR I MAY PETITION THE COURT ON MY OWN FOR REVOCATION OF THE

1 OUT-OF-COURT RELEASE NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND  
2 HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE WAS SIGNED.

3 (vii) IF I SUBMIT A TIMELY REQUEST FOR REVOCATION, THE COURT  
4 MAY GRANT THE REQUEST OR DENY THE REQUEST DEPENDING ON MY FITNESS  
5 AND IMMEDIATE ABILITY TO PROPERLY CARE FOR THE CHILD AND WHETHER  
6 THE BEST INTERESTS OF THE CHILD WOULD BE SERVED BY THE REVOCATION.

7 (E) THE OUT-OF-COURT RELEASE MUST CONTAIN THE CONTACT  
8 INFORMATION FOR BOTH THE ADOPTION ATTORNEY REPRESENTING THE PARENT  
9 OR GUARDIAN AND THE CHILD PLACING AGENCY THAT ACCEPTED THE OUT-OF-  
10 COURT RELEASE SPECIFYING WHERE A WRITTEN REQUEST FOR REVOCATION MAY  
11 BE SUBMITTED, INCLUDING A POSTAL MAILING ADDRESS, OVERNIGHT CARRIER  
12 ADDRESS, FAX NUMBER, AND ELECTRONIC MAIL ADDRESS. A REQUEST FOR  
13 REVOCATION MAY NOT BE SUBMITTED TO THE ADOPTION ATTORNEY  
14 REPRESENTING THE PARENT OR GUARDIAN OR THE CHILD PLACING AGENCY  
15 THAT ACCEPTED THE OUT-OF-COURT RELEASE BY TELEPHONE OR TEXT  
16 MESSAGE.

17 (F) THE FOLLOWING STATEMENT MUST APPEAR IMMEDIATELY ABOVE THE  
18 SIGNATURE OF THE PARENT OR GUARDIAN EXECUTING THE OUT-OF-COURT  
19 RELEASE: "I ACKNOWLEDGE THAT I AM SIGNING THIS OUT-OF-COURT RELEASE  
20 FREELY AND VOLUNTARILY, AFTER MY PARENTAL RIGHTS HAVE BEEN  
21 EXPLAINED TO ME AND ANY QUESTIONS I MAY HAVE ABOUT IT HAVE BEEN  
22 FULLY ANSWERED. I UNDERSTAND THE RIGHTS I AM GIVING UP AND THAT AN  
23 ORDER TERMINATING MY PARENTAL RIGHTS, WHEN ENTERED BY THE COURT, IS  
24 A PERMANENT TERMINATION OF ALL OF MY PARENTAL RIGHTS."

25 (6) ~~(5)~~—A release by a parent or guardian shall be accompanied  
26 by a verified statement signed by the parent or guardian that  
27 contains all of the following:

1 (a) That the parent or guardian has received a list of support  
2 groups and, if the release is to a child placing agency, a copy of  
3 the written document described in section 6(1)(c) of the foster  
4 care and adoption services act, ~~Act No. 203 of the Public Acts of~~  
5 ~~1994, being section 722.956 of the Michigan Compiled Laws.1994 PA~~  
6 **203, MCL 722.956.**

7 (b) That the parent or guardian has received counseling  
8 related to the adoption of his or her child or waives the  
9 counseling with the signing of the verified statement.

10 (c) That the parent or guardian has not received or been  
11 promised any money or anything of value for the release of the  
12 child, except for lawful payments that are itemized on a schedule  
13 filed with the release.

14 (d) That the validity and finality of the release is not  
15 affected by any collateral or separate agreement between the parent  
16 or guardian and the **CHILD PLACING** agency, or the parent or guardian  
17 and the prospective adoptive parent.

18 (e) That the parent or guardian understands that it serves the  
19 **CHILD'S** welfare ~~of the child~~ for the parent to keep the child  
20 placing agency or department informed of any health problems that  
21 the parent develops that could affect the child.

22 (f) That the parent or guardian understands that it serves the  
23 **CHILD'S** welfare ~~of the child~~ for the parent or guardian to keep his  
24 or her address current with the child placing agency or department  
25 in order to permit a response to any inquiry concerning medical or  
26 social history from an adoptive parent of a minor adoptee or from  
27 an adoptee who is 18 years of age or older.

1           (7) ~~(6)~~—A release by a parent or a guardian of the child shall  
2 not be executed until after the investigation the court considers  
3 proper and until after the judge, referee, or other individual  
4 authorized in subsection (2) has fully explained to the parent or  
5 guardian the legal rights of the parent or guardian and the fact  
6 that the parent or guardian by virtue of the release voluntarily  
7 relinquishes permanently his or her rights to the child; and, if  
8 the child is over 5 years of age, the court has determined that the  
9 child is best served by the release. **IF AN OUT-OF-COURT RELEASE IS**  
10 **SIGNED UNDER SUBSECTION (5), THE ADOPTION ATTORNEY REPRESENTING THE**  
11 **PARENT OR GUARDIAN WHO WITNESSED THE OUT-OF-COURT RELEASE AND A**  
12 **CASEWORKER FROM THE CHILD PLACING AGENCY THAT ACCEPTED THE OUT-OF-**  
13 **COURT RELEASE SHALL FULLY EXPLAIN TO THE PARENT OR GUARDIAN HIS OR**  
14 **HER LEGAL RIGHTS AND THE FACT THAT THE PARENT OR GUARDIAN BY VIRTUE**  
15 **OF THE OUT-OF-COURT RELEASE VOLUNTARILY RELINQUISHES PERMANENTLY**  
16 **HIS OR HER RIGHTS TO THE CHILD.**

17           (8) ~~(7)~~ ~~Upon~~—**EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,**  
18 **UPON** the release of a child by a parent or guardian, the court  
19 immediately shall issue an order terminating the rights of that  
20 parent or guardian to that child. **IF AN OUT-OF-COURT RELEASE HAS**  
21 **BEEN SIGNED UNDER SUBSECTION (5), NOT SOONER THAN 5 DAYS, EXCLUDING**  
22 **WEEKENDS AND HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE WAS SIGNED,**  
23 **THE COURT SHALL ISSUE AN ORDER TERMINATING THE RIGHTS OF THE PARENT**  
24 **OR GUARDIAN TO THAT CHILD.** If the rights of both parents, the  
25 surviving parent, or the guardian have been terminated, the court  
26 shall issue an order committing the child to the child placing  
27 agency or department to which the release was given.

1           (9) ~~(8)~~—The court shall authorize foster care funding pending  
2 expiration of the period of appeal or rehearing as provided in  
3 sections 64 and 65 of this chapter, and pending disposition of any  
4 appeal or rehearing, for all persons committed to a child placing  
5 agency. Foster care funding authorized under this subsection shall  
6 exclude the administrative costs of the child placing agency. The  
7 costs of foster care shall be paid through the use of the child  
8 care fund as provided by section 117c of the social welfare act,  
9 ~~Act No. 280 of the Public Acts of 1939, being section 400.117c of~~  
10 ~~the Michigan Compiled Laws, 1939 PA 280, MCL 400.117C,~~ or by any  
11 successor statute. When foster care funding is authorized pursuant  
12 **ACCORDING** to this subsection, the court shall send a copy of the  
13 order to the department. Upon receiving a copy of this order, the  
14 department shall reimburse the court child care fund of the county  
15 where the court order for foster care funding was made in the total  
16 amount of the court ordered payment. The reimbursement shall be  
17 made monthly.

18           (10) ~~(9)~~—Entry of an order terminating the rights of both  
19 parents under subsection ~~(7)~~ **(8)** terminates the jurisdiction of the  
20 circuit court over the child in any divorce or separate maintenance  
21 action.

22           (11) ~~(10)~~ ~~Upon~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**  
23 **(12), UPON** petition of the same person or persons who executed the  
24 release and of the department or child placing agency to which the  
25 child was released, the court with which the release was filed may  
26 grant a hearing to consider whether the release should be revoked.  
27 A release may not be revoked if the child has been placed for

1 adoption unless the child is placed as provided in section 41(2) of  
2 this chapter and a petition for rehearing or claim of appeal is  
3 filed within the time required. A verbatim record of testimony  
4 related to a petition to revoke a release shall be made.

5 (12) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A PARENT  
6 OR GUARDIAN WHO HAS SIGNED AN OUT-OF-COURT RELEASE BUT WISHES TO  
7 REQUEST REVOCATION OF THE OUT-OF-COURT RELEASE SHALL SUBMIT A  
8 REQUEST FOR REVOCATION TO THE ADOPTION ATTORNEY REPRESENTING THE  
9 PARENT OR GUARDIAN OR THE CHILD PLACING AGENCY THAT ACCEPTED THE  
10 OUT-OF-COURT RELEASE NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND  
11 HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE WAS SIGNED. THE REQUEST  
12 FOR REVOCATION FROM THE PARENT OR GUARDIAN MUST BE SUBMITTED IN  
13 WRITING BY THE PARENT OR GUARDIAN WHO SIGNED THE OUT-OF-COURT  
14 RELEASE TO THE ADOPTION ATTORNEY REPRESENTING THE PARENT OR  
15 GUARDIAN OR A CASEWORKER FROM THE CHILD PLACING AGENCY THAT  
16 ACCEPTED THE OUT-OF-COURT RELEASE. THE REQUEST FOR REVOCATION IS  
17 TIMELY IF DELIVERED TO THE ADOPTION ATTORNEY OR THE CHILD PLACING  
18 AGENCY NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND HOLIDAYS, AFTER  
19 THE OUT-OF-COURT RELEASE WAS SIGNED. UPON RECEIPT OF A TIMELY  
20 REQUEST FOR REVOCATION, THE ADOPTION ATTORNEY OR THE CHILD PLACING  
21 AGENCY RECEIVING THE REQUEST FOR REVOCATION SHALL ASSIST THE PARENT  
22 OR GUARDIAN IN FILING THE PETITION TO REVOKE THE OUT-OF-COURT  
23 RELEASE WITH THE COURT AS SOON AS PRACTICABLE. A PARENT OR GUARDIAN  
24 MAY FILE THIS PETITION WITH THE COURT ON HIS OR HER OWN. IF THE  
25 PARENT OR GUARDIAN FILES THE PETITION ON HIS OR HER OWN, THE  
26 PETITION MUST BE FILED WITH THE COURT NOT MORE THAN 5 DAYS,  
27 EXCLUDING WEEKENDS AND HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE WAS

1 SIGNED.

2 (13) THE COURT IN WHICH THE OUT-OF-COURT RELEASE WAS FILED MAY  
3 DENY THE REQUEST FOR REVOCATION UNDER SUBSECTIONS (14) AND (15).

4 (14) IF A PETITION TO REVOKE AN OUT-OF-COURT RELEASE IS FILED  
5 WITH THE COURT, TIMELY NOTICE OF REVOCATION DOES NOT IMMEDIATELY  
6 RESULT IN THE RETURN OF THE CHILD TO THE PARENT OR GUARDIAN. A  
7 HEARING BEFORE A JUDGE IS REQUIRED TO DETERMINE ALL OF THE  
8 FOLLOWING UNLESS A CHILD PLACING AGENCY ACCEPTING THE OUT-OF-COURT  
9 RELEASE OR THE ADOPTIVE PARENT OR PARENTS AGREE TO THE REVOCATION:

10 (A) WHETHER THE REQUEST FOR REVOCATION WAS GIVEN IN A TIMELY  
11 AND PROPER MANNER.

12 (B) WHETHER GOOD CAUSE EXISTS TO DETERMINE THAT THE OUT-OF-  
13 COURT RELEASE WAS NOT SIGNED VOLUNTARILY. IF THE COURT FINDS THAT  
14 THE OUT-OF-COURT RELEASE WAS NOT SIGNED VOLUNTARILY, THE OUT-OF-  
15 COURT RELEASE IS INVALID AND CUSTODY OF THE CHILD SHALL BE RETURNED  
16 TO THE PARENT OR GUARDIAN. IF THE COURT FINDS THAT THE OUT-OF-COURT  
17 RELEASE WAS SIGNED VOLUNTARILY, THE COURT SHALL PROCEED UNDER  
18 SUBDIVISION (C).

19 (C) WHETHER THE BEST INTEREST OF THE CHILD WILL BE SERVED BY  
20 ANY OF THE FOLLOWING:

21 (i) RETURNING CUSTODY OF THE CHILD TO THE PARENT OR GUARDIAN.

22 (ii) CONTINUING THE ADOPTION PROCEEDING COMMENCED OR INTENDED  
23 TO BE COMMENCED BY THE ADOPTIVE PARENT OR PARENTS.

24 (iii) DISPOSITION APPROPRIATE TO THE CHILD'S WELFARE AS  
25 AUTHORIZED BY SECTION 18 OF CHAPTER XIIIA UNDER AN EX PARTE ORDER  
26 ENTERED BY THE COURT.

27 (15) IN DETERMINING THE BEST INTEREST OF THE CHILD UNDER



1 SUBSECTION (14) (C), IF A PARENT OR GUARDIAN IS SEEKING REVOCATION  
2 OF AN OUT-OF-COURT RELEASE, THE COURT SHALL DETERMINE IF THE PARENT  
3 OR GUARDIAN SEEKING REVOCATION IS FIT AND IMMEDIATELY ABLE TO  
4 PROPERLY CARE FOR THE CHILD IF THE COURT RETURNED THE CHILD TO THE  
5 PARENT OR GUARDIAN. IF THE COURT DETERMINES THAT THE PARENT OR  
6 GUARDIAN IS NOT FIT AND IMMEDIATELY ABLE TO PROPERLY CARE FOR THE  
7 CHILD, THE COURT SHALL DENY THE REVOCATION. IF THE COURT FINDS THAT  
8 THE PARENT OR GUARDIAN IS FIT AND IMMEDIATELY ABLE TO PROPERLY CARE  
9 FOR THE CHILD, THE COURT SHALL DETERMINE THE BEST INTEREST OF THE  
10 CHILD. THE "BEST INTEREST OF THE CHILD" MEANS THE SUM TOTAL OF THE  
11 FOLLOWING FACTORS TO BE CONSIDERED, EVALUATED, AND DETERMINED BY  
12 THE COURT:

13 (A) THE CHILD'S AGE AND LENGTH OF TIME THE PARENT OR GUARDIAN  
14 SEEKING REVOCATION HAS HAD PHYSICAL CUSTODY OF THE CHILD SO THAT  
15 SIGNIFICANT LOVE, AFFECTION, AND OTHER EMOTIONAL TIES EXIST BETWEEN  
16 THE PARENT OR GUARDIAN AND THE CHILD AND WHETHER DURING THAT TIME  
17 THE CHILD HAS LIVED IN A STABLE, SATISFACTORY ENVIRONMENT.

18 (B) THE CAPACITY AND DISPOSITION BETWEEN THE PROSPECTIVE  
19 ADOPTING INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN  
20 SEEKING REVOCATION TO GIVE THE CHILD LOVE, AFFECTION, AND GUIDANCE,  
21 AND TO EDUCATE AND CREATE A MILIEU THAT FOSTERS THE CHILD'S  
22 RELIGION, RACIAL IDENTITY, AND CULTURE.

23 (C) THE CAPACITY AND DISPOSITION BETWEEN THE PROSPECTIVE  
24 ADOPTING INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN  
25 SEEKING REVOCATION TO PROVIDE THE CHILD WITH FOOD, CLOTHING,  
26 EDUCATION, PERMANENCE, MEDICAL CARE OR OTHER REMEDIAL CARE  
27 RECOGNIZED AND PERMITTED UNDER THE STATE LAW IN PLACE OF MEDICAL

1 CARE, AND OTHER MATERIAL NEEDS.

2 (D) THE PERMANENCE AS A FAMILY UNIT BETWEEN THE PROSPECTIVE  
3 ADOPTING INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN  
4 SEEKING REVOCATION.

5 (E) THE MORAL FITNESS BETWEEN THE PROSPECTIVE ADOPTING  
6 INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN SEEKING  
7 REVOCATION.

8 (F) THE MENTAL AND PHYSICAL HEALTH BETWEEN THE PROSPECTIVE  
9 ADOPTING INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN  
10 SEEKING REVOCATION.

11 (G) THE HOME, SCHOOL, AND COMMUNITY RECORD OF THE CHILD.

12 (H) THE CHILD'S REASONABLE PREFERENCE, IF THE CHILD IS 14  
13 YEARS OF AGE OR LESS AND IF THE COURT CONSIDERS THE CHILD TO BE OF  
14 SUFFICIENT AGE TO EXPRESS A PREFERENCE.

15 (I) THE ABILITY AND WILLINGNESS OF THE PROSPECTIVE ADOPTING  
16 INDIVIDUAL OR INDIVIDUALS TO ADOPT THE CHILD'S SIBLINGS.

17 (J) ANY OTHER FACTOR CONSIDERED BY THE COURT TO BE RELEVANT TO  
18 A PARTICULAR PROSPECTIVE ADOPTIVE PLACEMENT OR TO A REVOCATION OF  
19 AN OUT-OF-COURT RELEASE.

20 Sec. 44. (1) Except as otherwise provided in this section, the  
21 consent required by section 43 of this chapter shall be by a  
22 separate instrument executed before the judge having jurisdiction  
23 or, at the court's direction, before another judge of the family  
24 division of circuit court in this state. A consent may be executed  
25 before a juvenile court referee. The consent hearing shall be held  
26 within 7 days after it is requested. If the consent of a parent or  
27 guardian is executed before a judge or referee as provided in this

1 subsection, a verbatim record of testimony related to execution of  
2 the consent shall be made.

3 (2) If the individual whose consent is required is in any of  
4 the armed services or is in prison, the consent may be executed and  
5 acknowledged before any individual authorized by law to administer  
6 oaths.

7 (3) If the child to be adopted is legally a ward of the  
8 department or of a child placing agency, the consent required to be  
9 made under section 43 of this chapter by the authorized  
10 representative of the department or agency may be executed and  
11 acknowledged before an individual authorized by law to administer  
12 oaths.

13 (4) If the consent is executed in another state or country,  
14 the court having jurisdiction over the adoption proceeding in this  
15 state shall determine whether the consent was executed in  
16 accordance with the laws of that state or country or the laws of  
17 this state and shall not proceed unless it finds that the consent  
18 was so executed.

19 (5) In a direct placement, a consent by a parent or guardian  
20 shall be accompanied by a verified statement signed by the parent  
21 or guardian that contains all of the following:

22 (a) That the parent or guardian has received a list of support  
23 groups and a copy of the written document described in section  
24 6(1)(c) of the foster care and adoption services act, ~~Act No. 203~~  
25 ~~of the Public Acts of 1994, being section 722.956 of the Michigan~~  
26 ~~Compiled Laws-1994 PA 203, MCL 722.956.~~

27 (b) That the parent or guardian has received counseling

1 related to the adoption of his or her child or waives the  
2 counseling with the signing of the verified statement.

3 (c) That the parent or guardian has not received or been  
4 promised any money or anything of value for the consent to adoption  
5 of the child, except for lawful payments that are itemized on a  
6 schedule filed with the consent.

7 (d) That the validity and finality of the consent is not  
8 affected by any collateral or separate agreement between the parent  
9 or guardian and the adoptive parent.

10 (e) That the parent or guardian understands that it serves the  
11 **CHILD'S** welfare ~~of the child~~ for the parent to keep the child  
12 placing agency, court, or department informed of any health  
13 problems that the parent develops ~~which~~ **THAT** could affect the  
14 child.

15 (f) That the parent or guardian understands that it serves the  
16 **CHILD'S** welfare ~~of the child~~ for the parent or guardian to keep his  
17 or her address current with the child placing agency, court, or  
18 department in order to permit a response to any inquiry concerning  
19 medical or social history from an adoptive parent of a minor  
20 adoptee or from an adoptee who is 18 years or older.

21 (6) If a parent's consent to adoption is required under  
22 section 43 of this chapter or if a guardian's consent is required  
23 ~~pursuant to~~ **UNDER** section 43(1)(e) of this chapter, the consent  
24 shall not be executed until after the investigation the court  
25 considers proper and until after the judge, referee, or other  
26 individual authorized in subsection (2) has fully explained to the  
27 parent or guardian the legal rights of the parent or guardian and

1 the fact that the parent or guardian by virtue of the consent  
2 voluntarily relinquishes permanently his or her rights to the  
3 child. IF AN OUT-OF-COURT CONSENT IS SIGNED UNDER SUBSECTION (8),  
4 THE ADOPTION ATTORNEY REPRESENTING THE PARENT OR GUARDIAN WHO  
5 WITNESSED THE OUT-OF-COURT CONSENT AND A CASEWORKER FROM THE CHILD  
6 PLACING AGENCY THAT WITNESSED THE OUT-OF-COURT CONSENT SHALL FULLY  
7 EXPLAIN TO THE PARENT OR GUARDIAN HIS OR HER LEGAL RIGHTS AND THE  
8 FACT THAT THE PARENT OR GUARDIAN BY VIRTUE OF THE OUT-OF-COURT  
9 CONSENT VOLUNTARILY RELINQUISHES PERMANENTLY HIS OR HER RIGHTS TO  
10 THE CHILD. IF AN OUT-OF-COURT CONSENT HAS BEEN SIGNED UNDER  
11 SUBSECTION (8), NOT SOONER THAN 5 DAYS, EXCLUDING WEEKENDS AND  
12 HOLIDAYS, AFTER THE OUT-OF-COURT CONSENT WAS SIGNED, THE COURT  
13 SHALL ISSUE AN ORDER TERMINATING THE RIGHTS OF THE PARENT OR  
14 GUARDIAN TO THAT CHILD.

15 (7) If the adoptee's consent to adoption is required under  
16 section 43 of this chapter, the consent shall not be executed until  
17 after the investigation the court considers proper and until after  
18 the judge or referee has fully explained to the adoptee the fact  
19 that he or she is consenting to acquire permanently the adopting  
20 parent or parents as his or her legal parent or parents as though  
21 the adoptee had been born to the adopting parent or parents.

22 (8) IN A DIRECT PLACEMENT, A PARENT OR GUARDIAN MAY SIGN AN  
23 OUT-OF-COURT CONSENT AFTER THE CHILD'S BIRTH. AN OUT-OF-COURT  
24 CONSENT SIGNED UNDER THIS SUBSECTION MUST COMPLY WITH ALL OF THE  
25 FOLLOWING:

26 (A) THE OUT-OF-COURT CONSENT SHALL NOT BE SIGNED UNTIL AFTER A  
27 72-HOUR WAITING PERIOD THAT BEGINS AT THE TIME OF THE CHILD'S BIRTH

1 HAS EXPIRED.

2 (B) IF THE PARENT SIGNING THE OUT-OF-COURT CONSENT IS AN  
3 UNEMANCIPATED MINOR, THE OUT-OF-COURT CONSENT IS NOT VALID UNLESS  
4 IT IS ALSO SIGNED BY A PARENT OR GUARDIAN OF THAT UNEMANCIPATED  
5 MINOR PARENT IN THE PRESENCE OF THE WITNESSES DESCRIBED IN THIS  
6 SUBSECTION.

7 (C) AN OUT-OF-COURT CONSENT MUST BE ACCOMPANIED BY THE  
8 VERIFIED STATEMENT FROM SUBSECTION (5) AND A STATEMENT REGARDING  
9 RELINQUISHMENT OF PARENTAL RIGHTS THAT INCLUDES ALL OF THE  
10 FOLLOWING:

11 (i) THE RIGHT TO HAVE OR TO SEEK CARE AND CUSTODY OF THE CHILD.

12 (ii) THE RIGHT TO HAVE OR TO SEEK PARENTING TIME WITH THE  
13 CHILD.

14 (iii) THE RIGHT TO INHERIT FROM THE CHILD OR HAVE THE CHILD  
15 INHERIT FROM THE PARENT.

16 (iv) THE RIGHT TO SERVICES AND EARNINGS OF THE CHILD.

17 (v) THE RIGHT TO DETERMINE THE CHILD'S SCHOOLING, RELIGIOUS  
18 TRAINING, AND PARENTING PRACTICES.

19 (D) IN SEPARATE PARAGRAPHS WITH SUFFICIENT SPACE IN THE MARGIN  
20 FOR A PARENT TO PLACE HIS OR HER INITIALS BESIDE EACH PARAGRAPH,  
21 THE OUT-OF-COURT CONSENT MUST STATE THE ALL OF THE FOLLOWING:

22 (i) I HAVE READ OR HAD READ TO ME EACH OF MY RIGHTS AS A PARENT  
23 DESCRIBED IN SECTION 44(8)(C) OF CHAPTER X OF THE PROBATE CODE OF  
24 1939, 1939 PA 288, MCL 710.44, AND I UNDERSTAND THESE RIGHTS.

25 (ii) I AM SIGNING THE OUT-OF-COURT CONSENT AS A FREE AND  
26 VOLUNTARY ACT ON MY PART, AND I HAVE BEEN ADVISED THAT I CANNOT BE  
27 FORCED TO SIGN THE OUT-OF-COURT CONSENT FOR ANY REASON.

1           (iii) I HAVE NOT BEEN GIVEN OR PROMISED ANY MONEY OR OTHER THING  
2 OF VALUE IN EXCHANGE FOR SIGNING THE OUT-OF-COURT CONSENT.

3           (iv) IF I SIGN THE OUT-OF-COURT CONSENT, I UNDERSTAND THAT I AM  
4 GIVING UP ALL OF MY PARENTAL RIGHTS AND AUTHORIZING THE COURT TO  
5 PERMANENTLY TERMINATE ALL OF MY PARENTAL RIGHTS, UNLESS THE COURT  
6 ALLOWS ME TO REVOKE MY OUT-OF-COURT CONSENT.

7           (v) IT HAS BEEN EXPLAINED TO ME AND I UNDERSTAND ALL OF THE  
8 FOLLOWING:

9           (A) I AM NOT REQUIRED TO SIGN AN OUT-OF-COURT CONSENT.

10           (B) I MAY MAKE A TEMPORARY PLACEMENT OF MY CHILD WITH THE  
11 PROSPECTIVE ADOPTIVE PARENT OR PARENTS, IF I HAVE NOT ALREADY DONE  
12 SO, OR I MAY CONTINUE THE TEMPORARY PLACEMENT I HAVE ALREADY MADE,  
13 UNTIL I CHOOSE TO SIGN A CONSENT IN COURT OR SIGN AN OUT-OF-COURT  
14 CONSENT.

15           (C) I MAY REQUEST REVOCATION OF THE OUT-OF-COURT CONSENT I  
16 HAVE SIGNED BY SUBMITTING A TIMELY WRITTEN REQUEST FOR REVOCATION.

17           (D) IF I REQUEST A REVOCATION OF THE OUT-OF-COURT CONSENT, I  
18 MUST APPEAR BEFORE THE COURT SO THE COURT MAY CONSIDER WHETHER TO  
19 GRANT THE REVOCATION.

20           (vi) I HAVE BEEN ADVISED THAT I MAY SUBMIT A REQUEST FOR  
21 REVOCATION IN WRITING TO THE ADOPTION ATTORNEY OR CHILD PLACING  
22 AGENCY THAT WITNESSED THE OUT-OF-COURT CONSENT NOT MORE THAN 5  
23 DAYS, EXCLUDING WEEKENDS AND HOLIDAYS, AFTER THE OUT-OF-COURT  
24 CONSENT WAS SIGNED OR I MAY PETITION THE COURT ON MY OWN FOR  
25 REVOCATION OF THE OUT-OF-COURT CONSENT NOT MORE THAN 5 DAYS,  
26 EXCLUDING WEEKENDS AND HOLIDAYS, AFTER THE OUT-OF-COURT CONSENT WAS  
27 SIGNED.

1           (vii) IF I SUBMIT A TIMELY REQUEST FOR REVOCATION, THE COURT  
2 MAY GRANT THE REQUEST OR DENY THE REQUEST FOR REVOCATION DEPENDING  
3 ON MY FITNESS AND IMMEDIATE ABILITY TO PROPERLY CARE FOR THE CHILD  
4 AND WHETHER THE BEST INTERESTS OF THE CHILD WOULD BE SERVED BY THE  
5 REVOCATION.

6           (E) THE OUT-OF-COURT CONSENT MUST CONTAIN THE CONTACT  
7 INFORMATION FOR BOTH THE ADOPTION ATTORNEY REPRESENTING THE PARENT  
8 OR GUARDIAN AND THE CHILD PLACING AGENCY THAT WITNESSED THE OUT-OF-  
9 COURT CONSENT SPECIFYING WHERE A WRITTEN REQUEST FOR REVOCATION MAY  
10 BE SUBMITTED, INCLUDING A POSTAL MAILING ADDRESS, OVERNIGHT CARRIER  
11 ADDRESS, FAX NUMBER, AND ELECTRONIC MAIL ADDRESS. A REQUEST FOR  
12 REVOCATION MAY NOT BE SUBMITTED TO THE ADOPTION ATTORNEY  
13 REPRESENTING THE PARENT OR GUARDIAN OR THE CHILD PLACING AGENCY  
14 THAT WITNESSED THE OUT-OF-COURT CONSENT BY TELEPHONE OR TEXT  
15 MESSAGE.

16           (F) THE FOLLOWING STATEMENT MUST APPEAR IMMEDIATELY ABOVE THE  
17 SIGNATURE OF THE PARENT OR GUARDIAN EXECUTING THE OUT-OF-COURT  
18 CONSENT: "I ACKNOWLEDGE THAT I AM SIGNING THIS OUT-OF-COURT CONSENT  
19 FREELY AND VOLUNTARILY, AFTER MY PARENTAL RIGHTS HAVE BEEN  
20 EXPLAINED TO ME AND ANY QUESTIONS I MAY HAVE ABOUT IT HAVE BEEN  
21 FULLY ANSWERED. I UNDERSTAND THE RIGHTS I AM GIVING UP AND THAT AN  
22 ORDER TERMINATING MY PARENTAL RIGHTS, WHEN ENTERED BY THE COURT, IS  
23 A PERMANENT TERMINATION OF ALL OF MY PARENTAL RIGHTS."

24           (G) THE OUT-OF-COURT CONSENT MAY BE SIGNED BEFORE FILING A  
25 PETITION FOR ADOPTION.

26           (9) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A PARENT  
27 OR GUARDIAN WHO HAS SIGNED AN OUT-OF-COURT CONSENT BUT WISHES TO



1 REQUEST REVOCATION OF THE OUT-OF-COURT CONSENT SHALL SUBMIT A  
2 REQUEST FOR REVOCATION TO THE ADOPTION ATTORNEY REPRESENTING THE  
3 PARENT OR GUARDIAN OR THE CHILD PLACING AGENCY THAT WITNESSED THE  
4 OUT-OF-COURT CONSENT NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND  
5 HOLIDAYS, AFTER THE OUT-OF-COURT CONSENT WAS SIGNED. THE REQUEST  
6 FOR REVOCATION FROM THE PARENT OR GUARDIAN MUST BE SUBMITTED IN  
7 WRITING BY THE PARENT OR GUARDIAN WHO SIGNED THE OUT-OF-COURT  
8 CONSENT TO THE ADOPTION ATTORNEY REPRESENTING THE PARENT OR  
9 GUARDIAN OR A CASEWORKER FROM THE CHILD PLACING AGENCY THAT  
10 WITNESSED THE OUT-OF-COURT CONSENT. THE REQUEST FOR REVOCATION IS  
11 TIMELY IF DELIVERED TO THE ADOPTION ATTORNEY OR A CASEWORKER FROM  
12 THE CHILD PLACING AGENCY NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS  
13 AND HOLIDAYS, AFTER THE OUT-OF-COURT CONSENT WAS SIGNED. UPON  
14 RECEIPT OF A TIMELY REQUEST FOR REVOCATION, THE ADOPTION ATTORNEY  
15 OR THE CHILD PLACING AGENCY RECEIVING THE REQUEST FOR REVOCATION  
16 SHALL ASSIST THE PARENT OR GUARDIAN IN FILING THE PETITION TO  
17 REVOKE THE OUT-OF-COURT CONSENT WITH THE COURT AS SOON AS  
18 PRACTICABLE. A PARENT OR GUARDIAN MAY FILE THIS PETITION WITH THE  
19 COURT ON HIS OR HER OWN. IF THE PARENT OR GUARDIAN FILES THE  
20 PETITION ON HIS OR HER OWN, THE PETITION MUST BE FILED WITH THE  
21 COURT NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND HOLIDAYS, AFTER  
22 THE OUT-OF-COURT CONSENT WAS SIGNED.

23 (10) THE COURT IN WHICH THE OUT-OF-COURT CONSENT WAS FILED MAY  
24 DENY THE REQUEST FOR REVOCATION UNDER SUBSECTIONS (11) AND (12).

25 (11) IF A PETITION TO REVOKE AN OUT-OF-COURT CONSENT HAS BEEN  
26 FILED WITH THE COURT, TIMELY NOTICE OF REVOCATION DOES NOT  
27 IMMEDIATELY RESULT IN THE RETURN OF THE CHILD TO THE PARENT OR

1 GUARDIAN. A HEARING BEFORE A JUDGE IS REQUIRED TO DETERMINE ALL OF  
2 THE FOLLOWING UNLESS THE ADOPTIVE PARENT OR PARENTS AGREE TO THE  
3 REVOCATION:

4 (A) WHETHER THE REQUEST FOR REVOCATION WAS GIVEN IN A TIMELY  
5 AND PROPER MANNER.

6 (B) WHETHER GOOD CAUSE EXISTS TO DETERMINE THAT THE OUT-OF-  
7 COURT CONSENT WAS NOT SIGNED VOLUNTARILY. IF THE COURT FINDS THAT  
8 THE OUT-OF-COURT CONSENT WAS NOT SIGNED VOLUNTARILY, THE OUT-OF-  
9 COURT CONSENT IS INVALID AND CUSTODY OF THE CHILD SHALL BE RETURNED  
10 TO THE PARENT OR GUARDIAN. IF THE COURT FINDS THAT THE OUT-OF-COURT  
11 CONSENT WAS SIGNED VOLUNTARILY, THE COURT SHALL PROCEED UNDER  
12 SUBDIVISION (C).

13 (C) WHETHER THE BEST INTEREST OF THE CHILD WILL BE SERVED BY  
14 ANY OF THE FOLLOWING:

15 (i) RETURNING CUSTODY OF THE CHILD TO THE PARENT OR GUARDIAN.

16 (ii) CONTINUING THE ADOPTION PROCEEDING COMMENCED OR INTENDED  
17 TO BE COMMENCED BY THE ADOPTIVE PARENT OR PARENTS.

18 (iii) DISPOSITION APPROPRIATE TO THE CHILD'S WELFARE AS  
19 AUTHORIZED BY SECTION 18 OF CHAPTER XIIIA UNDER AN EX PARTE ORDER  
20 ENTERED BY THE COURT.

21 (12) IN DETERMINING THE BEST INTEREST OF THE CHILD UNDER  
22 SUBSECTION (11) (C), IF A PARENT OR GUARDIAN IS SEEKING REVOCATION  
23 OF AN OUT-OF-COURT CONSENT, THE COURT SHALL DETERMINE IF THE PARENT  
24 OR GUARDIAN SEEKING REVOCATION IS FIT AND IMMEDIATELY ABLE TO  
25 PROPERLY CARE FOR THE CHILD IF THE COURT RETURNED THE CHILD TO THE  
26 PARENT OR GUARDIAN. IF THE COURT DETERMINES THAT THE PARENT OR  
27 GUARDIAN IS NOT FIT AND IMMEDIATELY ABLE TO PROPERLY CARE FOR THE

1 CHILD, THE COURT SHALL DENY THE REVOCATION. IF THE COURT FINDS THAT  
2 THE PARENT OR GUARDIAN IS FIT AND IMMEDIATELY ABLE TO PROPERLY CARE  
3 FOR THE CHILD, THE COURT SHALL DETERMINE THE BEST INTEREST OF THE  
4 CHILD. THE "BEST INTEREST OF THE CHILD" MEANS THE SUM TOTAL OF THE  
5 FOLLOWING FACTORS TO BE CONSIDERED, EVALUATED, AND DETERMINED BY  
6 THE COURT:

7 (A) THE CHILD'S AGE AND LENGTH OF TIME THE PARENT OR GUARDIAN  
8 SEEKING REVOCATION HAS HAD PHYSICAL CUSTODY OF THE CHILD SO THAT  
9 SIGNIFICANT LOVE, AFFECTION, AND OTHER EMOTIONAL TIES EXIST BETWEEN  
10 THE PARENT OR GUARDIAN AND THE CHILD AND WHETHER DURING THAT TIME  
11 THE CHILD HAS LIVED IN A STABLE, SATISFACTORY ENVIRONMENT.

12 (B) THE CAPACITY AND DISPOSITION OF THE PROSPECTIVE ADOPTING  
13 INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN SEEKING  
14 REVOCATION TO GIVE THE CHILD LOVE, AFFECTION, AND GUIDANCE, AND TO  
15 EDUCATE AND CREATE A MILIEU THAT FOSTERS THE CHILD'S RELIGION,  
16 RACIAL IDENTITY, AND CULTURE.

17 (C) THE CAPACITY AND DISPOSITION OF THE PROSPECTIVE ADOPTING  
18 INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN SEEKING  
19 REVOCATION TO PROVIDE THE CHILD WITH FOOD, CLOTHING, EDUCATION,  
20 PERMANENCE, MEDICAL CARE OR OTHER REMEDIAL CARE RECOGNIZED AND  
21 PERMITTED UNDER THE STATE LAW IN PLACE OF MEDICAL CARE, AND OTHER  
22 MATERIAL NEEDS.

23 (D) THE PERMANENCE AS A FAMILY UNIT OF THE PROSPECTIVE  
24 ADOPTING INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN  
25 SEEKING REVOCATION.

26 (E) THE MORAL FITNESS OF THE PROSPECTIVE ADOPTING INDIVIDUAL  
27 OR INDIVIDUALS AND THE PARENT OR GUARDIAN SEEKING REVOCATION.

1           (F) THE MENTAL AND PHYSICAL HEALTH OF THE PROSPECTIVE ADOPTING  
2 INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN SEEKING  
3 REVOCATION.

4           (G) THE HOME, SCHOOL, AND COMMUNITY RECORD OF THE CHILD.

5           (H) THE CHILD'S REASONABLE PREFERENCE, IF THE CHILD IS 14  
6 YEARS OF AGE OR LESS AND IF THE COURT CONSIDERS THE CHILD TO BE OF  
7 SUFFICIENT AGE TO EXPRESS A PREFERENCE.

8           (I) THE ABILITY AND WILLINGNESS OF THE PROSPECTIVE ADOPTING  
9 INDIVIDUAL OR INDIVIDUALS TO ADOPT THE CHILD'S SIBLINGS.

10           (J) ANY OTHER FACTOR CONSIDERED BY THE COURT TO BE RELEVANT TO  
11 A PARTICULAR PROSPECTIVE ADOPTIVE PLACEMENT OR TO A REVOCATION OF  
12 AN OUT-OF-COURT CONSENT.

13           Enacting section 1. This amendatory act takes effect 180 days  
14 after the date it is enacted into law.