

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4648**

A bill to amend 1939 PA 288, entitled  
"Probate code of 1939,"  
by amending section 39 of chapter X (MCL 710.39), as amended by  
1998 PA 94.

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

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CHAPTER X

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

1 to the putative father, the court shall terminate his rights to the  
2 child.

3 (2) If the putative father has established a custodial  
4 relationship with the child or has provided substantial and regular  
5 support or care in accordance with the putative father's ability to  
6 provide ~~such~~ support or care for the mother during pregnancy or for  
7 either mother or child after the child's birth during the 90 days  
8 before notice of the hearing was served upon him, the rights of the  
9 putative father shall not be terminated except by proceedings in  
10 accordance with section 51(6) of this chapter or section 2 of  
11 chapter XIIA.

12 (3) IF THE COURT DETERMINES THAT THE PARENTAL RIGHTS OF THE  
13 PUTATIVE FATHER WILL NOT BE TERMINATED UNDER SUBSECTION (1), THE  
14 COURT SHALL DO ALL OF THE FOLLOWING:

15 (A) TERMINATE THE TEMPORARY PLACEMENT MADE UNDER SECTION 23D  
16 OF THIS CHAPTER.

17 (B) RETURN CUSTODY OF THE CHILD TO THE MOTHER OR THE GUARDIAN  
18 UNLESS THE MOTHER'S PARENTAL RIGHTS HAVE BEEN TERMINATED UNDER THIS  
19 CHAPTER OR OTHER LAW AND ARE NOT RESTORED UNDER SECTION 62 OF THIS  
20 CHAPTER.

21 (C) DENY THE ORDER OF ADOPTION AND DISMISS THE PENDING  
22 ADOPTION PROCEEDING.

23 (4) THE FACT THAT THE MOTHER OR GUARDIAN EXECUTED OR PROPOSED  
24 TO EXECUTE A RELEASE OR CONSENT RELINQUISHING THE MOTHER'S PARENTAL  
25 RIGHTS OR THE GUARDIAN'S RIGHTS TO THE CHILD AND SOUGHT TERMINATION  
26 OF THE PUTATIVE FATHER'S PARENTAL RIGHTS UNDER SECTION 36, 37, OR  
27 39 OF THIS CHAPTER SHALL NOT BE USED AGAINST THE MOTHER OR GUARDIAN

1 IN ANY PROCEEDING UNDER THE CHILD CUSTODY ACT OF 1970, 1970 PA 91,  
2 MCL 722.21 TO 722.31, AFTER THE COURT HAS COMPLETED THE PROVISIONS  
3 IN SUBSECTION (3).

4 (5) ~~(3)~~ If the **MOTHER'S** parental rights ~~of the mother~~ are  
5 terminated ~~pursuant to~~ **UNDER** this chapter or other law **AND ARE NOT**  
6 **RESTORED UNDER SECTION 62 OF THIS CHAPTER** and if the court awards  
7 custody of a child born out of wedlock to the putative father, the  
8 court shall enter an order granting custody to the putative father  
9 and legitimating the child for all purposes. Upon entry of an order  
10 granting custody and legitimating the child, the clerk of the court  
11 shall collect a fee of \$35.00 from the putative father. The clerk  
12 shall retain \$9.00 of the fee and remit the \$26.00 balance, along  
13 with a written report of the order granting custody and  
14 legitimating the child, to the director of the department of  
15 community health. The report shall be on a form prescribed by or in  
16 a manner approved by the director of the department of community  
17 health. Regardless of whether the fee required by this section is  
18 collected, the clerk shall transmit and the department of community  
19 health shall receive the report of the order granting custody and  
20 legitimating the child.

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