

SUBSTITUTE FOR
HOUSE BILL NO. 4911

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 36 and 56 of chapter X (MCL 710.36 and
710.56), section 36 as amended by 1996 PA 409 and section 56 as
amended by 2014 PA 118.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER X

Sec. 36. (1) If a child is claimed to be born out of wedlock
and the mother executes or proposes to execute a release or consent
relinquishing her rights to the child or joins in a petition for
adoption filed by her ~~husband~~, **SPOUSE**, and the release or consent
of the natural father cannot be obtained, the judge shall hold a
hearing as soon as practical to determine whether the child was
born out of wedlock, to determine the identity of the father, and
to determine or terminate the rights of the father as provided in

1 this section and sections 37 and 39 of this chapter.

2 (2) Proof of service of a notice of intent to release or
3 consent or the putative father's verified acknowledgment of notice
4 of intent to release or consent shall be filed with the court, if
5 the notice was given to the putative father. The court shall
6 request the vital records division of the department ~~of public~~
7 ~~health~~ to send to the court a copy of any notice of intent to claim
8 paternity of the particular child ~~which~~ **THAT** the division has
9 received.

10 (3) Notice of the hearing shall be served upon the following:

11 (a) A putative father who has timely filed a notice of intent
12 to claim paternity as provided in section 33 or 34 of this chapter.

13 (b) A putative father who was not served a notice of intent to
14 release or consent at least 30 days before the expected date of
15 confinement specified in the notice of intent to release or
16 consent.

17 (c) Any other male who was not served ~~pursuant~~ **ACCORDING** to
18 section 34(1) of this chapter with a notice of intent to release or
19 consent and who the court has reason to believe may be the **CHILD'S**
20 father. ~~of the child.~~

21 (4) The notice of hearing shall inform the putative father
22 that his failure to appear at the hearing ~~shall constitute~~
23 **CONSTITUTES** a denial of his interest in custody of the child, which
24 denial shall result in the court's termination of his rights to the
25 child.

26 (5) Proof of service of the notice of hearing required by
27 subsection (3) shall be filed with the court. A verified

1 acknowledgment of service by the party to be served is proof of
2 personal service. Notice of the hearing ~~shall~~**IS** not ~~be~~ required if
3 the putative father is present at the hearing. A waiver of notice
4 of hearing by a person entitled to receive it is sufficient.

5 (6) The court shall receive evidence as to the identity of the
6 father of the child. **IN LIEU OF THE MOTHER'S LIVE TESTIMONY, THE**
7 **COURT SHALL RECEIVE AN AFFIDAVIT OR A VERIFIED WRITTEN DECLARATION**
8 **FROM THE MOTHER AS EVIDENCE OF THE IDENTITY AND WHEREABOUTS OF THE**
9 **CHILD'S FATHER. IF THE COURT DETERMINES THAT THE AFFIDAVIT OR**
10 **VERIFIED WRITTEN DECLARATION IS INSUFFICIENT, THE COURT SHALL ALLOW**
11 **AMENDMENT OF THE AFFIDAVIT OR VERIFIED WRITTEN DECLARATION. IF THE**
12 **COURT DETERMINES THAT THE AMENDMENT OF THE AFFIDAVIT OR VERIFIED**
13 **WRITTEN DECLARATION IS INSUFFICIENT, THE COURT MAY RECEIVE LIVE**
14 **TESTIMONY FROM THE MOTHER.** Based upon the evidence received, the
15 court shall enter a finding identifying the father or declaring
16 that the identity of the father cannot be determined.

17 (7) If the court finds that the **CHILD'S** father ~~of the child is~~
18 a person who did not receive either a timely notice of intent to
19 release or consent ~~pursuant~~**ACCORDING** to section 34(1) of this
20 chapter or a notice required ~~pursuant to~~**UNDER** subsection (3) ~~,~~ and
21 who has neither waived his right to notice of hearing nor is
22 present at the hearing, the court shall adjourn further proceedings
23 until that person is served with a notice of hearing.

24 Sec. 56. (1) Except as otherwise provided in this subsection,
25 6 months after formal placement under section 51 of this chapter,
26 unless the court determines that circumstances have arisen that
27 make adoption undesirable, the court may enter an order of

1 adoption. Upon the motion of the petitioner, the court may waive
2 the 6-month period, or any portion of that period, if the waiver is
3 in the adoptee's best interests. If, after a hearing, the court
4 finds that the adoptee's best interests will be served, it may
5 extend the 6-month period for an additional period of time not
6 exceeding 18 months from the time of formal placement for adoption.
7 In an adoption proceeding for which an adoption order is not
8 entered within 18 months after formal placement, the court shall
9 hold a hearing and determine whether an order of adoption shall be
10 entered or the petition denied. If a child is formally placed
11 according to section 41(2) of this chapter, the court may extend
12 the 6-month period for an additional period, that may exceed 18
13 months from the time of formal placement, until an order for
14 adoption may be entered under subsection (2). For an adoptee who is
15 less than 1 year old at the time of filing, 3 months after formal
16 placement under section 51 of this chapter, unless the court
17 determines that circumstances have arisen that make adoption
18 undesirable, the court may enter an order of adoption. **UPON THE**
19 **MOTION OF THE PETITIONER, THE COURT MAY WAIVE THE 3-MONTH PERIOD,**
20 **OR ANY PORTION OF THAT PERIOD, IF THE WAIVER IS IN THE ADOPTEE'S**
21 **BEST INTERESTS.**

22 (2) Except as provided in subsection (3), if a petition for
23 rehearing or an appeal as of right from an order terminating
24 parental rights has been filed, the court shall not order an
25 adoption until 1 of the following occurs:

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

1 set aside, and subsequently the period for appeal as of right to
2 the 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) The court of appeals affirms the order terminating
7 parental rights.

8 (3) If an application for leave to appeal has been filed with
9 the supreme court, the court shall not order an adoption until 1 or
10 more of the following occurs:

11 (a) The application for leave to appeal is denied.

12 (b) The supreme court affirms the order terminating parental
13 rights.

14 (4) If a motion brought under section 45 of this chapter has
15 been filed, the court shall not order an adoption until 1 of the
16 following occurs:

17 (a) The motion is decided and subsequently the period for
18 appeal as of right to the court of appeals has expired without an
19 appeal being filed.

20 (b) The motion is decided, an appeal as of right to the court
21 of appeals has been filed, the court of appeals issues an opinion,
22 and subsequently the period for filing an application for leave to
23 the supreme court has expired without an application being filed.

24 (c) The supreme court denies an application for leave or, if
25 an application is granted, the supreme court issues an opinion.

26 (5) If the person to be adopted is an adult, the court may
27 enter an order of adoption after all of the following occur:

1 (a) The person to be adopted consents to the adoption
2 according to section 43(3) of this chapter.

3 (b) The written report of investigation required by section
4 46(2) of this chapter is filed.

5 (c) Notice has been served upon interested parties described
6 in section 24a of this chapter.

7 Enacting section 1. This amendatory act takes effect 90 days
8 after the date it is enacted into law.