

Act No. 325  
Public Acts of 2016  
Approved by the Governor  
November 22, 2016  
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November 22, 2016  
EFFECTIVE DATE: February 20, 2017

**STATE OF MICHIGAN  
98TH LEGISLATURE  
REGULAR SESSION OF 2016**

**Introduced by Reps. Crawford, Webber, Jacobsen and Brett Roberts**

# **ENROLLED HOUSE BILL No. 4911**

AN ACT to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” by amending sections 36 and 56 of chapter X (MCL 710.36 and 710.56), section 36 as amended by 2016 PA 191 and section 56 as amended by 2014 PA 118.

*The People of the State of Michigan enact:*

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

(2) Proof of service of a notice of intent to release or consent or the putative father’s verified acknowledgment of notice of intent to release or consent shall be filed with the court, if the notice was given to the putative father. The court shall request the vital records division of the department to send to the court a copy of any notice of intent to claim paternity of the particular child that the division has received.

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

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

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

(c) Any other male who was not served according to section 34(1) of this chapter with a notice of intent to release or consent and who the court has reason to believe may be the child’s father.

(4) The notice of hearing shall inform the putative father that his failure to appear at the hearing constitutes a denial of his interest in custody of the child, which denial shall result in the court’s termination of his rights to the child.

(5) Proof of service of the notice of hearing required by subsection (3) shall be filed with the court. A verified acknowledgment of service by the party to be served is proof of personal service. Notice of the hearing shall not be required if the putative father is present at the hearing. A waiver of notice of hearing by a person entitled to receive it is sufficient.

(6) The court shall receive evidence as to the identity of the father of the child. In lieu of the mother's live testimony, the court shall receive an affidavit or a verified written declaration from the mother as evidence of the identity and whereabouts of the child's father. If the court determines that the affidavit or verified written declaration is insufficient, the court shall allow amendment of the affidavit or verified written declaration. If the court determines that the amendment of the affidavit or verified written declaration is insufficient, the court may receive live testimony from the mother. Based upon the evidence received, the court shall enter a finding identifying the father or declaring that the identity of the father cannot be determined.

(7) If the court finds that the child's father is a person who did not receive either a timely notice of intent to release or consent according to section 34(1) of this chapter or a notice required under subsection (3), and who has neither waived his right to notice of hearing nor is present at the hearing, the court shall adjourn further proceedings until that person is served with a notice of hearing.

Sec. 56. (1) Except as otherwise provided in this subsection, 6 months after formal placement under section 51 of this chapter, unless the court determines that circumstances have arisen that make adoption undesirable, the court may enter an order of adoption. Upon the motion of the petitioner, the court may waive the 6-month period, or any portion of that period, if the waiver is in the adoptee's best interests. If, after a hearing, the court finds that the adoptee's best interests will be served, it may extend the 6-month period for an additional period of time not exceeding 18 months from the time of formal placement for adoption. In an adoption proceeding for which an adoption order is not entered within 18 months after formal placement, the court shall hold a hearing and determine whether an order of adoption shall be entered or the petition denied. If a child is formally placed according to section 41(2) of this chapter, the court may extend the 6-month period for an additional period, that may exceed 18 months from the time of formal placement, until an order for adoption may be entered under subsection (2). For an adoptee who is less than 1 year old at the time of filing, 3 months after formal placement under section 51 of this chapter, unless the court determines that circumstances have arisen that make adoption undesirable, the court may enter an order of adoption. Upon the motion of the petitioner, the court may waive the 3-month period, or any portion of that period, if the waiver is in the adoptee's best interests.

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

(a) The petition for rehearing is granted, and at the rehearing the order terminating parental rights is not modified or set aside, and subsequently the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(b) The petition for rehearing is denied and the period for appeal as of right to the court of appeals has expired without an appeal being filed.

(c) The court of appeals affirms the order terminating parental rights.

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

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

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

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

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

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

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

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

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

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

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

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

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor