HOUSE BILL NO. 6424

September 29, 2026, Introduced by Rep. Meerman and referred to Committee on Judiciary.

A bill to amend 1939 PA 288, entitled

"Probate code of 1939,"

by amending section 45 of chapter X (MCL 710.45), as amended by 2004 PA 486.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 45. (1) A court shall not allow the filing of a petition to adopt a child if the consent of a representative or court is required ~~by~~ **under** section 43(1)(b), (c), or (d) of this chapter unless the petition is accompanied by the required consent or a

motion as provided in subsection ~~(2).~~**(3).**

(2) If a representative or court denies consent under subsection (1), the representative or court shall serve notice in writing of its decision on the applicant within 7 days of the decision denying consent and file proof of service with the court of the county where the parent's parental rights were terminated or are pending termination.

(3) ~~(2)~~ If an adoption petitioner has been unable to obtain the consent required by section 43(1)(b), (c), or (d) of this chapter, the petitioner may file a motion with the court alleging that the decision to withhold consent was ~~arbitrary and capricious.~~ **not in the best interests of the adoptee.** A motion **filed** under this subsection ~~shall~~ **must** contain **the following** information: ~~regarding both of the following:~~

(a) The specific steps taken by the petitioner to obtain the consent required and the results, if any.

(b) The specific reasons why the petitioner believes the decision to withhold consent was ~~arbitrary and capricious.~~**not in the best interests of the adoptee.**

(4) ~~(3) If consent has been given to another petitioner and if the child has been placed with that other petitioner according to an order under section 51 of this chapter, a~~ **A** motion under this section ~~shall~~ **must** not be brought after ~~either~~ **the later** of the following:

(a) Fifty-six days following the ~~entry of the order placing the child.~~**service of notice of decision to deny consent.**

(b) Entry of an order of adoption.

(5) An order of adoption must not be entered unless the time period described under subsection (4)(a) has passed.

(6) ~~(4)~~ In an adoption proceeding in which there is more than 1 applicant, the petition for adoption ~~shall~~ **must** be filed with the court of the county where the parent's parental rights were terminated or are pending termination. If both parents' parental rights were terminated at different times and in different courts, a petition filed under this section ~~shall~~ **must** be filed in the court of the county where parental rights were first terminated.

(7) ~~(5)~~ The court shall provide notice of a motion brought under this section to all interested parties as described in section 24a(1) of this chapter, the guardian ad litem of the prospective adoptee if one has been appointed during a child protection proceeding, and the applicant who received consent to adopt.

(8) ~~(6)~~ Upon the filing of a petition to adopt a child and the motion described in subsection ~~(2),~~ **(3)**, the court may waive or modify the full investigation of the petition provided in section 46 of this chapter. The court shall decide the motion within 91 days after the filing of the motion unless good cause is shown.

(9) ~~(7)~~ Unless the petitioner establishes by clear and convincing evidence that the decision to withhold consent was ~~arbitrary and capricious,~~ **not in the best interests of the adoptee**, the court shall deny the motion described in subsection ~~(2)~~ **(3)** and dismiss the petition to adopt.

(10) ~~(8)~~ If the court finds by clear and convincing evidence that the decision to withhold consent was ~~arbitrary and capricious,~~ **not in the best interests of the adoptee**, the court shall issue a written decision and may terminate the rights of the appropriate court, child placing agency, or department and may enter further orders in accordance with this chapter or section 18 of chapter

XIIA as the court considers appropriate. In addition, the court may grant to the petitioner reimbursement for petitioner's costs of preparing, filing, and arguing the motion **and appeal** alleging the withholding of consent was ~~arbitrary and capricious,~~ **not in the best interests of the adoptee**, including a reasonable allowance for attorney fees.

(11) ~~(9)~~ If the consent at issue is that required of the court under section 43(1)(c) of this chapter, the motion ~~shall~~ **must** be heard by a visiting judge assigned according to section 8212 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8212.

(12) ~~(10)~~ The court's decision on a motion brought under this section is appealable by right to the court of appeals.