

THE PARENTAL RIGHTS RESTORATION ACT (EXCERPT)
Act 211 of 1990

722.904 Jurisdiction of probate court; confidential and expeditious proceedings; granting waiver of parental consent; reporting suspected child abuse; duties of probate court on disclosure of sexual abuse; "child abuse" and "sexual abuse" defined.

Section 4.

(1) The probate court has jurisdiction of proceedings related to a minor's petition for a waiver of parental consent.

(2) Proceedings held pursuant to this act shall be completed with confidentiality and sufficient expedition to provide an effective opportunity for the minor to provide self-consent to an abortion, in accordance with all of the following:

(a) The probate court shall, upon its first contact with a minor seeking a waiver of parental consent under this act, provide the minor with notice of the minor's right to all of the following:

- (i) Confidentiality of the proceedings, including the right to use initials in the petition.
- (ii) Court appointment of an attorney or guardian ad litem.
- (iii) Assistance with preparing and filing the petition.

(b) A minor may file a petition for waiver of parental consent in the probate court of the county in which the minor resides. For purposes of this act, the county in which the minor resides means the county in which the minor's residence is located or the county in which the minor is found.

(c) Upon request of the minor, the probate court shall provide the minor with assistance in preparing and filing the petition for waiver of parental consent.

(d) A minor may file a petition for waiver of parental consent under this act on her own behalf or through a next friend. The minor may use initials or some other means of assuring confidentiality in the petition.

(e) Upon request of the minor, the probate court shall appoint an attorney or guardian ad litem within 24 hours to represent the minor in proceedings under this section.

(f) A minor is not required to pay a fee for proceedings under this section.

(g) A hearing on a petition for waiver of parental consent under this act shall be held within 72 hours, excluding Sundays and holidays, after the petition is filed and shall be closed to the public. All records of proceedings related to the petition for waiver of parental consent under this act are confidential.

(h) The probate court that hears the petition for waiver of parental consent shall issue and make a part of the confidential record its specific findings of fact and conclusions of law in support of its ruling either on the record or in a written opinion.

(i) A written order granting or denying a petition for waiver of parental consent filed pursuant to this act shall be issued within 48 hours, excluding Sundays and holidays, after the hearing on the petition is held.

(3) The probate court shall grant a waiver of parental consent if it finds either of the following:

(a) The minor is sufficiently mature and well-enough informed to make the decision regarding abortion independently of her parents or legal guardian.

(b) The waiver would be in the best interests of the minor.

(4) A minor who is denied a waiver under this section may appeal the probate court's decision to the court of appeals. Appeal proceedings shall be expedited and confidential. The notice of appeal shall be filed within 24 hours of the issuance of the order denying the petition. The appeal shall be perfected within 72 hours, excluding Sundays and holidays, from the filing of the notice of appeal.

(5) The confidentiality requirements of this section do not prevent the probate court from reporting suspected child abuse under section 4 of the child protection law, Act No. 238 of the Public Acts of 1975, being section 722.624 of the Michigan Compiled Laws.

(6) If a minor who is seeking a waiver of parental consent reveals to the probate court that she is the victim of sexual abuse, and that her pregnancy is, or may be, the result of sexual abuse, the probate court shall immediately do all of the following:

(a) Report the suspected sexual abuse to the department of social services or a law enforcement agency pursuant to the child protection law, Act No. 238 of the Public Acts of 1975, being sections 722.621 to 722.636 of the Michigan Compiled Laws.

(b) Inform the minor that there are laws designed to protect her, including all of the following provisions of chapter XIA of the probate code, Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.28 of the Michigan Compiled Laws:

(i) That a law enforcement officer may without court order take the minor into temporary protective custody if, after investigation, the officer has reasonable grounds to conclude that the minor's health, safety, or welfare would be endangered by leaving her in the custody of her parent or legal guardian.

(ii) That the juvenile division of the probate court may, upon learning of the suspected sexual abuse, immediately hold a preliminary inquiry to determine whether a petition for court jurisdiction should be filed or whether other action should be taken.

(iii) That the juvenile court shall appoint an attorney to represent the minor in protective proceedings.

(iv) That after a petition has been filed, the juvenile court may order that the minor be placed with someone other than her parent or legal guardian pending trial or further court order if such placement is necessary to avoid substantial risk to the minor's life, physical health, or mental well-being.

(7) As used in this section, "child abuse" and "sexual abuse" mean those terms as defined in section 2 of the child protection law, Act No. 238 of the Public Acts of 1975, being section 722.622 of the Michigan Compiled Laws.

History: 1990, Act 211, Eff. Mar. 28, 1991

Popular Name: Parental Consent Law