

**Michigan Judicial Institute
State Court Administrative Office**

An Adoption Law Update



Faculty

Hon. Elwood L. Brown
St. Clair County Probate Court
Port Huron
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Chief Adoptions & Juvenile Support Services
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Judicial Seminar & Webcast

September 18, 2014
Hall of Justice
Lansing, Michigan

Michigan Judicial Institute

An Adoption Law Update

Seminar & Webcast

September 18, 2014
Hall of Justice Conference Center
Lansing, Michigan

AGENDA

1:15 – 1:30 p.m. Onsite Registration/Online Webcast Connection

1:30 – 1:35 p.m. Introductions and Administrative Remarks

1:35 - 2:15 p.m. **Amendments to the Michigan Adoption Code, 2014 PA 117**
Ms. Lauran Howard, Chief Adoptions & Juvenile Support Services
Oakland County Circuit Court Family Division

One Important Note: The amendments we are about to review, related to out-of-court activities (release, revocation of out-of-court release) do NOT apply to cases involving ICWA or MIFPA.

Out-of-Court Consent to Adoption, MCL 710.44(9), (10), (11), (12)

- Explanation of permanent relinquishment of parental rights, MCL 710.44(6)
- 72-hour waiting period, MCL 710.44(8)
- Unemancipated minor,
- Verified statements regarding relinquishment of parental rights, MCL 710.44(8)(c)
- Acknowledgement, MCL 710.44(8)(f)

Out-of-Court Release, MCL 710.29(12), (13), (14)
Requirements, MCL 710.29(5):

- 72-hour waiting period following child's birth,
- Unemancipated minor and signature by parent/guardian,
- Explanation of and verified statement regarding relinquishment of parental rights,
- Acknowledgment,
- Minor and Petition to Revoke

Revocation of the Out-of-Court Release, MCL 710.23d(10)
Requirements:

- Submission,
- Petition filed not more than 5 days after out-of-court release was signed,
- Assistance by adoption attorney or child placing agency with filing petition to revoke,
- Lawyer and Agency Responsibility

Forms: Out-of-Court Consent; Out-of-Court Release

2:15 – 3:00 p.m.

Amendments to the Michigan Adoption Code, 2014 PA 118, 119
Judge Elwood Brown, St. Clair County Probate Court

Legislative history

Court hearing regarding Petition to Revoke to determine, MCL 710.29(14):

- Timeliness,
- Voluntariness,
- Best interest of the child,
- Dispositions:
 - returning custody to parent,
 - continuing adoption proceedings,
 - other

Court hearing regarding Petition to Revoke, MCL 710.44(11)

- Difference between Revocation of a Release and Revocation of a Consent in the required findings by the Court

Order of Adoption, MCL 710.56, 2014 PA 118

- Adoptee less than one year old, three months after formal placement, court may enter an order of adoption, MCL 710.56(1)

Putative Father, MCL 710.39, 2014 PA 119

- Procedure if parental rights of putative father are not terminated, MCL 710.39(3)

3:00 p.m.

Evaluation and Seminar Adjournment

MICHIGAN JUDICIAL INSTITUTE AN ADOPTION LAW UPDATE

Hon. Elwood L. Brown
St. Clair County Probate Court

Ms. Lauran F. Howard
Chief Adoptions & Juvenile Support Services
Oakland County Circuit Court Family Division

September 18, 2014

Please Note

The amendments reviewed today relate to out-of-court activities and do not apply to cases involving ICWA or MIFPA.

Out-of-Court Consent

- ▣ MCL 710.44(9), (10), (11), (12)
- ▣ Relinquishment of parental rights
- ▣ Waiting Period
- ▣ Unemancipated minor
- ▣ Verified statement
- ▣ Acknowledgment

Out-of-Court Release

- ▣ MCL 710.29(5), (12), (13), (14)
- ▣ Waiting Period
- ▣ Unemancipated minor
- ▣ Verified statement
- ▣ Acknowledgment

Request for Revocation

- ▣ MCL 710.23d(10); MCL 710.29(12); MCL 710.44(9)
- ▣ Attorney and Agency Responsibility
- ▣ Petition
- ▣ Forms

Court Hearing

- ▣ Determinations:
 - MCL 710.29(14)
 - Timeliness
 - Voluntariness
 - Best interest of the child
 - Dispositions
- ▣ Revocation of Consent vs. Revocation of Release
 - MCL 710.44(11) vs. MCL 710.29(14)

Court Findings

Revoke Consent sec. 44(11)

- ▣ Timely request (A)
- ▣ Voluntary (B)
- ▣ Best interest (C)
 - Return custody
 - Continue adoption
 - Child's welfare
- ▣ But also (12)
 - Fitness
 - Immediate ability to care for
 - ▣ If yes, best interest factors:
 - Child's age and length of physical custody
 - Capacity to love
 - Capacity to provide necessities
 - Permanence of family unit
 - Moral fitness
 - Mental/physical health
 - Home, school, community
 - Child's reasonable preference
 - Ability to adopt siblings
 - Any other factors considered by the court

Revoke Release sec. 29(14)

- ▣ Timely request (A)
- ▣ Voluntary (B)
- ▣ Best interest (C)
 - Return custody
 - Continue adoption
 - Child's welfare

Order of Adoption

- ▣ MCL 710.56
- ▣ Adoptee less than three months old

Putative Father

▣ MCL 710.39

▣ Procedure

STATE OF MICHIGAN COUNTY OF _____	OUT-OF-COURT CONSENT TO DIRECT PLACEMENT ADOPTION BY PARENT	FILE NO. _____
NOTICE: THIS CONSENT CANNOT BE SIGNED BEFORE THE EXPIRATION OF A 72 HOUR WAIT PERIOD FOLLOWING THE BIRTH OF THE ADOPTEE. FOR USE IN NON-INDIAN ADOPTIONS ONLY.		
In the matter of _____, adoptee Full name of child		
1. I, _____, am the <input type="checkbox"/> mother (Date of Birth _____) <input type="checkbox"/> father (Date of Birth _____)		
of the child named above who was born, _____ at _____ am/pm in _____ Date Time City		
County _____ State _____		
[Instructions: Initial each line only after reading and fully understanding each paragraph]		
2. _____ I have had my legal rights as a parent fully explained to me and I understand that I do not have this out-of-court consent to adoption. I understand my parental rights and that if I do sign this out-of-court consent, I voluntarily give up permanently all my parental rights to my child for adoptive placement with <input type="checkbox"/> a. The petitioner(s), who have or intend to file a petition for the adoption of the adoptee and whose name(s) is/are unknown to me because identifying information is not being exchanged. <input type="checkbox"/> b. _____ who have filed or intend to file a petition for the adoption of my child.		
3. _____ I have read or have had read to me each of my rights as a parent described in section 44(8)(c) or chapter X of the probate code of 1930, 1939 PA 288, MCL 710.44, and I understand these rights		
4. _____ This out-of-court consent does not involve an Indian child as defined in MCR 3.002(5).		
5. _____ I have been advised and understand that by signing this out-of-court consent, I am giving up all parental rights and authorizing the court to permanently terminate all of my parental rights (unless court allows me to revoke my out-of-court consent), including but not limited to: a. The right to have or to seek care and custody of the child b. The right to have or to seek parenting time with the child. c. The right to inherit from the child or have the child inherit from the parent. d. The right to services and earnings of the child. e. The right to determine the child's schooling, religious training, and parenting practices.		
6. _____ I am signing the out-of-court consent as a free and voluntary act on my part and I have been advised that I cannot be forced to sign the out-of-court consent for any reason.		
7. _____ I have not been given or promised any money or other thing of value in exchange for signing the out-of-court consent.		
8. _____ It has been explained to me and I understand all of the following: a. I am not required to sign an out-of-court consent. b. I may make a temporary placement of my child with the prospective adoptive parent(s), if I have not already done so, or I may continue the temporary placement I have already made, until I choose to sign a consent in court or sign an out-of-court consent. c. I may request revocation of the out-of-court consent I have signed by submitting a timely written request for revocation. d. If I request a revocation of the out-of-court consent, I must appear before the court so the court may consider whether to grant the revocation.		
9. _____ I have been advised that I may submit a request for revocation in writing to the adoption attorney or child placing agency that witnessed my out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed, or I may petition the court on my own for revocation of the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed. a. A request for revocation may not be submitted to the adoption attorney representing the parent or to a caseworker from the child placing agency that witnessed the out-of-court consent by telephone or text message. b. A written request for revocation may be sent to the adoption attorney who represents the parent at the following postal mailing and/or overnight carrier address: The fax number of the adoption attorney is: _____ The email address of the adoption attorney is: _____ c. A written request for revocation may be sent to a caseworker from the child placing agency that witnessed the out-of-court consent at the following postal mailing and/or overnight carrier address: The fax number of the child placing agency is: _____ The email address of the child placing agency is: _____ d. A petition for revocation of consent may be filed with the court at the following address: _____		
10. _____ I have been advised if I submit a timely request for revocation, the court may grant the request or deny the request for revocation depending on my fitness and immediate ability to properly care for the child and whether the best interests of the child would be served by the revocation.		
11. _____ I understand my right to request a rehearing or appeal within 21 days after an order is entered terminating my parental rights.		
12. _____ I understand that my parental rights may be reinstated without further hearing if the adoption of the child named above is not confirmed.		
I ACKNOWLEDGE THAT I AM SIGNING THIS OUT-OF-COURT CONSENT FREELY AND VOLUNTARILY, AFTER MY PARENTAL RIGHTS HAVE BEEN EXPLAINED TO ME AND ANY QUESTIONS I MAY HAVE ABOUT IT HAVE BEEN FULLY ANSWERED. I UNDERSTAND THE		
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RIGHTS I AM GIVING UP AND THAT AN ORDER TERMINATING MY PARENTAL RIGHTS, WHEN ENTERED BY THE COURT, IS A PERMANENT TERMINATION OF ALL OF MY PARENTAL RIGHTS.

Time _____

Date _____ Parent Signature _____

Address _____ City _____ State _____ Zip _____

The parent signing this out-of-court consent is an unemancipated minor. I am the parent/guardian/guardian ad litem of the minor parent, and I consent to the minor parent signing this out-of-court consent to adoption.

Date _____ Parent/Guardian of Unemancipated Minor _____

Address _____ City _____ State _____ Zip _____

Signed in the presence of and witnessed by:

Attorney Signature _____ Date _____

Attorney Name _____ Bar Number _____

Child Placing Agency Caseworker Signature _____ Date _____

Child Placing Agency Caseworker Name _____

Child Placing Agency Name _____

Prepared by:
Herbert A. Bral and Stephanie L. Benedict, Attorneys at Law, 930 Mason, Dearborn, MI 48124

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STATE OF MICHIGAN OUT-OF-COURT RELEASE OF CHILD FILE NO. _____
COUNTY OF _____ BY PARENT

NOTICE: THIS RELEASE CANNOT BE SIGNED BEFORE THE EXPIRATION OF A 72 HOUR WA PERIOD FOLLOWING THE BIRTH OF THE ADOPTEE. FOR USE IN NON-INDIAN ADOPTIONS ONLY.

In the matter of _____, adoptee
Full name of child

1. I, _____, am the mother (Date of Birth _____)
 father (Date of Birth _____)
of the child named above who was born _____ at _____ am/pm in _____
Date _____ Time _____ City _____
County _____ State _____

(Instructions: Initial each line only after reading and fully understanding each paragraph)

2. _____ I have had my legal rights as a parent fully explained to me and I understand that I do not have this out-of-court release. Of my own free will, I give up completely and permanently my parental rights to my child, and I release my child to _____
Child Placing Agency
for the purpose of adoption.

3. _____ I have read or have had read to me each of my rights as a parent described in section 20(5)(c) of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.20, and I understand these right

4. _____ This out-of-court release does not involve an Indian child as defined in MCR 3.002(5).

5. _____ I have been advised and understand that by signing this out-of-court release, I am giving up all parental rights and authorizing the court to permanently terminate all of my parental rights, unless court allows me to revoke my out-of-court release, including but not limited to:

- a. The right to have or to seek care and custody of the child
- b. The right to have or to seek parenting time with the child.
- c. The right to inherit from the child or have the child inherit from the parent.
- d. The right to services and earnings of the child.
- e. The right to determine the child's schooling, religious training, and parenting practices.

6. _____ I am signing the out-of-court release as a free and voluntary act on my part and I have been advised that I cannot be forced to sign the out-of-court release for any reason.

7. _____ I have not been given or promised any money or other thing of value in exchange for signing this out-of-court release.

(Instructions: Initial each line only after reading and fully understanding each paragraph)

8. _____ It has been explained to me and I understand all of the following:

- a. I am not required to sign an out-of-court release.
- b. I may make a temporary placement of my child with the prospective adoptive parent(s), if I have not already done so, or I may continue the temporary placement I have already made, until I choose to sign a release in court or sign an out-of-court release.
- c. I may request revocation of the out-of-court release I have signed by submitting a timely written request for revocation.
- d. If I request a revocation of the out-of-court release, I must appear before the court so the court may consider whether to grant the revocation.

9. _____ I have been advised that I may submit a request for revocation in writing to the adoption attorney or a caseworker from the child placing agency that accepted my out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed, or I may petition the court on my own for revocation of the out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed.

- a. A request for revocation may not be submitted to the adoption attorney representing the parent or to a caseworker from the child placing agency that accepted the out-of-court release by telephone or text message.
- b. A written request for revocation may be sent to the adoption attorney who represents the parent at the following postal mailing and/or overnight carrier address:

The fax number of the adoption attorney is: _____
The email address of the adoption attorney is: _____
- c. A written request for revocation may be sent to a caseworker from the child placing agency that accepted the out-of-court release at the following postal mailing and/or overnight carrier address:

The fax number of the child placing agency is: _____
The email address of the child placing agency is: _____
- d. A petition for revocation of release may be filed with the court at the following address: _____

10. _____ I have been advised if I submit a timely request for revocation, the court may grant the request or deny the request for revocation depending on my fitness and immediate ability to properly care for the child and whether the best interests of the child would be served by the revocation.

11. _____ I understand my right to request a rehearing or appeal within 21 days after an order is entered terminating my parental rights.

I ACKNOWLEDGE THAT I AM SIGNING THIS OUT-OF-COURT RELEASE FREELY AND VOLUNTARILY, AFTER MY PARENTAL RIGHTS HAVE BEEN EXPLAINED TO ME AND ANY QUESTIONS I MAY HAVE ABOUT IT HAVE BEEN FULLY ANSWERED. I UNDERSTAND THE

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RIGHTS I AM GIVING UP AND THAT AN ORDER TERMINATING MY PARENTAL RIGHTS, WHEN ENTERED BY THE COURT, IS A PERMANENT TERMINATION OF ALL OF MY PARENTAL RIGHTS.

Time _____

Date _____ Parent Signature _____

Address _____ City _____ State _____ Zip _____

The parent signing this out-of-court release is an unemancipated minor. I am the parent/guardian of the minor parent, and I release to the minor parent signing this out-of-court release.

Date _____ Parent/Guardian of Unemancipated Minor _____

Address _____ City _____ State _____ Zip _____

Signed in the presence of and witnessed by:

Attorney Signature _____ Date _____

Attorney Name _____ Bar Number _____

Signed in the presence of, witnessed, and accepted on behalf of the agency by:

Child Placing Agency Caseworker Signature _____ Date _____

Child Placing Agency Caseworker Name _____

Child Placing Agency Name _____

Prepared by:
Herbert A. Brail and Stephanie L. Benedict, Attorneys at Law, 630 Mason, Dearborn, MI 48124

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STATE OF MICHIGAN VERIFIED DECLARATION REGARDING FILE NO.
COUNTY OF PATERNITY TO ACCOMPANY OUT-OF-COURT
RELEASE OR CONSENT

FOR USE IN NON-INDIAN ADOPTIONS ONLY

In the matter of _____
(Full name of child)

I, _____, am the mother of _____ bo
(mother's full legal name) (child's name at birth)

_____ at _____
(date) (city, county, state)

I reside at _____
(street address) (city, county, state, zip)

My date of birth is _____
(date)

Indian Child Status

- Are you a member of a federally recognized American Indian tribe or Alaskan Native Village eligible to enroll in any such tribe or village? Yes No
- Is anyone in your family a member of a federally recognized American Indian tribe or Alaskan Native Village or eligible to enroll in any such tribe or village? Yes No
- To the best of your knowledge, information and belief is the father of the child a member of a federally recognized American Indian tribe or Alaskan Native Village or eligible to enroll in any such tribe or village? Yes No
- To the best of your knowledge, information and belief is anyone in the father's family a member of a federally recognized American Indian tribe or Alaskan Native Village or eligible to enroll in any such tribe or village? Yes No

Legal Status of Child

- Has any man served you with a paternity action? Yes No
- Has an order been entered by any court naming the father of the child? Yes No
- Have you signed an acknowledgement of parentage with the child's father? Yes No

Marital Status of Mother:

- I was married at the time of birth of the child. Yes No
- I was married at the time of conception of the child. Yes No If Yes, answer Question #10.

10. If you were married at the time of birth or time of conception, please provide the following information about your husband:

- His full legal name: _____
- His date of birth: _____
- His address: _____
- His telephone number: _____
- Is your husband the biological father? Yes No
- If your husband is not the biological father of the child, complete sections I, II or III as applicable.

Identification of Child's Father

- Do you know the father's name and how to locate him? Yes No If Yes, complete Section I
- Do you know the father's name, but not how to locate him? Yes No If Yes, complete Section II
- Is the father unknown? Yes No If Yes, complete Section III

Section I. Father's Name and Whereabouts Known (MCL 710.39)

14. Please provide the following information about the known father:

- His full legal name: _____
- His physical description: _____
- His address: _____
- His telephone number: _____
- His date of birth: _____ (if you don't know, provide his approximate age)

- Does he know you are pregnant? Yes No
- Has the father established a custodial relationship with the child? Yes No

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17. Has the father provided substantial and regular support or care in accordance with his ability to provide such support or care for you during your pregnancy? Yes No

18. Has the father provided substantial and regular support or care in accordance with his ability to provide such support or care for you or the child after the child's birth during the 90 days before date of this affidavit? Yes No

19. Is there anyone else who could be the father of the child? Yes No

20. If your answer to Question #19 is Yes, complete the appropriate section of this form or use a Supplemental Father Information Sheet if the applicable section on this form has been completed.

21. If you answered No to the Question #19, why are you sure the man identified in in #14 is the father?

22. Please write a brief history of your relationship with the father including the circumstances of conception.

23. What was the approximate date and place of conception? _____

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Section II. Father's Name Known, but Whose Whereabouts are Unknown [MCL 710.37(2)(b)]

24. Please provide the following information about the known father:

a. His full legal name: _____

b. His physical description: _____

c. His last known address: _____
 (include email address) _____

d. His telephone number: _____

e. His date of birth: _____ (if you don't know, provide his approximate age)

f. Names and addresses of his friends or family members: _____

i. Any other information: Facebook/Other Social Media Name(s), school(s) attended, employer(s), etc., you are able to provide that may lead to locating the father.

25. Does he know you are pregnant? Yes No

26. Has the father provided support for you? Yes No

27. Has the father shown any interest in the child? Yes No

28. Has the father made provision for the child's care for at least 90 days preceding the date of this affidavit? Yes No

29. Is there anyone else who could be the father of the child? Yes No

30. If your answer to Question #29 is Yes, complete the appropriate section of this form or use a Supplemental Father Information Sheet if the applicable section on this form has been completed.

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31. If you answered No to Question #29, why are you sure the man identified in in #24 is the father?

32. Please write a brief history of your relationship with the father(s) including how you met the father and the circumstances of conception.

33. What was the approximate date and place of conception? _____

34. Please describe in detail why the father's whereabouts are unknown and what specific steps you or someone on your behalf has taken to attempt to locate or contact him.

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Section III. Father's Identity and Whereabouts Unknown [MCL 710.37(2)(a)]

35. Please provide the following information about the unknown father:

a. His first name, nickname or street name: _____

b. His physical description: _____

c. His birthdate or approximate age: _____

h. Names and addresses of his friends or family members: _____

i. Any other information: Facebook/Other Social Media Name(s), school(s) attended, employer(s), etc., you are able to provide that may lead to locating the father.

36. Does he know you are pregnant? Yes No

37. Has he made provision for the child's care? Yes No

38. Has he provided support for you during your pregnancy or confinement (the period of childbirth and immediately after)? Yes No

39. Is there anyone else who could be the father of the child? Yes No

40. If your answer to question #39 is Yes, complete the appropriate section of this form or use a Supplemental Father Information Sheet if the applicable section on this form has been completed.

41. If you answered No to Question #39, why are you sure the man identified in in #35 is the father?

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Supplemental Father Information Sheet
Father's Name and Whereabouts Known [MCL 710.39]

42. Please write a brief history of your relationship with the father(s) including how you met the and the circumstances of conception.

43. What was the approximate date and place of conception? _____

44. Please describe in detail why the father's identity and whereabouts are unknown and what steps you or someone on your behalf has taken to attempt to identify, locate, or contact him

I DECLARE THAT THE STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY INFORM KNOWLEDGE, AND BELIEF.

Time _____ Mother's Signature _____

Date _____ Mother's Printed Name _____

Address _____ City _____ State _____ Zip _____

Attorney Signature _____ Bar No. _____

Attorney's Name _____

Address _____ City _____ State _____ Zip _____

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1. Please provide the following information about the known father:

a. His full legal name: _____

b. His physical description: _____

c. His address: _____

d. His telephone number: _____

e. His date of birth: _____ (if you don't know, provide his approximate age)

2. Does he know you are pregnant? Yes No

3. Has the father established a custodial relationship with the child? Yes No

4. Has the father provided substantial and regular support or care in accordance with his ability to provide such support or care for you during your pregnancy? Yes No

5. Has the father provided substantial and regular support or care in accordance with his ability to provide such support or care for you or the child after the child's birth during the 90 days before the date of this affidavit? Yes No

6. Why do you believe this man to be a possible father of the child?

7. Please write a brief history of your relationship with the father including the circumstances of conception.

8. What was the approximate date and place of conception? _____

Page 1 of 1

Supplemental Father Information Sheet
Father's Name Known, but Whose Whereabouts are Unknown [MCL 710.37(2)(b)]

1. Please provide the following information about the known father:

a. His full legal name: _____

b. His physical description: _____

c. His last known address: _____
(Include email address)

d. His telephone number: _____

e. His date of birth: _____ (if you don't know, provide his approximate age)

f. Names and addresses of his friends or family members: _____

i. Any other information: Facebook/Other Social Media Name(s), school(s) attended, employer(s), etc., you are able to provide that may lead to locating the father.

2. Does he know you are pregnant? Yes No

3. Has the father provided support for you? Yes No

4. Has the father shown any interest in the child? Yes No

5. Has the father made provision for the child's care for at least 90 days preceding the date of this affidavit? Yes No

6. Why do you believe this man to be a possible father of the child?

7. Please write a brief history of your relationship with the father(s) including how you met the father and the circumstances of conception.

8. What was the approximate date and place of conception? _____

9. Please describe in detail why the father's whereabouts are unknown and what specific steps you or someone on your behalf has taken to attempt to locate or contact him.

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Supplemental Father Information Sheet
Father's Identity and Whereabouts Unknown [MCL 710.37(2)(a)]

1. Please provide the following information about the unknown father:

a. His first name, nickname or street name: _____

b. His physical description: _____

c. His birthdate or approximate age: _____

d. Names and addresses of his friends or family members: _____

i. Any other information: Facebook/Other Social Media Name(s), school(s) attended, employer(s), etc., you are able to provide that may lead to locating the father.

2. Does he know you are pregnant? Yes No

3. Has he made provision for the child's care? Yes No

4. Has he provided support for you during your pregnancy or confinement (the period of childbirth and immediately after)? Yes No

5. Why do you believe this man to be a possible father of the child?

6. Please write a brief history of your relationship with the father(s) including how you met the father and the circumstances of conception.

7. What was the approximate date and place of conception? _____

8. Please describe in detail why the father's identity and whereabouts are unknown and what specific steps you or someone on your behalf has taken to attempt to identify, locate, or contact him.

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<p>Approved, SCAO: _____ JIS CODE: SAR</p> <p style="text-align: center;">STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p> <p style="text-align: center;">STATEMENT TO ACCOMPANY CONSENT IN DIRECT PLACEMENT</p> <p style="text-align: right;">FILE NO. _____</p> <p>In the matter of adoptee # _____ DOB: _____</p> <p>1. I am the parent or guardian of the adoptee and I intend to consent to a direct placement of the adoptee.</p> <p>2. I have received a list of adoption support groups.</p> <p><input type="checkbox"/> 3. I am being assisted by a child-placing agency. I have received a copy of the written document described in MCL 722.656(1)(c).</p> <p><input type="checkbox"/> I have received counseling related to this adoption. <input type="checkbox"/> I waive counseling related to this adoption.</p> <p>5. I have not received or been promised any money or anything of value for the consent to the adoption, except for lawful payment as itemized on the schedule filed with the consent.</p> <p>6. The validity and finality of my consent is not affected by any collateral or separate agreement between myself and the adoptive parent.</p> <p>7. I understand that the welfare of the adoptee is served if the parent keeps the child-placing agency or Michigan Department of Human Services informed of any health problems that the parent develops that could affect the adoptee.</p> <p>8. I understand that the welfare of the adoptee is served if I keep my address current with the child-placing agency or Michigan Department of Human Services in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years or older.</p> <p>I declare that this statement has been examined by me and that its contents are true to the best of my information, knowledge and belief.</p> <p>Date _____ Signature of parent or guardian _____ Name of parent or guardian (print) _____ Address _____ City, state, zip _____ Telephone _____</p> <p style="text-align: center;">Do not write below this line - For court use only</p> <p style="text-align: center;">PCA 338 (9/07) STATEMENT TO ACCOMPANY CONSENT IN DIRECT PLACEMENT MCL 710</p>	<p>Approved, SCAO: _____ JIS CODE: SAR</p> <p style="text-align: center;">STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p> <p style="text-align: center;">STATEMENT TO ACCOMPANY RELEASE</p> <p style="text-align: right;">FILE NO. _____</p> <p>In the matter of adoptee # _____ DOB: _____</p> <p>1. I am the parent or guardian of the adoptee and I intend to sign a release of the child for purposes of adoption.</p> <p>2. I have received a list of adoption support groups.</p> <p><input type="checkbox"/> 3. I intend to release the child to a child-placing agency. I have received a copy of the written document described in MCL 722.656(1)(c).</p> <p><input type="checkbox"/> I have received counseling related to this adoption. <input type="checkbox"/> I waive counseling related to this adoption.</p> <p>5. I have not received or been promised any money or anything of value for the release of the child, except for lawful payments as itemized on the schedule filed with the release.</p> <p>6. The validity and finality of my release is not affected by any collateral or separate agreement between myself and the adoptive parent, nor between myself and the agency to whom the child is to be released.</p> <p>7. I understand that the welfare of the adoptee is served if the parent keeps the child-placing agency or Michigan Department of Human Services informed of any health problems that the parent develops that could affect the adoptee.</p> <p>8. I understand that the welfare of the adoptee is served if I keep my address current with the child-placing agency or Michigan Department of Human Services in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years or older.</p> <p>I declare that this statement has been examined by me and that its contents are true to the best of my information, knowledge, and belief.</p> <p>Date _____ Signature of parent or guardian _____ Name of parent or guardian (print) _____ Address _____ City, state, zip _____ Telephone _____</p> <p style="text-align: center;">Do not write below this line - For court use only</p> <p style="text-align: center;">PCA 338 (9/07) STATEMENT TO ACCOMPANY RELEASE MCL 710.29(5)</p>
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Approved: SCAD		JIS CODE: OTR			
STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER TERMINATING PARENTAL RIGHTS AFTER RELEASE OR CONSENT	FILE NO.	STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION OAKLAND COUNTY	ORDER PLACING CHILD AFTER CONSENT	FILE NO.
In the matter of <u>PUT NAME OF PARENT</u> DOB: _____, adopt			In the matter of <u>Baby Boy Doe</u> DOB: <u>10.31.2014</u> , adoptee		
1. Date of hearing _____ Judge: _____ for			1. Date of hearing <u>11.4.2014</u> Judge: <u>Hon. Jane Smith</u> P28274 _____ for re.		
THE COURT FINDS:			THE COURT FINDS:		
<input type="checkbox"/> 2. A release of the child has been executed according to law by _____ (NAME)			2. A petition for an order of adoption has been filed. <input type="checkbox"/> The petitioner is married but the spouse did not join in the petition.		
<input type="checkbox"/> 3. The consent to the adoption is genuine and is given by the person(s) having legal authority to sign the consent and the best interests of the adoptee will be served by the adoption.			3. A report of investigation has been filed and reviewed by the court. <input type="checkbox"/> Good cause has been shown that the spouse of the petitioner is excused from joining in or consenting to the petition.		
<input type="checkbox"/> 4. The adoptee is an Indian child as defined in MCR 3.002(5) and the court has considered the application of the Indian Child Welfare Act in this matter.			4. The best interests of the adoptee will be served by the adoption.		
IT IS ORDERED:			5. The rights of both parents or the person in loco parentis have been terminated.		
5. The parental rights of _____ (NAME) are terminated.			6. Other:		
Date: _____ Judge: _____			IT IS ORDERED:		
Do not write below this line - For court use only			7. The adoptee is made a ward of this court for purposes of adoption and placement in the home of the adoptive parents, <u>Mary Ellen and Robert James Jones</u> , is approved. Name: _____		
PCA 318 (315) ORDER TERMINATING PARENTAL RIGHTS AFTER RELEASE OR CONSENT MCL 710.20(7), MCL 710.11			8. <u>MORNING STAR ADOPTION CENTER</u> shall supervise the adoptee in the home and Court agent or employee, child-placing agency, or Michigan Department of Human Services shall make reports to the court regarding the adjustment of the adoptee in the home every <u>3</u> months.		
			9. The adoptive parent(s) may consent to all medical, surgical, dental, optical, psychological, educational, and related services provided to the adoptee.		
			10. Other: Adoptive parents may request finalization 3 months after formal placement for an adoptee who is less than one year old at the time of filing.		
			Date _____ Judge _____		
			NOTE: "Absent good cause to the contrary, the pre-adoptive placement of an Indian child must be in the following order of preference: (1) a member of the child's extended family; (2) a member of the Indian child's tribe; or (3) an Indian family." MCL 712B.23		
Do not write below this line - For court use only			Do not write below this line - For court use only		
PCA 328 (313) ORDER PLACING CHILD AFTER CONSENT MCL 710.51, MCL 710.52, MCL 712B.23					

Out of Court Consent and Release Short Summary and Quick Check List

- Consents and releases by parent or guardian are authorized by statute (2014 PA 117) to be completed out of court 710.44(6 and 8) and 710.29(5) and accepted in lieu of a judicial consent or release
- Out of court consents are permitted only for direct placement (AD suffix)adoptions 710.44(8)(g)
 - Does not change step parent, adult or relative consents
 - An out-of-court release may be signed in any agency adoption (direct placement or otherwise)
- Must be signed before a caseworker from a child placing agency and a lawyer representing the birth parent 710.29 (5) and 44(6)
- An out of court consent may be signed before an adoption petition is on file 710.44(8)(g)
- Cannot be signed until after a 72 hour waiting period after the child's birth 710.44(8)(a) and 710.29(5)(a)
- A parent or guardian must sign if the birth parent is a minor 710.44(8)(b) and 29(5)(b)
- Must include specific language explaining what parental rights are being waived 710.44(8)(c)(i)-(v) and 29(5)(c)(i)-(v).
- The court shall enter an order terminating parental rights not sooner than 5 [business days] after execution when the consent or release is signed out of court 710.44(6) and 29(8)
- Both the out of court consent and release must be accompanied by the verified statements that are required to be submitted with in court consents and releases 710.44(8)(c) and 29(5)(c)
- An out of court consent or release may be revoked 710.23d(10), 710.44(9), and 29(12)
- Must contain complete contact information as to the lawyer and caseworker if a revocation is to be requested 710.44(8)(e) and 29(5)(e)
- Must contain the particular statement that the consent or release is voluntary 710.44(8)(d)(ii) and 710.29(5)(f)

Quick check list to review an out of court consent or release

- Is the child 72 hours old when the document is signed?
- Is it signed by a lawyer and a caseworker from a child placing agency?
- Is the birth parent an adult? If not, has parent signed?
- Does the document contain all of the necessary information regarding parental rights being waived?
- Does it contain information for revocation?
- Is it accompanied by a statement to accompany consent or release?

HB-4646, As Passed House, March 27, 2014
HB-4646, As Passed Senate, March 27, 2014

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4646**

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 23d, 29, and 44 of chapter X (MCL 710.23d,
710.29, and 710.44), section 23d as amended by 2004 PA 487 and
sections 29 and 44 as amended by 1996 PA 409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER X

Sec. 23d. (1) In a direct placement, a parent or guardian with
legal and physical custody of a child may make a temporary
placement of the child as prescribed by this section. In an agency
placement, a child placing agency with written authorization from
the parent or guardian as prescribed by section 23b of this chapter
may make a temporary placement of the child as prescribed by this
section. A temporary placement shall meet all of the following
requirements:

1 (a) The prospective adoptive parent with whom a child is
2 temporarily placed has had a preplacement assessment completed
3 within 1 year before the date of the transfer with a finding that
4 the prospective adoptive parent is suitable to be a parent of an
5 adoptee.

6 (b) In a direct placement, the parent or guardian is assisted
7 by an adoption attorney or a child placing agency.

8 (c) In the presence of a witness who also signs the document,
9 the parent, guardian, or representative of the child placing agency
10 signs a statement evidencing the transfer of physical custody of
11 the child. If the parent making the temporary placement is an
12 unemancipated minor, the statement is not valid unless it is also
13 signed in the presence of the witness by a parent or guardian of
14 that minor parent. The statement shall contain all of the
15 following:

16 (i) The date of the transfer of physical custody.

17 (ii) Language providing that the transfer is for the purpose of
18 adoption by the prospective adoptive parent.

19 (iii) Language indicating that unless the parent or guardian and
20 the prospective adoptive parent agree otherwise, the prospective
21 adoptive parent has the authority to consent to all medical,
22 surgical, psychological, educational, and related services for the
23 child and language indicating that the parent or guardian otherwise
24 retains full parental rights to the child being temporarily placed
25 and that the temporary placement may be revoked by the filing of a
26 petition under subsection (5).

27 (iv) Language providing that the person making the transfer has

1 read a preplacement assessment of the prospective adoptive parent
2 completed or updated within 1 year before the date of the transfer
3 with a finding that the prospective adoptive parent is suitable to
4 be a parent of an adoptee. If a child placing agency makes the
5 transfer of physical custody, the statement shall include a
6 verification that the child placing agency has given the parent or
7 guardian who authorized the temporary placement an opportunity to
8 review the preplacement assessment.

9 (v) Even if only 1 parent is making the temporary placement,
10 the name and address of both parents of the child, including in the
11 case of a child born out of wedlock, the name and the address of
12 each putative father of the child, if known.

13 (d) In the presence of a witness who also signs the document,
14 the prospective adoptive parent signs a statement setting forth the
15 date of the transfer of physical custody and the name and address
16 of the prospective adoptive parent and attesting to all of the
17 following:

18 (i) That the prospective adoptive parent understands that the
19 temporary placement will not become a formal placement until the
20 parents consent or release their parental rights and the court
21 orders the termination of parental rights and approves the
22 placement and that the prospective adoptive parent must relinquish
23 custody of the child within 24 hours after being served with an
24 order under section 23e(2) of this chapter.

25 (ii) That, if the prospective adoptive parent is a Michigan
26 resident, the prospective adoptive parent agrees to reside with the
27 child in Michigan until formal placement occurs.

1 (iii) That the prospective adoptive parent agrees to obtain
2 approval in compliance with the interstate compact on the placement
3 of children, 1984 PA 114, MCL 3.711 to 3.717, before the child is
4 sent, brought, or caused to be sent or brought into a receiving
5 state as that term is defined in section 1 of the interstate
6 compact on the placement of children, 1984 PA 114, MCL 3.711.

7 (iv) That the prospective adoptive parent submits to this
8 state's jurisdiction.

9 (2) Not later than 2 days, excluding weekends and holidays,
10 after a transfer of physical custody of a child in accordance with
11 subsection (1), the adoption attorney or child placing agency who
12 assists with the temporary placement or the child placing agency
13 that makes the temporary placement shall submit to the court in the
14 county in which the child's parent or guardian or the prospective
15 adoptive parent resides, or in which the child is found, a report
16 that contains all of the following:

17 (a) The date of the transfer of physical custody.

18 (b) The name and address of the parent or guardian or the
19 child placing agency who made the temporary placement.

20 (c) The name and address of the prospective adoptive parent
21 with whom the temporary placement was made.

22 (d) Even if only 1 parent is making the temporary placement,
23 the name and address of both parents of the child, including, in
24 the case of a child born out of wedlock, the name of each putative
25 father, if known.

26 (e) The documents required under subsection (1)(c) and (d)
27 and, if applicable, the authorization required under section 23b of

1 this chapter.

2 (3) Not later than 30 days after the transfer of physical
3 custody of a child under this section, the adoption attorney or
4 child placing agency who assists with the temporary placement or
5 the child placing agency that makes the temporary placement shall
6 submit to the court that received the report described in
7 subsection (2) a report indicating whether or not 1 of the
8 following dispositions has occurred:

9 (a) A petition for adoption of the child has been filed.

10 (b) The child has been returned to the agency or to a parent
11 or other person having legal custody.

12 (4) If the court has not received the report required under
13 subsection (3) within 45 days after the transfer of physical
14 custody of a child, the court shall immediately investigate and
15 determine whether an adoption petition has been filed or the child
16 has been returned to a parent or other person having legal custody.
17 If the report required under subsection (3) or the court's
18 investigation reveals that neither disposition has occurred, the
19 court shall immediately report to the prosecutor, who shall
20 immediately file a petition in the court that received the report
21 described in subsection (2) for disposition of the child as
22 required by section 23e of this chapter. If a petition has been
23 filed under subsection (5), (6), or (7), the prosecutor is not
24 required to file a petition.

25 (5) A parent or guardian who wishes to regain custody of a
26 child who has been placed temporarily shall file a petition in the
27 court that received the report described in subsection (2)

1 requesting that the temporary placement be revoked and that the
2 child be returned to the parent or guardian. Upon request of the
3 parent or guardian, the adoption attorney or child placing agency
4 who assisted in making the temporary placement shall assist the
5 parent or guardian in filing the petition to revoke the temporary
6 placement. If the temporary placement was made by a child placing
7 agency under section 23b(3) of this chapter, the child placing
8 agency shall file the petition on behalf of a parent or guardian
9 who wishes to regain custody of the child.

10 (6) If a prospective adoptive parent with whom a child has
11 been temporarily placed is either unwilling or unable to proceed
12 with the adoption, the prospective adoptive parent may file a
13 petition in the court that received the report described in
14 subsection (2) for disposition of the child as required by section
15 23e of this chapter.

16 (7) If a child placing agency that temporarily placed a child
17 is unable to proceed with an adoption because of the unavailability
18 of a parent or guardian to execute a release, or if a child placing
19 agency with legal custody of a child decides not to proceed with
20 the adoption by a prospective adoptive parent with whom the child
21 has been temporarily placed and the prospective adoptive parent
22 refuses upon the agency's request to return the child to the
23 agency, the child placing agency shall file a petition in the court
24 that received the report described in subsection (2) for
25 disposition of the child as required by section 23e of this
26 chapter.

27 (8) Except as otherwise agreed to by the parties, the

1 prospective adoptive parent with whom a child is temporarily placed
2 under this section may consent to all medical, surgical,
3 psychological, educational, and related services for the child.

4 (9) A hospital or attending practitioner shall not release a
5 child to an individual or agency not otherwise legally entitled to
6 the physical custody of the child unless all of the requirements of
7 subsection (1) are met.

8 (10) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A PARENT
9 OR GUARDIAN WHO HAS SIGNED AN OUT-OF-COURT RELEASE OR OUT-OF-COURT
10 CONSENT BUT WISHES TO REQUEST REVOCATION OF THE OUT-OF-COURT
11 RELEASE OR OUT-OF-COURT CONSENT SHALL SUBMIT A REQUEST FOR
12 REVOCATION TO THE ADOPTION ATTORNEY REPRESENTING THE PARENT OR
13 GUARDIAN OR THE CHILD PLACING AGENCY THAT ACCEPTED THE OUT-OF-COURT
14 RELEASE OR WITNESSED THE OUT-OF-COURT CONSENT NOT MORE THAN 5 DAYS,
15 EXCLUDING WEEKENDS AND HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE OR
16 OUT-OF-COURT CONSENT WAS SIGNED. THE REQUEST FOR REVOCATION IS
17 TIMELY IF DELIVERED TO THE ADOPTION ATTORNEY OR THE CHILD PLACING
18 AGENCY NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND HOLIDAYS, AFTER
19 THE OUT-OF-COURT RELEASE OR OUT-OF-COURT CONSENT WAS SIGNED. UPON
20 RECEIPT OF A TIMELY REQUEST FOR REVOCATION, THE ADOPTION ATTORNEY
21 OR THE CHILD PLACING AGENCY RECEIVING THE REQUEST FOR REVOCATION
22 SHALL ASSIST THE PARENT OR GUARDIAN IN FILING THE PETITION TO
23 REVOKE THE OUT-OF-COURT RELEASE OR OUT-OF-COURT CONSENT WITH THE
24 COURT AS SOON AS PRACTICABLE. A PARENT OR GUARDIAN MAY FILE THIS
25 PETITION WITH THE COURT ON HIS OR HER OWN. IF THE PARENT OR
26 GUARDIAN FILES THE PETITION ON HIS OR HER OWN, THE PETITION MUST BE
27 FILED WITH THE COURT NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND

1 **HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE OR OUT-OF-COURT CONSENT**
2 **WAS SIGNED.**

3 Sec. 29. (1) Except as otherwise provided in ~~this section,~~
4 **SUBSECTIONS (5) TO (11),** a release shall be by a separate
5 instrument executed before a judge of the court or a juvenile court
6 referee. If a parent's or guardian's release is executed before a
7 judge or referee as provided in this subsection, a verbatim record
8 of testimony related to execution of the release shall be made.

9 (2) If the person from whom a release is required is in the
10 armed services or is in prison, the release may be executed and
11 acknowledged before an individual authorized by law to administer
12 oaths.

13 (3) If the release is to be given by an authorized
14 representative of a child placing agency that has jurisdiction of
15 the child to be adopted, the release may be executed and
16 acknowledged before an individual authorized by law to administer
17 oaths.

18 (4) If the release is executed in another state or country,
19 the court having jurisdiction over the adoption proceeding in this
20 state shall determine whether the release was executed in
21 accordance with the laws of that state or country or the laws of
22 this state and shall not proceed unless it finds that the release
23 was so executed.

24 **(5) A PARENT OR GUARDIAN MAY SIGN AN OUT-OF-COURT RELEASE IN**
25 **FRONT OF AND WITNESSED BY AN ADOPTION ATTORNEY REPRESENTING THE**
26 **PARENT OR GUARDIAN AND A CHILD PLACING AGENCY CASEWORKER. AN OUT-**
27 **OF-COURT RELEASE SIGNED UNDER THIS SUBSECTION MUST COMPLY WITH ALL**

1 OF THE FOLLOWING:

2 (A) THE OUT-OF-COURT RELEASE SHALL NOT BE SIGNED UNTIL AFTER A
3 72-HOUR WAITING PERIOD THAT BEGINS AT THE TIME OF THE CHILD'S BIRTH
4 HAS EXPIRED.

5 (B) IF THE PARENT SIGNING THE OUT-OF-COURT RELEASE IS AN
6 UNEMANCIPATED MINOR, THE OUT-OF-COURT RELEASE IS NOT VALID UNLESS
7 IT IS ALSO SIGNED BY A PARENT OR GUARDIAN OF THAT UNEMANCIPATED
8 MINOR PARENT IN THE PRESENCE OF THE WITNESSES DESCRIBED IN THIS
9 SUBSECTION.

10 (C) AN OUT-OF-COURT RELEASE MUST BE ACCOMPANIED BY THE
11 VERIFIED STATEMENT DESCRIBED IN SUBSECTION (6) AND A STATEMENT
12 REGARDING RELINQUISHMENT OF PARENTAL RIGHTS THAT INCLUDES ALL OF
13 THE FOLLOWING:

14 (i) THE RIGHT TO HAVE OR TO SEEK CARE AND CUSTODY OF THE CHILD.

15 (ii) THE RIGHT TO HAVE OR TO SEEK PARENTING TIME WITH THE
16 CHILD.

17 (iii) THE RIGHT TO INHERIT FROM THE CHILD OR HAVE THE CHILD
18 INHERIT FROM THE PARENT.

19 (iv) THE RIGHT TO SERVICES AND EARNINGS OF THE CHILD.

20 (v) THE RIGHT TO DETERMINE THE CHILD'S SCHOOLING, RELIGIOUS
21 TRAINING, AND PARENTING PRACTICES.

22 (D) IN SEPARATE PARAGRAPHS WITH SUFFICIENT SPACE IN THE MARGIN
23 FOR A PARENT TO PLACE HIS OR HER INITIALS BESIDE EACH PARAGRAPH,
24 THE OUT-OF-COURT RELEASE MUST STATE THE FOLLOWING:

25 (i) I HAVE READ OR HAD READ TO ME EACH OF MY RIGHTS AS A PARENT
26 DESCRIBED IN SECTION 29(5)(C) OF CHAPTER X OF THE PROBATE CODE OF
27 1939, 1939 PA 288, MCL 710.29, AND I UNDERSTAND THESE RIGHTS.

1 (ii) I AM SIGNING THE OUT-OF-COURT RELEASE AS A FREE AND
2 VOLUNTARY ACT ON MY PART, AND I HAVE BEEN ADVISED THAT I CANNOT BE
3 FORCED TO SIGN THE OUT-OF-COURT RELEASE FOR ANY REASON.

4 (iii) I HAVE NOT BEEN GIVEN OR PROMISED ANY MONEY OR OTHER THING
5 OF VALUE IN EXCHANGE FOR SIGNING THE OUT-OF-COURT RELEASE.

6 (iv) IF I SIGN THE OUT-OF-COURT RELEASE, I UNDERSTAND THAT I AM
7 GIVING UP ALL OF MY PARENTAL RIGHTS AND AUTHORIZING THE COURT TO
8 PERMANENTLY TERMINATE ALL OF MY PARENTAL RIGHTS, UNLESS THE COURT
9 ALLOWS ME TO REVOKE MY OUT-OF-COURT RELEASE.

10 (v) IT HAS BEEN EXPLAINED TO ME AND I UNDERSTAND ALL OF THE
11 FOLLOWING:

12 (A) I AM NOT REQUIRED TO SIGN AN OUT-OF-COURT RELEASE.

13 (B) I MAY MAKE A TEMPORARY PLACEMENT OF MY CHILD WITH THE
14 PROSPECTIVE ADOPTIVE PARENT OR PARENTS, IF I HAVE NOT ALREADY DONE
15 SO, OR I MAY CONTINUE THE TEMPORARY PLACEMENT I HAVE ALREADY MADE,
16 UNTIL I CHOOSE TO SIGN A RELEASE IN COURT OR SIGN AN OUT-OF-COURT
17 RELEASE.

18 (C) I MAY REQUEST REVOCATION OF THE OUT-OF-COURT RELEASE I
19 HAVE SIGNED BY SUBMITTING A TIMELY WRITTEN REQUEST FOR REVOCATION.

20 (D) IF I REQUEST A REVOCATION OF THE OUT-OF-COURT RELEASE, I
21 MUST APPEAR BEFORE THE COURT SO THE COURT MAY CONSIDER WHETHER TO
22 GRANT THE REVOCATION.

23 (vi) I HAVE BEEN ADVISED THAT I MAY SUBMIT A REQUEST FOR
24 REVOCATION IN WRITING TO THE ADOPTION ATTORNEY OR CHILD PLACING
25 AGENCY THAT ACCEPTED THE OUT-OF-COURT RELEASE NOT MORE THAN 5 DAYS,
26 EXCLUDING WEEKENDS AND HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE WAS
27 SIGNED OR I MAY PETITION THE COURT ON MY OWN FOR REVOCATION OF THE

1 OUT-OF-COURT RELEASE NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND
2 HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE WAS SIGNED.

3 (vii) IF I SUBMIT A TIMELY REQUEST FOR REVOCATION, THE COURT
4 MAY GRANT THE REQUEST OR DENY THE REQUEST DEPENDING ON MY FITNESS
5 AND IMMEDIATE ABILITY TO PROPERLY CARE FOR THE CHILD AND WHETHER
6 THE BEST INTERESTS OF THE CHILD WOULD BE SERVED BY THE REVOCATION.

7 (E) THE OUT-OF-COURT RELEASE MUST CONTAIN THE CONTACT
8 INFORMATION FOR BOTH THE ADOPTION ATTORNEY REPRESENTING THE PARENT
9 OR GUARDIAN AND THE CHILD PLACING AGENCY THAT ACCEPTED THE OUT-OF-
10 COURT RELEASE SPECIFYING WHERE A WRITTEN REQUEST FOR REVOCATION MAY
11 BE SUBMITTED, INCLUDING A POSTAL MAILING ADDRESS, OVERNIGHT CARRIER
12 ADDRESS, FAX NUMBER, AND ELECTRONIC MAIL ADDRESS. A REQUEST FOR
13 REVOCATION MAY NOT BE SUBMITTED TO THE ADOPTION ATTORNEY
14 REPRESENTING THE PARENT OR GUARDIAN OR THE CHILD PLACING AGENCY
15 THAT ACCEPTED THE OUT-OF-COURT RELEASE BY TELEPHONE OR TEXT
16 MESSAGE.

17 (F) THE FOLLOWING STATEMENT MUST APPEAR IMMEDIATELY ABOVE THE
18 SIGNATURE OF THE PARENT OR GUARDIAN EXECUTING THE OUT-OF-COURT
19 RELEASE: "I ACKNOWLEDGE THAT I AM SIGNING THIS OUT-OF-COURT RELEASE
20 FREELY AND VOLUNTARILY, AFTER MY PARENTAL RIGHTS HAVE BEEN
21 EXPLAINED TO ME AND ANY QUESTIONS I MAY HAVE ABOUT IT HAVE BEEN
22 FULLY ANSWERED. I UNDERSTAND THE RIGHTS I AM GIVING UP AND THAT AN
23 ORDER TERMINATING MY PARENTAL RIGHTS, WHEN ENTERED BY THE COURT, IS
24 A PERMANENT TERMINATION OF ALL OF MY PARENTAL RIGHTS."

25 (6) ~~(5)~~—A release by a parent or guardian shall be accompanied
26 by a verified statement signed by the parent or guardian that
27 contains all of the following:

1 (a) That the parent or guardian has received a list of support
2 groups and, if the release is to a child placing agency, a copy of
3 the written document described in section 6(1)(c) of the foster
4 care and adoption services act, ~~Act No. 203 of the Public Acts of~~
5 ~~1994, being section 722.956 of the Michigan Compiled Laws.~~ **1994 PA**
6 **203, MCL 722.956.**

7 (b) That the parent or guardian has received counseling
8 related to the adoption of his or her child or waives the
9 counseling with the signing of the verified statement.

10 (c) That the parent or guardian has not received or been
11 promised any money or anything of value for the release of the
12 child, except for lawful payments that are itemized on a schedule
13 filed with the release.

14 (d) That the validity and finality of the release is not
15 affected by any collateral or separate agreement between the parent
16 or guardian and the **CHILD PLACING** agency, or the parent or guardian
17 and the prospective adoptive parent.

18 (e) That the parent or guardian understands that it serves the
19 **CHILD'S** welfare ~~of the child~~ for the parent to keep the child
20 placing agency or department informed of any health problems that
21 the parent develops that could affect the child.

22 (f) That the parent or guardian understands that it serves the
23 **CHILD'S** welfare ~~of the child~~ for the parent or guardian to keep his
24 or her address current with the child placing agency or department
25 in order to permit a response to any inquiry concerning medical or
26 social history from an adoptive parent of a minor adoptee or from
27 an adoptee who is 18 years of age or older.

1 (7) ~~(6)~~—A release by a parent or a guardian of the child shall
2 not be executed until after the investigation the court considers
3 proper and until after the judge, referee, or other individual
4 authorized in subsection (2) has fully explained to the parent or
5 guardian the legal rights of the parent or guardian and the fact
6 that the parent or guardian by virtue of the release voluntarily
7 relinquishes permanently his or her rights to the child; and, if
8 the child is over 5 years of age, the court has determined that the
9 child is best served by the release. **IF AN OUT-OF-COURT RELEASE IS**
10 **SIGNED UNDER SUBSECTION (5), THE ADOPTION ATTORNEY REPRESENTING THE**
11 **PARENT OR GUARDIAN WHO WITNESSED THE OUT-OF-COURT RELEASE AND A**
12 **CASEWORKER FROM THE CHILD PLACING AGENCY THAT ACCEPTED THE OUT-OF-**
13 **COURT RELEASE SHALL FULLY EXPLAIN TO THE PARENT OR GUARDIAN HIS OR**
14 **HER LEGAL RIGHTS AND THE FACT THAT THE PARENT OR GUARDIAN BY VIRTUE**
15 **OF THE OUT-OF-COURT RELEASE VOLUNTARILY RELINQUISHES PERMANENTLY**
16 **HIS OR HER RIGHTS TO THE CHILD.**

17 (8) ~~(7)~~ ~~Upon~~—**EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,**
18 **UPON** the release of a child by a parent or guardian, the court
19 immediately shall issue an order terminating the rights of that
20 parent or guardian to that child. **IF AN OUT-OF-COURT RELEASE HAS**
21 **BEEN SIGNED UNDER SUBSECTION (5), NOT SOONER THAN 5 DAYS, EXCLUDING**
22 **WEEKENDS AND HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE WAS SIGNED,**
23 **THE COURT SHALL ISSUE AN ORDER TERMINATING THE RIGHTS OF THE PARENT**
24 **OR GUARDIAN TO THAT CHILD.** If the rights of both parents, the
25 surviving parent, or the guardian have been terminated, the court
26 shall issue an order committing the child to the child placing
27 agency or department to which the release was given.

1 (9) ~~(8)~~—The court shall authorize foster care funding pending
2 expiration of the period of appeal or rehearing as provided in
3 sections 64 and 65 of this chapter, and pending disposition of any
4 appeal or rehearing, for all persons committed to a child placing
5 agency. Foster care funding authorized under this subsection shall
6 exclude the administrative costs of the child placing agency. The
7 costs of foster care shall be paid through the use of the child
8 care fund as provided by section 117c of the social welfare act,
9 ~~Act No. 280 of the Public Acts of 1939, being section 400.117c of~~
10 ~~the Michigan Compiled Laws, 1939 PA 280, MCL 400.117C,~~ or by any
11 successor statute. When foster care funding is authorized pursuant
12 **ACCORDING** to this subsection, the court shall send a copy of the
13 order to the department. Upon receiving a copy of this order, the
14 department shall reimburse the court child care fund of the county
15 where the court order for foster care funding was made in the total
16 amount of the court ordered payment. The reimbursement shall be
17 made monthly.

18 (10) ~~(9)~~—Entry of an order terminating the rights of both
19 parents under subsection ~~(7)~~ **(8)** terminates the jurisdiction of the
20 circuit court over the child in any divorce or separate maintenance
21 action.

22 (11) ~~(10)~~ ~~Upon~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**
23 **(12), UPON** petition of the same person or persons who executed the
24 release and of the department or child placing agency to which the
25 child was released, the court with which the release was filed may
26 grant a hearing to consider whether the release should be revoked.
27 A release may not be revoked if the child has been placed for

1 adoption unless the child is placed as provided in section 41(2) of
2 this chapter and a petition for rehearing or claim of appeal is
3 filed within the time required. A verbatim record of testimony
4 related to a petition to revoke a release shall be made.

5 (12) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A PARENT
6 OR GUARDIAN WHO HAS SIGNED AN OUT-OF-COURT RELEASE BUT WISHES TO
7 REQUEST REVOCATION OF THE OUT-OF-COURT RELEASE SHALL SUBMIT A
8 REQUEST FOR REVOCATION TO THE ADOPTION ATTORNEY REPRESENTING THE
9 PARENT OR GUARDIAN OR THE CHILD PLACING AGENCY THAT ACCEPTED THE
10 OUT-OF-COURT RELEASE NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND
11 HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE WAS SIGNED. THE REQUEST
12 FOR REVOCATION FROM THE PARENT OR GUARDIAN MUST BE SUBMITTED IN
13 WRITING BY THE PARENT OR GUARDIAN WHO SIGNED THE OUT-OF-COURT
14 RELEASE TO THE ADOPTION ATTORNEY REPRESENTING THE PARENT OR
15 GUARDIAN OR A CASEWORKER FROM THE CHILD PLACING AGENCY THAT
16 ACCEPTED THE OUT-OF-COURT RELEASE. THE REQUEST FOR REVOCATION IS
17 TIMELY IF DELIVERED TO THE ADOPTION ATTORNEY OR THE CHILD PLACING
18 AGENCY NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND HOLIDAYS, AFTER
19 THE OUT-OF-COURT RELEASE WAS SIGNED. UPON RECEIPT OF A TIMELY
20 REQUEST FOR REVOCATION, THE ADOPTION ATTORNEY OR THE CHILD PLACING
21 AGENCY RECEIVING THE REQUEST FOR REVOCATION SHALL ASSIST THE PARENT
22 OR GUARDIAN IN FILING THE PETITION TO REVOKE THE OUT-OF-COURT
23 RELEASE WITH THE COURT AS SOON AS PRACTICABLE. A PARENT OR GUARDIAN
24 MAY FILE THIS PETITION WITH THE COURT ON HIS OR HER OWN. IF THE
25 PARENT OR GUARDIAN FILES THE PETITION ON HIS OR HER OWN, THE
26 PETITION MUST BE FILED WITH THE COURT NOT MORE THAN 5 DAYS,
27 EXCLUDING WEEKENDS AND HOLIDAYS, AFTER THE OUT-OF-COURT RELEASE WAS

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1 SIGNED.

2 (13) THE COURT IN WHICH THE OUT-OF-COURT RELEASE WAS FILED MAY
3 DENY THE REQUEST FOR REVOCATION UNDER <<SUBSECTION (14).>>

4 (14) IF A PETITION TO REVOKE AN OUT-OF-COURT RELEASE IS FILED
5 WITH THE COURT, TIMELY NOTICE OF REVOCATION DOES NOT IMMEDIATELY
6 RESULT IN THE RETURN OF THE CHILD TO THE PARENT OR GUARDIAN. A
7 HEARING BEFORE A JUDGE IS REQUIRED TO DETERMINE ALL OF THE
8 FOLLOWING UNLESS A CHILD PLACING AGENCY ACCEPTING THE OUT-OF-COURT
9 RELEASE OR THE ADOPTIVE PARENT OR PARENTS AGREE TO THE REVOCATION:

10 (A) WHETHER THE REQUEST FOR REVOCATION WAS GIVEN IN A TIMELY
11 AND PROPER MANNER.

12 (B) WHETHER GOOD CAUSE EXISTS TO DETERMINE THAT THE OUT-OF-
13 COURT RELEASE WAS NOT SIGNED VOLUNTARILY. IF THE COURT FINDS THAT
14 THE OUT-OF-COURT RELEASE WAS NOT SIGNED VOLUNTARILY, THE OUT-OF-
15 COURT RELEASE IS INVALID AND CUSTODY OF THE CHILD SHALL BE RETURNED
16 TO THE PARENT OR GUARDIAN. IF THE COURT FINDS THAT THE OUT-OF-COURT
17 RELEASE WAS SIGNED VOLUNTARILY, THE COURT SHALL PROCEED UNDER
18 SUBDIVISION (C).

19 (C) WHETHER THE BEST INTEREST OF THE CHILD WILL BE SERVED BY
20 ANY OF THE FOLLOWING:

21 (i) RETURNING CUSTODY OF THE CHILD TO THE PARENT OR GUARDIAN.

22 (ii) CONTINUING THE ADOPTION PROCEEDING COMMENCED OR INTENDED
23 TO BE COMMENCED BY THE ADOPTIVE PARENT OR PARENTS.

24 (iii) DISPOSITION APPROPRIATE TO THE CHILD'S WELFARE AS
25 AUTHORIZED BY SECTION 18 OF CHAPTER XIIA UNDER AN EX PARTE ORDER
26 ENTERED BY THE COURT.

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Sec. 44. (1) Except as otherwise provided in this section, the consent required by section 43 of this chapter shall be by a separate instrument executed before the judge having jurisdiction or, at the court's direction, before another judge of the family division of circuit court in this state. A consent may be executed before a juvenile court referee. The consent hearing shall be held within 7 days after it is requested. If the consent of a parent or guardian is executed before a judge or referee as provided in this

1 subsection, a verbatim record of testimony related to execution of
2 the consent shall be made.

3 (2) If the individual whose consent is required is in any of
4 the armed services or is in prison, the consent may be executed and
5 acknowledged before any individual authorized by law to administer
6 oaths.

7 (3) If the child to be adopted is legally a ward of the
8 department or of a child placing agency, the consent required to be
9 made under section 43 of this chapter by the authorized
10 representative of the department or agency may be executed and
11 acknowledged before an individual authorized by law to administer
12 oaths.

13 (4) If the consent is executed in another state or country,
14 the court having jurisdiction over the adoption proceeding in this
15 state shall determine whether the consent was executed in
16 accordance with the laws of that state or country or the laws of
17 this state and shall not proceed unless it finds that the consent
18 was so executed.

19 (5) In a direct placement, a consent by a parent or guardian
20 shall be accompanied by a verified statement signed by the parent
21 or guardian that contains all of the following:

22 (a) That the parent or guardian has received a list of support
23 groups and a copy of the written document described in section
24 6(1)(c) of the foster care and adoption services act, ~~Act No. 203~~
25 ~~of the Public Acts of 1994, being section 722.956 of the Michigan~~
26 ~~Compiled Laws. 1994 PA 203, MCL 722.956.~~

27 (b) That the parent or guardian has received counseling

1 related to the adoption of his or her child or waives the
2 counseling with the signing of the verified statement.

3 (c) That the parent or guardian has not received or been
4 promised any money or anything of value for the consent to adoption
5 of the child, except for lawful payments that are itemized on a
6 schedule filed with the consent.

7 (d) That the validity and finality of the consent is not
8 affected by any collateral or separate agreement between the parent
9 or guardian and the adoptive parent.

10 (e) That the parent or guardian understands that it serves the
11 **CHILD'S** welfare ~~of the child~~ for the parent to keep the child
12 placing agency, court, or department informed of any health
13 problems that the parent develops ~~which~~ **THAT** could affect the
14 child.

15 (f) That the parent or guardian understands that it serves the
16 **CHILD'S** welfare ~~of the child~~ for the parent or guardian to keep his
17 or her address current with the child placing agency, court, or
18 department in order to permit a response to any inquiry concerning
19 medical or social history from an adoptive parent of a minor
20 adoptee or from an adoptee who is 18 years or older.

21 (6) If a parent's consent to adoption is required under
22 section 43 of this chapter or if a guardian's consent is required
23 ~~pursuant to~~ **UNDER** section 43(1)(e) of this chapter, the consent
24 shall not be executed until after the investigation the court
25 considers proper and until after the judge, referee, or other
26 individual authorized in subsection (2) has fully explained to the
27 parent or guardian the legal rights of the parent or guardian and

1 the fact that the parent or guardian by virtue of the consent
2 voluntarily relinquishes permanently his or her rights to the
3 child. **IF AN OUT-OF-COURT CONSENT IS SIGNED UNDER SUBSECTION (8),**
4 **THE ADOPTION ATTORNEY REPRESENTING THE PARENT OR GUARDIAN WHO**
5 **WITNESSED THE OUT-OF-COURT CONSENT AND A CASEWORKER FROM THE CHILD**
6 **PLACING AGENCY THAT WITNESSED THE OUT-OF-COURT CONSENT SHALL FULLY**
7 **EXPLAIN TO THE PARENT OR GUARDIAN HIS OR HER LEGAL RIGHTS AND THE**
8 **FACT THAT THE PARENT OR GUARDIAN BY VIRTUE OF THE OUT-OF-COURT**
9 **CONSENT VOLUNTARILY RELINQUISHES PERMANENTLY HIS OR HER RIGHTS TO**
10 **THE CHILD. IF AN OUT-OF-COURT CONSENT HAS BEEN SIGNED UNDER**
11 **SUBSECTION (8), NOT SOONER THAN 5 DAYS, EXCLUDING WEEKENDS AND**
12 **HOLIDAYS, AFTER THE OUT-OF-COURT CONSENT WAS SIGNED, THE COURT**
13 **SHALL ISSUE AN ORDER TERMINATING THE RIGHTS OF THE PARENT OR**
14 **GUARDIAN TO THAT CHILD.**

15 (7) If the adoptee's consent to adoption is required under
16 section 43 of this chapter, the consent shall not be executed until
17 after the investigation the court considers proper and until after
18 the judge or referee has fully explained to the adoptee the fact
19 that he or she is consenting to acquire permanently the adopting
20 parent or parents as his or her legal parent or parents as though
21 the adoptee had been born to the adopting parent or parents.

22 (8) **IN A DIRECT PLACEMENT, A PARENT OR GUARDIAN MAY SIGN AN**
23 **OUT-OF-COURT CONSENT AFTER THE CHILD'S BIRTH. AN OUT-OF-COURT**
24 **CONSENT SIGNED UNDER THIS SUBSECTION MUST COMPLY WITH ALL OF THE**
25 **FOLLOWING:**

26 (A) **THE OUT-OF-COURT CONSENT SHALL NOT BE SIGNED UNTIL AFTER A**
27 **72-HOUR WAITING PERIOD THAT BEGINS AT THE TIME OF THE CHILD'S BIRTH**

1 HAS EXPIRED.

2 (B) IF THE PARENT SIGNING THE OUT-OF-COURT CONSENT IS AN
3 UNEMANCIPATED MINOR, THE OUT-OF-COURT CONSENT IS NOT VALID UNLESS
4 IT IS ALSO SIGNED BY A PARENT OR GUARDIAN OF THAT UNEMANCIPATED
5 MINOR PARENT IN THE PRESENCE OF THE WITNESSES DESCRIBED IN THIS
6 SUBSECTION.

7 (C) AN OUT-OF-COURT CONSENT MUST BE ACCOMPANIED BY THE
8 VERIFIED STATEMENT FROM SUBSECTION (5) AND A STATEMENT REGARDING
9 RELINQUISHMENT OF PARENTAL RIGHTS THAT INCLUDES ALL OF THE
10 FOLLOWING:

11 (i) THE RIGHT TO HAVE OR TO SEEK CARE AND CUSTODY OF THE CHILD.

12 (ii) THE RIGHT TO HAVE OR TO SEEK PARENTING TIME WITH THE
13 CHILD.

14 (iii) THE RIGHT TO INHERIT FROM THE CHILD OR HAVE THE CHILD
15 INHERIT FROM THE PARENT.

16 (iv) THE RIGHT TO SERVICES AND EARNINGS OF THE CHILD.

17 (v) THE RIGHT TO DETERMINE THE CHILD'S SCHOOLING, RELIGIOUS
18 TRAINING, AND PARENTING PRACTICES.

19 (D) IN SEPARATE PARAGRAPHS WITH SUFFICIENT SPACE IN THE MARGIN
20 FOR A PARENT TO PLACE HIS OR HER INITIALS BESIDE EACH PARAGRAPH,
21 THE OUT-OF-COURT CONSENT MUST STATE THE ALL OF THE FOLLOWING:

22 (i) I HAVE READ OR HAD READ TO ME EACH OF MY RIGHTS AS A PARENT
23 DESCRIBED IN SECTION 44(8)(C) OF CHAPTER X OF THE PROBATE CODE OF
24 1939, 1939 PA 288, MCL 710.44, AND I UNDERSTAND THESE RIGHTS.

25 (ii) I AM SIGNING THE OUT-OF-COURT CONSENT AS A FREE AND
26 VOLUNTARY ACT ON MY PART, AND I HAVE BEEN ADVISED THAT I CANNOT BE
27 FORCED TO SIGN THE OUT-OF-COURT CONSENT FOR ANY REASON.

1 (iii) I HAVE NOT BEEN GIVEN OR PROMISED ANY MONEY OR OTHER THING
2 OF VALUE IN EXCHANGE FOR SIGNING THE OUT-OF-COURT CONSENT.

3 (iv) IF I SIGN THE OUT-OF-COURT CONSENT, I UNDERSTAND THAT I AM
4 GIVING UP ALL OF MY PARENTAL RIGHTS AND AUTHORIZING THE COURT TO
5 PERMANENTLY TERMINATE ALL OF MY PARENTAL RIGHTS, UNLESS THE COURT
6 ALLOWS ME TO REVOKE MY OUT-OF-COURT CONSENT.

7 (v) IT HAS BEEN EXPLAINED TO ME AND I UNDERSTAND ALL OF THE
8 FOLLOWING:

9 (A) I AM NOT REQUIRED TO SIGN AN OUT-OF-COURT CONSENT.

10 (B) I MAY MAKE A TEMPORARY PLACEMENT OF MY CHILD WITH THE
11 PROSPECTIVE ADOPTIVE PARENT OR PARENTS, IF I HAVE NOT ALREADY DONE
12 SO, OR I MAY CONTINUE THE TEMPORARY PLACEMENT I HAVE ALREADY MADE,
13 UNTIL I CHOOSE TO SIGN A CONSENT IN COURT OR SIGN AN OUT-OF-COURT
14 CONSENT.

15 (C) I MAY REQUEST REVOCATION OF THE OUT-OF-COURT CONSENT I
16 HAVE SIGNED BY SUBMITTING A TIMELY WRITTEN REQUEST FOR REVOCATION.

17 (D) IF I REQUEST A REVOCATION OF THE OUT-OF-COURT CONSENT, I
18 MUST APPEAR BEFORE THE COURT SO THE COURT MAY CONSIDER WHETHER TO
19 GRANT THE REVOCATION.

20 (vi) I HAVE BEEN ADVISED THAT I MAY SUBMIT A REQUEST FOR
21 REVOCATION IN WRITING TO THE ADOPTION ATTORNEY OR CHILD PLACING
22 AGENCY THAT WITNESSED THE OUT-OF-COURT CONSENT NOT MORE THAN 5
23 DAYS, EXCLUDING WEEKENDS AND HOLIDAYS, AFTER THE OUT-OF-COURT
24 CONSENT WAS SIGNED OR I MAY PETITION THE COURT ON MY OWN FOR
25 REVOCATION OF THE OUT-OF-COURT CONSENT NOT MORE THAN 5 DAYS,
26 EXCLUDING WEEKENDS AND HOLIDAYS, AFTER THE OUT-OF-COURT CONSENT WAS
27 SIGNED.

1 (vii) IF I SUBMIT A TIMELY REQUEST FOR REVOCATION, THE COURT
2 MAY GRANT THE REQUEST OR DENY THE REQUEST FOR REVOCATION DEPENDING
3 ON MY FITNESS AND IMMEDIATE ABILITY TO PROPERLY CARE FOR THE CHILD
4 AND WHETHER THE BEST INTERESTS OF THE CHILD WOULD BE SERVED BY THE
5 REVOCATION.

6 (E) THE OUT-OF-COURT CONSENT MUST CONTAIN THE CONTACT
7 INFORMATION FOR BOTH THE ADOPTION ATTORNEY REPRESENTING THE PARENT
8 OR GUARDIAN AND THE CHILD PLACING AGENCY THAT WITNESSED THE OUT-OF-
9 COURT CONSENT SPECIFYING WHERE A WRITTEN REQUEST FOR REVOCATION MAY
10 BE SUBMITTED, INCLUDING A POSTAL MAILING ADDRESS, OVERNIGHT CARRIER
11 ADDRESS, FAX NUMBER, AND ELECTRONIC MAIL ADDRESS. A REQUEST FOR
12 REVOCATION MAY NOT BE SUBMITTED TO THE ADOPTION ATTORNEY
13 REPRESENTING THE PARENT OR GUARDIAN OR THE CHILD PLACING AGENCY
14 THAT WITNESSED THE OUT-OF-COURT CONSENT BY TELEPHONE OR TEXT
15 MESSAGE.

16 (F) THE FOLLOWING STATEMENT MUST APPEAR IMMEDIATELY ABOVE THE
17 SIGNATURE OF THE PARENT OR GUARDIAN EXECUTING THE OUT-OF-COURT
18 CONSENT: "I ACKNOWLEDGE THAT I AM SIGNING THIS OUT-OF-COURT CONSENT
19 FREELY AND VOLUNTARILY, AFTER MY PARENTAL RIGHTS HAVE BEEN
20 EXPLAINED TO ME AND ANY QUESTIONS I MAY HAVE ABOUT IT HAVE BEEN
21 FULLY ANSWERED. I UNDERSTAND THE RIGHTS I AM GIVING UP AND THAT AN
22 ORDER TERMINATING MY PARENTAL RIGHTS, WHEN ENTERED BY THE COURT, IS
23 A PERMANENT TERMINATION OF ALL OF MY PARENTAL RIGHTS.".

24 (G) THE OUT-OF-COURT CONSENT MAY BE SIGNED BEFORE FILING A
25 PETITION FOR ADOPTION.

26 (9) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A PARENT
27 OR GUARDIAN WHO HAS SIGNED AN OUT-OF-COURT CONSENT BUT WISHES TO

1 REQUEST REVOCATION OF THE OUT-OF-COURT CONSENT SHALL SUBMIT A
2 REQUEST FOR REVOCATION TO THE ADOPTION ATTORNEY REPRESENTING THE
3 PARENT OR GUARDIAN OR THE CHILD PLACING AGENCY THAT WITNESSED THE
4 OUT-OF-COURT CONSENT NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND
5 HOLIDAYS, AFTER THE OUT-OF-COURT CONSENT WAS SIGNED. THE REQUEST
6 FOR REVOCATION FROM THE PARENT OR GUARDIAN MUST BE SUBMITTED IN
7 WRITING BY THE PARENT OR GUARDIAN WHO SIGNED THE OUT-OF-COURT
8 CONSENT TO THE ADOPTION ATTORNEY REPRESENTING THE PARENT OR
9 GUARDIAN OR A CASEWORKER FROM THE CHILD PLACING AGENCY THAT
10 WITNESSED THE OUT-OF-COURT CONSENT. THE REQUEST FOR REVOCATION IS
11 TIMELY IF DELIVERED TO THE ADOPTION ATTORNEY OR A CASEWORKER FROM
12 THE CHILD PLACING AGENCY NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS
13 AND HOLIDAYS, AFTER THE OUT-OF-COURT CONSENT WAS SIGNED. UPON
14 RECEIPT OF A TIMELY REQUEST FOR REVOCATION, THE ADOPTION ATTORNEY
15 OR THE CHILD PLACING AGENCY RECEIVING THE REQUEST FOR REVOCATION
16 SHALL ASSIST THE PARENT OR GUARDIAN IN FILING THE PETITION TO
17 REVOKE THE OUT-OF-COURT CONSENT WITH THE COURT AS SOON AS
18 PRACTICABLE. A PARENT OR GUARDIAN MAY FILE THIS PETITION WITH THE
19 COURT ON HIS OR HER OWN. IF THE PARENT OR GUARDIAN FILES THE
20 PETITION ON HIS OR HER OWN, THE PETITION MUST BE FILED WITH THE
21 COURT NOT MORE THAN 5 DAYS, EXCLUDING WEEKENDS AND HOLIDAYS, AFTER
22 THE OUT-OF-COURT CONSENT WAS SIGNED.

23 (10) THE COURT IN WHICH THE OUT-OF-COURT CONSENT WAS FILED MAY
24 DENY THE REQUEST FOR REVOCATION UNDER SUBSECTIONS (11) AND (12).

25 (11) IF A PETITION TO REVOKE AN OUT-OF-COURT CONSENT HAS BEEN
26 FILED WITH THE COURT, TIMELY NOTICE OF REVOCATION DOES NOT
27 IMMEDIATELY RESULT IN THE RETURN OF THE CHILD TO THE PARENT OR

1 GUARDIAN. A HEARING BEFORE A JUDGE IS REQUIRED TO DETERMINE ALL OF
2 THE FOLLOWING UNLESS THE ADOPTIVE PARENT OR PARENTS AGREE TO THE
3 REVOCATION:

4 (A) WHETHER THE REQUEST FOR REVOCATION WAS GIVEN IN A TIMELY
5 AND PROPER MANNER.

6 (B) WHETHER GOOD CAUSE EXISTS TO DETERMINE THAT THE OUT-OF-
7 COURT CONSENT WAS NOT SIGNED VOLUNTARILY. IF THE COURT FINDS THAT
8 THE OUT-OF-COURT CONSENT WAS NOT SIGNED VOLUNTARILY, THE OUT-OF-
9 COURT CONSENT IS INVALID AND CUSTODY OF THE CHILD SHALL BE RETURNED
10 TO THE PARENT OR GUARDIAN. IF THE COURT FINDS THAT THE OUT-OF-COURT
11 CONSENT WAS SIGNED VOLUNTARILY, THE COURT SHALL PROCEED UNDER
12 SUBDIVISION (C).

13 (C) WHETHER THE BEST INTEREST OF THE CHILD WILL BE SERVED BY
14 ANY OF THE FOLLOWING:

15 (i) RETURNING CUSTODY OF THE CHILD TO THE PARENT OR GUARDIAN.

16 (ii) CONTINUING THE ADOPTION PROCEEDING COMMENCED OR INTENDED
17 TO BE COMMENCED BY THE ADOPTIVE PARENT OR PARENTS.

18 (iii) DISPOSITION APPROPRIATE TO THE CHILD'S WELFARE AS
19 AUTHORIZED BY SECTION 18 OF CHAPTER XIIA UNDER AN EX PARTE ORDER
20 ENTERED BY THE COURT.

21 (12) IN DETERMINING THE BEST INTEREST OF THE CHILD UNDER
22 SUBSECTION (11) (C), IF A PARENT OR GUARDIAN IS SEEKING REVOCATION
23 OF AN OUT-OF-COURT CONSENT, THE COURT SHALL DETERMINE IF THE PARENT
24 OR GUARDIAN SEEKING REVOCATION IS FIT AND IMMEDIATELY ABLE TO
25 PROPERLY CARE FOR THE CHILD IF THE COURT RETURNED THE CHILD TO THE
26 PARENT OR GUARDIAN. IF THE COURT DETERMINES THAT THE PARENT OR
27 GUARDIAN IS NOT FIT AND IMMEDIATELY ABLE TO PROPERLY CARE FOR THE

1 CHILD, THE COURT SHALL DENY THE REVOCATION. IF THE COURT FINDS THAT
2 THE PARENT OR GUARDIAN IS FIT AND IMMEDIATELY ABLE TO PROPERLY CARE
3 FOR THE CHILD, THE COURT SHALL DETERMINE THE BEST INTEREST OF THE
4 CHILD. THE "BEST INTEREST OF THE CHILD" MEANS THE SUM TOTAL OF THE
5 FOLLOWING FACTORS TO BE CONSIDERED, EVALUATED, AND DETERMINED BY
6 THE COURT:

7 (A) THE CHILD'S AGE AND LENGTH OF TIME THE PARENT OR GUARDIAN
8 SEEKING REVOCATION HAS HAD PHYSICAL CUSTODY OF THE CHILD SO THAT
9 SIGNIFICANT LOVE, AFFECTION, AND OTHER EMOTIONAL TIES EXIST BETWEEN
10 THE PARENT OR GUARDIAN AND THE CHILD AND WHETHER DURING THAT TIME
11 THE CHILD HAS LIVED IN A STABLE, SATISFACTORY ENVIRONMENT.

12 (B) THE CAPACITY AND DISPOSITION OF THE PROSPECTIVE ADOPTING
13 INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN SEEKING
14 REVOCATION TO GIVE THE CHILD LOVE, AFFECTION, AND GUIDANCE, AND TO
15 EDUCATE AND CREATE A MILIEU THAT FOSTERS THE CHILD'S RELIGION,
16 RACIAL IDENTITY, AND CULTURE.

17 (C) THE CAPACITY AND DISPOSITION OF THE PROSPECTIVE ADOPTING
18 INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN SEEKING
19 REVOCATION TO PROVIDE THE CHILD WITH FOOD, CLOTHING, EDUCATION,
20 PERMANENCE, MEDICAL CARE OR OTHER REMEDIAL CARE RECOGNIZED AND
21 PERMITTED UNDER THE STATE LAW IN PLACE OF MEDICAL CARE, AND OTHER
22 MATERIAL NEEDS.

23 (D) THE PERMANENCE AS A FAMILY UNIT OF THE PROSPECTIVE
24 ADOPTING INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN
25 SEEKING REVOCATION.

26 (E) THE MORAL FITNESS OF THE PROSPECTIVE ADOPTING INDIVIDUAL
27 OR INDIVIDUALS AND THE PARENT OR GUARDIAN SEEKING REVOCATION.

1 (F) THE MENTAL AND PHYSICAL HEALTH OF THE PROSPECTIVE ADOPTING
2 INDIVIDUAL OR INDIVIDUALS AND THE PARENT OR GUARDIAN SEEKING
3 REVOCATION.

4 (G) THE HOME, SCHOOL, AND COMMUNITY RECORD OF THE CHILD.

5 (H) THE CHILD'S REASONABLE PREFERENCE, IF THE CHILD IS 14
6 YEARS OF AGE OR LESS AND IF THE COURT CONSIDERS THE CHILD TO BE OF
7 SUFFICIENT AGE TO EXPRESS A PREFERENCE.

8 (I) THE ABILITY AND WILLINGNESS OF THE PROSPECTIVE ADOPTING
9 INDIVIDUAL OR INDIVIDUALS TO ADOPT THE CHILD'S SIBLINGS.

10 (J) ANY OTHER FACTOR CONSIDERED BY THE COURT TO BE RELEVANT TO
11 A PARTICULAR PROSPECTIVE ADOPTIVE PLACEMENT OR TO A REVOCATION OF
12 AN OUT-OF-COURT CONSENT.

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

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

***** 710.44.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 12, 2014 *****

710.44.amended Consent to adoption; separate instrument; persons before whom consent executed and acknowledged; execution in another state or country; verified statement; investigation; explaining legal rights of parent or guardian; conditions to execution of adoptee's consent to adoption; out-of-court consent.

Sec. 44. (1) Except as otherwise provided in this section, the consent required by section 43 of this chapter shall be by a separate instrument executed before the judge having jurisdiction or, at the court's direction, before another judge of the family division of circuit court in this state. A consent may be executed before a juvenile court referee. The consent hearing shall be held within 7 days after it is requested. If the consent of a parent or guardian is executed before a judge or referee as provided in this subsection, a verbatim record of testimony related to execution of the consent shall be made.

(2) If the individual whose consent is required is in any of the armed services or is in prison, the consent may be executed and acknowledged before any individual authorized by law to administer oaths.

(3) If the child to be adopted is legally a ward of the department or of a child placing agency, the consent required to be made under section 43 of this chapter by the authorized representative of the department or agency may be executed and acknowledged before an individual authorized by law to administer oaths.

(4) If the consent is executed in another state or country, the court having jurisdiction over the adoption proceeding in this state shall determine whether the consent was executed in accordance with the laws of that state or country or the laws of this state and shall not proceed unless it finds that the consent was so executed.

(5) In a direct placement, a consent by a parent or guardian shall be accompanied by a verified statement signed by the parent or guardian that contains all of the following:

(a) That the parent or guardian has received a list of support groups and a copy of the written document described in section 6(1)(c) of the foster care and adoption services act, 1994 PA 203, MCL 722.956.

(b) That the parent or guardian has received counseling related to the adoption of his or her child or waives the counseling with the signing of the verified statement.

(c) That the parent or guardian has not received or been promised any money or anything of value for the consent to adoption of the child, except for lawful payments that are itemized on a schedule filed with the consent.

(d) That the validity and finality of the consent is not affected by any collateral or separate agreement between the parent or guardian and the adoptive parent.

(e) That the parent or guardian understands that it serves the child's welfare for the parent to keep the child placing agency, court, or department informed of any health problems that the parent develops that could affect the child.

(f) That the parent or guardian understands that it serves the child's welfare for the parent or guardian to keep his or her address current with the child placing agency, court, or department in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years or older.

(6) If a parent's consent to adoption is required under section 43 of this chapter or if a guardian's consent is required under section 43(1)(e) of this chapter, the consent shall not be executed until after the investigation the court considers proper and until after the judge, referee, or other individual authorized in subsection (2) has fully explained to the parent or guardian the legal rights of the parent or guardian and the fact that the parent or guardian by virtue of the consent voluntarily relinquishes permanently his or her rights to the child. If an out-of-court consent is signed under subsection (8), the adoption attorney representing the parent or guardian who witnessed the out-of-court consent and a caseworker from the child placing agency that witnessed the out-of-court consent shall fully explain to the parent or guardian his or her legal rights and the fact that the parent or guardian by virtue of the out-of-court consent voluntarily relinquishes permanently his or her rights to the child. If an out-of-court consent has been signed under subsection (8), not sooner than 5 days, excluding weekends and holidays, after the out-of-court consent was signed, the court shall issue an order terminating the rights of the parent or guardian to that child.

(7) If the adoptee's consent to adoption is required under section 43 of this chapter, the consent shall not be executed until after the investigation the court considers proper and until after the judge or referee has fully explained to the adoptee the fact that he or she is consenting to acquire permanently the adopting parent or parents as his or her legal parent or parents as though the adoptee had been born to the adopting parent or parents.

(8) In a direct placement, a parent or guardian may sign an out-of-court consent after the child's birth. An out-of-court consent signed under this subsection must comply with all of the following:

(a) The out-of-court consent shall not be signed until after a 72-hour waiting period that begins at the time of the child's birth has expired.

(b) If the parent signing the out-of-court consent is an unemancipated minor, the out-of-court consent is not valid unless it is also signed by a parent or guardian of that unemancipated minor parent in the presence of the witnesses described in this subsection.

(c) An out-of-court consent must be accompanied by the verified statement from subsection (5) and a statement regarding relinquishment of parental rights that includes all of the following:

(i) The right to have or to seek care and custody of the child.

(ii) The right to have or to seek parenting time with the child.

(iii) The right to inherit from the child or have the child inherit from the parent.

(iv) The right to services and earnings of the child.

(v) The right to determine the child's schooling, religious training, and parenting practices.

(d) In separate paragraphs with sufficient space in the margin for a parent to place his or her initials beside each paragraph, the out-of-court consent must state all of the following:

(i) I have read or had read to me each of my rights as a parent described in section 44(8)(c) of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.44, and I understand these rights.

(ii) I am signing the out-of-court consent as a free and voluntary act on my part, and I have been advised that I cannot be forced to sign the out-of-court consent for any reason.

(iii) I have not been given or promised any money or other thing of value in exchange for signing the out-of-court consent.

(iv) If I sign the out-of-court consent, I understand that I am giving up all of my parental rights and authorizing the court to permanently terminate all of my parental rights, unless the court allows me to revoke my out-of-court consent.

(v) It has been explained to me and I understand all of the following:

(A) I am not required to sign an out-of-court consent.

(B) I may make a temporary placement of my child with the prospective adoptive parent or parents, if I have not already done so, or I may continue the temporary placement I have already made, until I choose to sign a consent in court or sign an out-of-court consent.

(C) I may request revocation of the out-of-court consent I have signed by submitting a timely written request for revocation.

(D) If I request a revocation of the out-of-court consent, I must appear before the court so the court may consider whether to grant the revocation.

(vi) I have been advised that I may submit a request for revocation in writing to the adoption attorney or child placing agency that witnessed the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed or I may petition the court on my own for revocation of the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed.

(vii) If I submit a timely request for revocation, the court may grant the request or deny the request for revocation depending on my fitness and immediate ability to properly care for the child and whether the best interests of the child would be served by the revocation.

(e) The out-of-court consent must contain the contact information for both the adoption attorney representing the parent or guardian and the child placing agency that witnessed the out-of-court consent specifying where a written request for revocation may be submitted, including a postal mailing address, overnight carrier address, fax number, and electronic mail address. A request for revocation may not be submitted to the adoption attorney representing the parent or guardian or the child placing agency that witnessed the out-of-court consent by telephone or text message.

(f) The following statement must appear immediately above the signature of the parent or guardian executing the out-of-court consent: "I acknowledge that I am signing this out-of-court consent freely and voluntarily, after my parental rights have been explained to me and any questions I may have about it have been fully answered. I understand the rights I am giving up and that an order terminating my parental rights, when entered by the court, is a permanent termination of all of my parental rights."

(g) The out-of-court consent may be signed before filing a petition for adoption.

(9) Except as otherwise provided in this subsection, a parent or guardian who has signed an out-of-court consent but wishes to request revocation of the out-of-court consent shall submit a request for revocation to the adoption attorney representing the parent or guardian or the child placing agency that witnessed the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent

was signed. The request for revocation from the parent or guardian must be submitted in writing by the parent or guardian who signed the out-of-court consent to the adoption attorney representing the parent or guardian or a caseworker from the child placing agency that witnessed the out-of-court consent. The request for revocation is timely if delivered to the adoption attorney or a caseworker from the child placing agency not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed. Upon receipt of a timely request for revocation, the adoption attorney or the child placing agency receiving the request for revocation shall assist the parent or guardian in filing the petition to revoke the out-of-court consent with the court as soon as practicable. A parent or guardian may file this petition with the court on his or her own. If the parent or guardian files the petition on his or her own, the petition must be filed with the court not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed.

(10) The court in which the out-of-court consent was filed may deny the request for revocation under subsections (11) and (12).

(11) If a petition to revoke an out-of-court consent has been filed with the court, timely notice of revocation does not immediately result in the return of the child to the parent or guardian. A hearing before a judge is required to determine all of the following unless the adoptive parent or parents agree to the revocation:

(a) Whether the request for revocation was given in a timely and proper manner.

(b) Whether good cause exists to determine that the out-of-court consent was not signed voluntarily. If the court finds that the out-of-court consent was not signed voluntarily, the out-of-court consent is invalid and custody of the child shall be returned to the parent or guardian. If the court finds that the out-of-court consent was signed voluntarily, the court shall proceed under subdivision (c).

(c) Whether the best interest of the child will be served by any of the following:

(i) Returning custody of the child to the parent or guardian.

(ii) Continuing the adoption proceeding commenced or intended to be commenced by the adoptive parent or parents.

(iii) Disposition appropriate to the child's welfare as authorized by section 18 of chapter XIA under an ex parte order entered by the court.

(12) In determining the best interest of the child under subsection (11)(c), if a parent or guardian is seeking revocation of an out-of-court consent, the court shall determine if the parent or guardian seeking revocation is fit and immediately able to properly care for the child if the court returned the child to the parent or guardian. If the court determines that the parent or guardian is not fit and immediately able to properly care for the child, the court shall deny the revocation. If the court finds that the parent or guardian is fit and immediately able to properly care for the child, the court shall determine the best interest of the child. The "best interest of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court:

(a) The child's age and length of time the parent or guardian seeking revocation has had physical custody of the child so that significant love, affection, and other emotional ties exist between the parent or guardian and the child and whether during that time the child has lived in a stable, satisfactory environment.

(b) The capacity and disposition of the prospective adopting individual or individuals and the parent or guardian seeking revocation to give the child love, affection, and guidance, and to educate and create a milieu that fosters the child's religion, racial identity, and culture.

(c) The capacity and disposition of the prospective adopting individual or individuals and the parent or guardian seeking revocation to provide the child with food, clothing, education, permanence, medical care or other remedial care recognized and permitted under the state law in place of medical care, and other material needs.

(d) The permanence as a family unit of the prospective adopting individual or individuals and the parent or guardian seeking revocation.

(e) The moral fitness of the prospective adopting individual or individuals and the parent or guardian seeking revocation.

(f) The mental and physical health of the prospective adopting individual or individuals and the parent or guardian seeking revocation.

(g) The home, school, and community record of the child.

(h) The child's reasonable preference, if the child is 14 years of age or less and if the court considers the child to be of sufficient age to express a preference.

(i) The ability and willingness of the prospective adopting individual or individuals to adopt the child's siblings.

(j) Any other factor considered by the court to be relevant to a particular prospective adoptive placement or to a revocation of an out-of-court consent.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2014, Act 117, Eff. Oct. 12, 2014.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

***** 710.29.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 12, 2014 *****

710.29.amended Release; separate instrument; persons before whom release executed and acknowledged; execution in another state or country; out-of-court release; verified statement; investigation; explaining legal rights to parent or guardian; order terminating rights; order committing child to child placing agency or department; foster care funding; termination of jurisdiction; hearing to consider revocation of release.

Sec. 29. (1) Except as otherwise provided in subsections (5) to (11), a release shall be by a separate instrument executed before a judge of the court or a juvenile court referee. If a parent's or guardian's release is executed before a judge or referee as provided in this subsection, a verbatim record of testimony related to execution of the release shall be made.

(2) If the person from whom a release is required is in the armed services or is in prison, the release may be executed and acknowledged before an individual authorized by law to administer oaths.

(3) If the release is to be given by an authorized representative of a child placing agency that has jurisdiction of the child to be adopted, the release may be executed and acknowledged before an individual authorized by law to administer oaths.

(4) If the release is executed in another state or country, the court having jurisdiction over the adoption proceeding in this state shall determine whether the release was executed in accordance with the laws of that state or country or the laws of this state and shall not proceed unless it finds that the release was so executed.

(5) A parent or guardian may sign an out-of-court release in front of and witnessed by an adoption attorney representing the parent or guardian and a child placing agency caseworker. An out-of-court release signed under this subsection must comply with all of the following:

(a) The out-of-court release shall not be signed until after a 72-hour waiting period that begins at the time of the child's birth has expired.

(b) If the parent signing the out-of-court release is an unemancipated minor, the out-of-court release is not valid unless it is also signed by a parent or guardian of that unemancipated minor parent in the presence of the witnesses described in this subsection.

(c) An out-of-court release must be accompanied by the verified statement described in subsection (6) and a statement regarding relinquishment of parental rights that includes all of the following:

(i) The right to have or to seek care and custody of the child.

(ii) The right to have or to seek parenting time with the child.

(iii) The right to inherit from the child or have the child inherit from the parent.

(iv) The right to services and earnings of the child.

(v) The right to determine the child's schooling, religious training, and parenting practices.

(d) In separate paragraphs with sufficient space in the margin for a parent to place his or her initials beside each paragraph, the out-of-court release must state the following:

(i) I have read or had read to me each of my rights as a parent described in section 29(5)(c) of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.29, and I understand these rights.

(ii) I am signing the out-of-court release as a free and voluntary act on my part, and I have been advised that I cannot be forced to sign the out-of-court release for any reason.

(iii) I have not been given or promised any money or other thing of value in exchange for signing the out-of-court release.

(iv) If I sign the out-of-court release, I understand that I am giving up all of my parental rights and authorizing the court to permanently terminate all of my parental rights, unless the court allows me to revoke my out-of-court release.

(v) It has been explained to me and I understand all of the following:

(A) I am not required to sign an out-of-court release.

(B) I may make a temporary placement of my child with the prospective adoptive parent or parents, if I have not already done so, or I may continue the temporary placement I have already made, until I choose to sign a release in court or sign an out-of-court release.

(C) I may request revocation of the out-of-court release I have signed by submitting a timely written request for revocation.

(D) If I request a revocation of the out-of-court release, I must appear before the court so the court may consider whether to grant the revocation.

(vi) I have been advised that I may submit a request for revocation in writing to the adoption attorney or

child placing agency that accepted the out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed or I may petition the court on my own for revocation of the out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed.

(vii) If I submit a timely request for revocation, the court may grant the request or deny the request depending on my fitness and immediate ability to properly care for the child and whether the best interests of the child would be served by the revocation.

(e) The out-of-court release must contain the contact information for both the adoption attorney representing the parent or guardian and the child placing agency that accepted the out-of-court release specifying where a written request for revocation may be submitted, including a postal mailing address, overnight carrier address, fax number, and electronic mail address. A request for revocation may not be submitted to the adoption attorney representing the parent or guardian or the child placing agency that accepted the out-of-court release by telephone or text message.

(f) The following statement must appear immediately above the signature of the parent or guardian executing the out-of-court release: "I acknowledge that I am signing this out-of-court release freely and voluntarily, after my parental rights have been explained to me and any questions I may have about it have been fully answered. I understand the rights I am giving up and that an order terminating my parental rights, when entered by the court, is a permanent termination of all of my parental rights."

(6) A release by a parent or guardian shall be accompanied by a verified statement signed by the parent or guardian that contains all of the following:

(a) That the parent or guardian has received a list of support groups and, if the release is to a child placing agency, a copy of the written document described in section 6(1)(c) of the foster care and adoption services act, 1994 PA 203, MCL 722.956.

(b) That the parent or guardian has received counseling related to the adoption of his or her child or waives the counseling with the signing of the verified statement.

(c) That the parent or guardian has not received or been promised any money or anything of value for the release of the child, except for lawful payments that are itemized on a schedule filed with the release.

(d) That the validity and finality of the release is not affected by any collateral or separate agreement between the parent or guardian and the child placing agency, or the parent or guardian and the prospective adoptive parent.

(e) That the parent or guardian understands that it serves the child's welfare for the parent to keep the child placing agency or department informed of any health problems that the parent develops that could affect the child.

(f) That the parent or guardian understands that it serves the child's welfare for the parent or guardian to keep his or her address current with the child placing agency or department in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years of age or older.

(7) A release by a parent or a guardian of the child shall not be executed until after the investigation the court considers proper and until after the judge, referee, or other individual authorized in subsection (2) has fully explained to the parent or guardian the legal rights of the parent or guardian and the fact that the parent or guardian by virtue of the release voluntarily relinquishes permanently his or her rights to the child; and, if the child is over 5 years of age, the court has determined that the child is best served by the release. If an out-of-court release is signed under subsection (5), the adoption attorney representing the parent or guardian who witnessed the out-of-court release and a caseworker from the child placing agency that accepted the out-of-court release shall fully explain to the parent or guardian his or her legal rights and the fact that the parent or guardian by virtue of the out-of-court release voluntarily relinquishes permanently his or her rights to the child.

(8) Except as otherwise provided in this subsection, upon the release of a child by a parent or guardian, the court immediately shall issue an order terminating the rights of that parent or guardian to that child. If an out-of-court release has been signed under subsection (5), not sooner than 5 days, excluding weekends and holidays, after the out-of-court release was signed, the court shall issue an order terminating the rights of the parent or guardian to that child. If the rights of both parents, the surviving parent, or the guardian have been terminated, the court shall issue an order committing the child to the child placing agency or department to which the release was given.

(9) The court shall authorize foster care funding pending expiration of the period of appeal or rehearing as provided in sections 64 and 65 of this chapter, and pending disposition of any appeal or rehearing, for all persons committed to a child placing agency. Foster care funding authorized under this subsection shall exclude the administrative costs of the child placing agency. The costs of foster care shall be paid through the

use of the child care fund as provided by section 117c of the social welfare act, 1939 PA 280, MCL 400.117c, or by any successor statute. When foster care funding is authorized according to this subsection, the court shall send a copy of the order to the department. Upon receiving a copy of this order, the department shall reimburse the court child care fund of the county where the court order for foster care funding was made in the total amount of the court ordered payment. The reimbursement shall be made monthly.

(10) Entry of an order terminating the rights of both parents under subsection (8) terminates the jurisdiction of the circuit court over the child in any divorce or separate maintenance action.

(11) Except as otherwise provided in subsection (12), upon petition of the same person or persons who executed the release and of the department or child placing agency to which the child was released, the court with which the release was filed may grant a hearing to consider whether the release should be revoked. A release may not be revoked if the child has been placed for adoption unless the child is placed as provided in section 41(2) of this chapter and a petition for rehearing or claim of appeal is filed within the time required. A verbatim record of testimony related to a petition to revoke a release shall be made.

(12) Except as otherwise provided in this subsection, a parent or guardian who has signed an out-of-court release but wishes to request revocation of the out-of-court release shall submit a request for revocation to the adoption attorney representing the parent or guardian or the child placing agency that accepted the out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed. The request for revocation from the parent or guardian must be submitted in writing by the parent or guardian who signed the out-of-court release to the adoption attorney representing the parent or guardian or a caseworker from the child placing agency that accepted the out-of-court release. The request for revocation is timely if delivered to the adoption attorney or the child placing agency not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed. Upon receipt of a timely request for revocation, the adoption attorney or the child placing agency receiving the request for revocation shall assist the parent or guardian in filing the petition to revoke the out-of-court release with the court as soon as practicable. A parent or guardian may file this petition with the court on his or her own. If the parent or guardian files the petition on his or her own, the petition must be filed with the court not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed.

(13) The court in which the out-of-court release was filed may deny the request for revocation under subsection (14).

(14) If a petition to revoke an out-of-court release is filed with the court, timely notice of revocation does not immediately result in the return of the child to the parent or guardian. A hearing before a judge is required to determine all of the following unless a child placing agency accepting the out-of-court release or the adoptive parent or parents agree to the revocation:

(a) Whether the request for revocation was given in a timely and proper manner.

(b) Whether good cause exists to determine that the out-of-court release was not signed voluntarily. If the court finds that the out-of-court release was not signed voluntarily, the out-of-court release is invalid and custody of the child shall be returned to the parent or guardian. If the court finds that the out-of-court release was signed voluntarily, the court shall proceed under subdivision (c).

(c) Whether the best interest of the child will be served by any of the following:

(i) Returning custody of the child to the parent or guardian.

(ii) Continuing the adoption proceeding commenced or intended to be commenced by the adoptive parent or parents.

(iii) Disposition appropriate to the child's welfare as authorized by section 18 of chapter XA under an ex parte order entered by the court.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1976, Act 382, Imd. Eff. Dec. 28, 1976;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2014, Act 117, Eff. Oct. 12, 2014.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

***** 710.23d.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 12, 2014 *****

710.23d.amended Temporary placement; procedures.

Sec. 23d. (1) In a direct placement, a parent or guardian with legal and physical custody of a child may make a temporary placement of the child as prescribed by this section. In an agency placement, a child placing agency with written authorization from the parent or guardian as prescribed by section 23b of this chapter may make a temporary placement of the child as prescribed by this section. A temporary placement shall meet all of the following requirements:

(a) The prospective adoptive parent with whom a child is temporarily placed has had a preplacement assessment completed within 1 year before the date of the transfer with a finding that the prospective adoptive parent is suitable to be a parent of an adoptee.

(b) In a direct placement, the parent or guardian is assisted by an adoption attorney or a child placing agency.

(c) In the presence of a witness who also signs the document, the parent, guardian, or representative of the child placing agency signs a statement evidencing the transfer of physical custody of the child. If the parent making the temporary placement is an unemancipated minor, the statement is not valid unless it is also signed in the presence of the witness by a parent or guardian of that minor parent. The statement shall contain all of the following:

(i) The date of the transfer of physical custody.

(ii) Language providing that the transfer is for the purpose of adoption by the prospective adoptive parent.

(iii) Language indicating that unless the parent or guardian and the prospective adoptive parent agree otherwise, the prospective adoptive parent has the authority to consent to all medical, surgical, psychological, educational, and related services for the child and language indicating that the parent or guardian otherwise retains full parental rights to the child being temporarily placed and that the temporary placement may be revoked by the filing of a petition under subsection (5).

(iv) Language providing that the person making the transfer has read a preplacement assessment of the prospective adoptive parent completed or updated within 1 year before the date of the transfer with a finding that the prospective adoptive parent is suitable to be a parent of an adoptee. If a child placing agency makes the transfer of physical custody, the statement shall include a verification that the child placing agency has given the parent or guardian who authorized the temporary placement an opportunity to review the preplacement assessment.

(v) Even if only 1 parent is making the temporary placement, the name and address of both parents of the child, including in the case of a child born out of wedlock, the name and the address of each putative father of the child, if known.

(d) In the presence of a witness who also signs the document, the prospective adoptive parent signs a statement setting forth the date of the transfer of physical custody and the name and address of the prospective adoptive parent and attesting to all of the following:

(i) That the prospective adoptive parent understands that the temporary placement will not become a formal placement until the parents consent or release their parental rights and the court orders the termination of parental rights and approves the placement and that the prospective adoptive parent must relinquish custody of the child within 24 hours after being served with an order under section 23e(2) of this chapter.

(ii) That, if the prospective adoptive parent is a Michigan resident, the prospective adoptive parent agrees to reside with the child in Michigan until formal placement occurs.

(iii) That the prospective adoptive parent agrees to obtain approval in compliance with the interstate compact on the placement of children, 1984 PA 114, MCL 3.711 to 3.717, before the child is sent, brought, or caused to be sent or brought into a receiving state as that term is defined in section 1 of the interstate compact on the placement of children, 1984 PA 114, MCL 3.711.

(iv) That the prospective adoptive parent submits to this state's jurisdiction.

(2) Not later than 2 days, excluding weekends and holidays, after a transfer of physical custody of a child in accordance with subsection (1), the adoption attorney or child placing agency who assists with the temporary placement or the child placing agency that makes the temporary placement shall submit to the court in the county in which the child's parent or guardian or the prospective adoptive parent resides, or in which the child is found, a report that contains all of the following:

(a) The date of the transfer of physical custody.

(b) The name and address of the parent or guardian or the child placing agency who made the temporary

placement.

(c) The name and address of the prospective adoptive parent with whom the temporary placement was made.

(d) Even if only 1 parent is making the temporary placement, the name and address of both parents of the child, including, in the case of a child born out of wedlock, the name of each putative father, if known.

(e) The documents required under subsection (1)(c) and (d) and, if applicable, the authorization required under section 23b of this chapter.

(3) Not later than 30 days after the transfer of physical custody of a child under this section, the adoption attorney or child placing agency who assists with the temporary placement or the child placing agency that makes the temporary placement shall submit to the court that received the report described in subsection (2) a report indicating whether or not 1 of the following dispositions has occurred:

(a) A petition for adoption of the child has been filed.

(b) The child has been returned to the agency or to a parent or other person having legal custody.

(4) If the court has not received the report required under subsection (3) within 45 days after the transfer of physical custody of a child, the court shall immediately investigate and determine whether an adoption petition has been filed or the child has been returned to a parent or other person having legal custody. If the report required under subsection (3) or the court's investigation reveals that neither disposition has occurred, the court shall immediately report to the prosecutor, who shall immediately file a petition in the court that received the report described in subsection (2) for disposition of the child as required by section 23e of this chapter. If a petition has been filed under subsection (5), (6), or (7), the prosecutor is not required to file a petition.

(5) A parent or guardian who wishes to regain custody of a child who has been placed temporarily shall file a petition in the court that received the report described in subsection (2) requesting that the temporary placement be revoked and that the child be returned to the parent or guardian. Upon request of the parent or guardian, the adoption attorney or child placing agency who assisted in making the temporary placement shall assist the parent or guardian in filing the petition to revoke the temporary placement. If the temporary placement was made by a child placing agency under section 23b(3) of this chapter, the child placing agency shall file the petition on behalf of a parent or guardian who wishes to regain custody of the child.

(6) If a prospective adoptive parent with whom a child has been temporarily placed is either unwilling or unable to proceed with the adoption, the prospective adoptive parent may file a petition in the court that received the report described in subsection (2) for disposition of the child as required by section 23e of this chapter.

(7) If a child placing agency that temporarily placed a child is unable to proceed with an adoption because of the unavailability of a parent or guardian to execute a release, or if a child placing agency with legal custody of a child decides not to proceed with the adoption by a prospective adoptive parent with whom the child has been temporarily placed and the prospective adoptive parent refuses upon the agency's request to return the child to the agency, the child placing agency shall file a petition in the court that received the report described in subsection (2) for disposition of the child as required by section 23e of this chapter.

(8) Except as otherwise agreed to by the parties, the prospective adoptive parent with whom a child is temporarily placed under this section may consent to all medical, surgical, psychological, educational, and related services for the child.

(9) A hospital or attending practitioner shall not release a child to an individual or agency not otherwise legally entitled to the physical custody of the child unless all of the requirements of subsection (1) are met.

(10) Except as otherwise provided in this subsection, a parent or guardian who has signed an out-of-court release or out-of-court consent but wishes to request revocation of the out-of-court release or out-of-court consent shall submit a request for revocation to the adoption attorney representing the parent or guardian or the child placing agency that accepted the out-of-court release or witnessed the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court release or out-of-court consent was signed. The request for revocation is timely if delivered to the adoption attorney or the child placing agency not more than 5 days, excluding weekends and holidays, after the out-of-court release or out-of-court consent was signed. Upon receipt of a timely request for revocation, the adoption attorney or the child placing agency receiving the request for revocation shall assist the parent or guardian in filing the petition to revoke the out-of-court release or out-of-court consent with the court as soon as practicable. A parent or guardian may file this petition with the court on his or her own. If the parent or guardian files the petition on his or her own, the petition must be filed with the court not more than 5 days, excluding weekends and holidays, after the out-of-court release or out-of-court consent was signed.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—

Am. 2004, Act 68, Imd. Eff. Apr. 20, 2004;—Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004;—Am. 2014, Act 117, Eff. Oct. 12, 2014.

Popular name: Probate Code

NOTICE: THIS CONSENT CANNOT BE SIGNED BEFORE THE EXPIRATION OF A 72 HOUR WAITING PERIOD FOLLOWING THE BIRTH OF THE ADOPTEE. FOR USE IN NON-INDIAN ADOPTIONS ONLY.

In the matter of _____, adoptee
Full name of child

1. I, _____, am the mother (Date of Birth _____)
 father (Date of Birth _____)

of the child named above who was born, _____ at _____ am/pm in _____
Date Time City

County State

[Instructions: Initial each line only after reading and fully understanding each paragraph]

2. _____ I have had my legal rights as a parent fully explained to me and I understand that I do not have to sign this out-of-court consent to adoption. I understand my parental rights and that if I do sign this out-of-court consent, I voluntarily give up permanently all my parental rights to my child for adoptive placement with

a. The petitioner(s), who have or intend to file a petition for the adoption of the adoptee and whose name(s) is/are unknown to me because identifying information is not being exchanged.

b. _____, who have filed or intend to file a petition for
Name(s) of petitioner(s)
the adoption of my child.

3. _____ I have read or have had read to me each of my rights as a parent described in section 44(8)(c) of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.44, and I understand these rights.

4. _____ This out-of-court consent does not involve an Indian child as defined in MCR 3.002(5).

5. _____ I have been advised and understand that by signing this out-of-court consent, I am giving up all of my parental rights and authorizing the court to permanently terminate all of my parental rights (unless the court allows me to revoke my out-of-court consent), including but not limited to:

- a. The right to have or to seek care and custody of the child
- b. The right to have or to seek parenting time with the child.
- c. The right to inherit from the child or have the child inherit from the parent.
- d. The right to services and earnings of the child.
- e. The right to determine the child's schooling, religious training, and parenting practices.

6. _____ I am signing the out-of-court consent as a free and voluntary act on my part and I have been advised that I cannot be forced to sign the out-of-court consent for any reason.

7. _____ I have not been given or promised any money or other thing of value in exchange for signing the out-of-court consent.

[Instructions: Initial each line only after reading and fully understanding each paragraph]

8. _____ It has been explained to me and I understand all of the following:
- a. I am not required to sign an out-of-court consent.
 - b. I may make a temporary placement of my child with the prospective adoptive parent(s), if I have not already done so, or I may continue the temporary placement I have already made, until I choose to sign a consent in court or sign an out-of-court consent.
 - c. I may request revocation of the out-of-court consent I have signed by submitting a timely written request for revocation.
 - d. If I request a revocation of the out-of-court consent, I must appear before the court so the court may consider whether to grant the revocation.

9. _____ I have been advised that I may submit a request for revocation in writing to the adoption attorney or child placing agency that witnessed my out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed, or I may petition the court on my own for revocation of the out-of-court consent not more than 5 days, excluding weekends and holidays, after the out-of-court consent was signed.
- a. A request for revocation may not be submitted to the adoption attorney representing the parent or to a caseworker from the child placing agency that witnessed the out-of-court consent by telephone or text message.
 - b. A written request for revocation may be sent to the adoption attorney who represents the parent at the following postal mailing and/or overnight carrier address:

The fax number of the adoption attorney is: _____

The email address of the adoption attorney is: _____

- c. A written request for revocation may be sent to a caseworker from the child placing agency that witnessed the out-of-court consent at the following postal mailing and/or overnight carrier address:

The fax number of the child placing agency is: _____

The email address of the child placing agency is: _____

- d. A petition for revocation of consent may be filed with the court at the following address:

10. _____ I have been advised if I submit a timely request for revocation, the court may grant the request or deny the request for revocation depending on my fitness and immediate ability to properly care for the child and whether the best interests of the child would be served by the revocation.
11. _____ I understand my right to request a rehearing or appeal within 21 days after an order is entered terminating my parental rights.
12. _____ I understand that my parental rights may be reinstated without further hearing if the adoption of the child named above is not confirmed.

I ACKNOWLEDGE THAT I AM SIGNING THIS OUT-OF-COURT CONSENT FREELY AND VOLUNTARILY, AFTER MY PARENTAL RIGHTS HAVE BEEN EXPLAINED TO ME AND ANY QUESTIONS I MAY HAVE ABOUT IT HAVE BEEN FULLY ANSWERED. I UNDERSTAND THE

RIGHTS I AM GIVING UP AND THAT AN ORDER TERMINATING MY PARENTAL RIGHTS, WHEN ENTERED BY THE COURT, IS A PERMANENT TERMINATION OF ALL OF MY PARENTAL RIGHTS.

Time

Date

Parent Signature

Address

City

State

Zip

The parent signing this out-of-court consent is an unemancipated minor. I am the parent/guardian/guardian ad litem of the minor parent, and I consent to the minor parent signing this out-of-court consent to adoption.

Date

Parent/Guardian of Unemancipated Minor

Address

City

State

Zip

Signed in the presence of and witnessed by:

Attorney Signature

Date

Attorney Name

Bar Number

Child Placing Agency Caseworker Signature

Date

Child Placing Agency Caseworker Name

Child Placing Agency Name

Prepared by:

Herbert A. Brail and Stephanie L. Benedict, Attorneys at Law, 930 Mason, Dearborn, MI 48124

NOTICE: THIS RELEASE CANNOT BE SIGNED BEFORE THE EXPIRATION OF A 72 HOUR WAITING PERIOD FOLLOWING THE BIRTH OF THE ADOPTEE. FOR USE IN NON-INDIAN ADOPTIONS ONLY.

In the matter of _____, adoptee
Full name of child

1. I, _____, am the mother (Date of Birth _____)
 father (Date of Birth _____)

of the child named above who was born, _____ at _____ am/pm in _____
Date Time City

County State

[Instructions: Initial each line only after reading and fully understanding each paragraph]

2. _____ I have had my legal rights as a parent fully explained to me and I understand that I do not have to sign this out-of-court release. Of my own free will, I give up completely and permanently my parental rights to my child, and I release my child to

Child Placing Agency

for the purpose of adoption.

3. _____ I have read or have had read to me each of my rights as a parent described in section 29(5)(c) of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.29, and I understand these rights.

4. _____ This out-of-court release does not involve an Indian child as defined in MCR 3.002(5).

5. _____ I have been advised and understand that by signing this out-of-court release, I am giving up all of my parental rights and authorizing the court to permanently terminate all of my parental rights, unless the court allows me to revoke my out-of-court release, including but not limited to:

- a. The right to have or to seek care and custody of the child
- b. The right to have or to seek parenting time with the child.
- c. The right to inherit from the child or have the child inherit from the parent.
- d. The right to services and earnings of the child.
- e. The right to determine the child's schooling, religious training, and parenting practices.

6. _____ I am signing the out-of-court release as a free and voluntary act on my part and I have been advised that I cannot be forced to sign the out-of-court release for any reason.

7. _____ I have not been given or promised any money or other thing of value in exchange for signing the out-of-court release.

[Instructions: Initial each line only after reading and fully understanding each paragraph]

8. _____ It has been explained to me and I understand all of the following:
- a. I am not required to sign an out-of-court release.
 - b. I may make a temporary placement of my child with the prospective adoptive parent(s), if I have not already done so, or I may continue the temporary placement I have already made, until I choose to sign a release in court or sign an out-of-court release.
 - c. I may request revocation of the out-of-court release I have signed by submitting a timely written request for revocation.
 - d. If I request a revocation of the out-of-court release, I must appear before the court so the court may consider whether to grant the revocation.

9. _____ I have been advised that I may submit a request for revocation in writing to the adoption attorney or a caseworker from the child placing agency that accepted my out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed, or I may petition the court on my own for revocation of the out-of-court release not more than 5 days, excluding weekends and holidays, after the out-of-court release was signed.
- a. A request for revocation may not be submitted to the adoption attorney representing the parent or to a caseworker from the child placing agency that accepted the out-of-court release by telephone or text message.
 - b. A written request for revocation may be sent to the adoption attorney who represents the parent at the following postal mailing and/or overnight carrier address:

The fax number of the adoption attorney is: _____

The email address of the adoption attorney is: _____

- c. A written request for revocation may be sent to a caseworker from the child placing agency that accepted the out-of-court release at the following postal mailing and/or overnight carrier address:

The fax number of the child placing agency is: _____

The email address of the child placing agency is: _____

- d. A petition for revocation of release may be filed with the court at the following address:

10. _____ I have been advised if I submit a timely request for revocation, the court may grant the request or deny the request for revocation depending on my fitness and immediate ability to properly care for the child and whether the best interests of the child would be served by the revocation.

11. _____ I understand my right to request a rehearing or appeal within 21 days after an order is entered terminating my parental rights.

I ACKNOWLEDGE THAT I AM SIGNING THIS OUT-OF-COURT RELEASE FREELY AND VOLUNTARILY, AFTER MY PARENTAL RIGHTS HAVE BEEN EXPLAINED TO ME AND ANY QUESTIONS I MAY HAVE ABOUT IT HAVE BEEN FULLY ANSWERED. I UNDERSTAND THE

RIGHTS I AM GIVING UP AND THAT AN ORDER TERMINATING MY PARENTAL RIGHTS, WHEN ENTERED BY THE COURT, IS A PERMANENT TERMINATION OF ALL OF MY PARENTAL RIGHTS.

Time

Date

Parent Signature

Address

City

State

Zip

The parent signing this out-of-court release is an unemancipated minor. I am the parent/guardian of the minor parent, and I release to the minor parent signing this out-of-court release.

Date

Parent/Guardian/ of Unemancipated Minor

Address

City

State

Zip

Signed in the presence of and witnessed by:

Attorney Signature

Date

Attorney Name

Bar Number

Signed in the presence of, witnessed, and accepted on behalf of the agency by:

Child Placing Agency Caseworker Signature

Date

Child Placing Agency Caseworker Name

Child Placing Agency Name

Prepared by:

Herbert A. Brail and Stephanie L. Benedict, Attorneys at Law, 930 Mason, Dearborn, MI 48124

FOR USE IN NON-INDIAN ADOPTIONS ONLY

In the matter of _____, adoptee
(Full name of child)

I, _____, am the mother of _____ born on
(mother's full legal name) *(child's name at birth)*

_____ at _____
(date) *(city, county, state)*

I reside at _____
(street address) *(city, county, state, zip)*

My date of birth is _____
(date)

Indian Child Status

1. Are you a member of a federally recognized American Indian tribe or Alaskan Native Village or eligible to enroll in any such tribe or village? Yes No
2. Is anyone in your family a member of a federally recognized American Indian tribe or Alaskan Native Village or eligible to enroll in any such tribe or village? Yes No
3. To the best of your knowledge, information and belief is the father of the child a member of a federally recognized American Indian tribe or Alaskan Native Village or eligible to enroll in any such tribe or village? Yes No
4. To the best of your knowledge, information and belief is anyone in the father's family a member of a federally recognized American Indian tribe or Alaskan Native Village or eligible to enroll in any such tribe or village? Yes No

Legal Status of Child

5. Has any man served you with a paternity action? Yes No
6. Has an order been entered by any court naming the father of the child? Yes No
7. Have you signed an acknowledgement of parentage with the child's father? Yes No

Marital Status of Mother:

8. I was married at the time of birth of the child. Yes No
9. I was married at the time of conception of the child. Yes No If **Yes**, answer Question #10.
10. If you **were married** at the time of birth or time of conception, please provide the following information about your husband:
- a. His full legal name: _____
 - b. His date of birth: _____
 - c. His address: _____
 - d. His telephone number: _____
 - e. Is your husband the biological father? Yes No
 - f. If your husband **is not** the biological father of the child, complete sections I, II or III as applicable.

Identification of Child's Father

11. Do you know the father's name and how to locate him? Yes No If **Yes**, complete Section I
12. Do you know the father's name, but not how to locate him? Yes No If **Yes**, complete Section II
13. Is the father unknown? Yes No If **Yes**, complete Section III

Section I. Father's Name and Whereabouts Known [MCL 710.39]

14. Please provide the following information about the known father:
- a. His full legal name: _____
 - b. His physical description: _____
 - c. His address: _____
 - d. His telephone number: _____
 - e. His date of birth: _____ (if you don't know, provide his approximate age)
15. Does he know you are pregnant? Yes No
16. Has the father established a custodial relationship with the child? Yes No

17. Has the father provided substantial and regular support or care in accordance with his ability to provide such support or care for you during your pregnancy? Yes No
18. Has the father provided substantial and regular support or care in accordance with his ability to provide such support or care for you or the child after the child's birth during the 90 days before the date of this affidavit? Yes No
19. Is there anyone else who could be the father of the child? Yes No
20. If your answer to Question #19 is **Yes**, complete the appropriate section of this form or use a **Supplemental Father Information Sheet** if the applicable section on this form has been completed.
21. If you answered **No** to the Question #19, why are you sure the man identified in in #14 is the father?

22. Please write a brief history of your relationship with the father including the circumstances of conception.

23. What was the approximate date and place of conception? _____
-

Section II. Father's Name Known, but Whose Whereabouts are Unknown [MCL 710.37(2)(b)]

24. Please provide the following information about the known father:

a. His full legal name: _____

b. His physical description: _____

c. His last known address: _____

(Include email address) _____

d. His telephone number: _____

e. His date of birth: _____ (if you don't know, provide his approximate age)

f. Names and addresses of his friends or family members: _____

i. Any other information: Facebook/Other Social Media Name(s), school(s) attended, employer(s), *etc.*, you are able to provide that may lead to locating the father.

25. Does he know you are pregnant? Yes No

26. Has the father provided support for you? Yes No

27. Has the father shown any interest in the child? Yes No

28. Has the father made provision for the child's care for at least 90 days preceding the date of this affidavit? Yes No

29. Is there anyone else who could be the father of the child? Yes No

30. If your answer to Question #29 is **Yes**, complete the appropriate section of this form or use a **Supplemental Father Information Sheet** if the applicable section on this form has been completed.

31. If you answered **No** to Question #29, why are you sure the man identified in in #24 is the father?

32. Please write a brief history of your relationship with the father(s) including how you met the father and the circumstances of conception.

33. What was the approximate date and place of conception? _____

34. Please describe in detail why the father's whereabouts are unknown and what specific steps you or someone on your behalf has taken to attempt to locate or contact him.

Section III. Father's Identity and Whereabouts Unknown [MCL 710.37(2)(a)]

35. Please provide the following information about the unknown father:

a. His first name, nickname or street name: _____

b. His physical description: _____

c. His birthdate or approximate age: _____

h. Names and addresses of his friends or family members: _____

i. Any other information: Facebook/Other Social Media Name(s), school(s) attended, employer(s), etc., you are able to provide that may lead to locating the father.

36. Does he know you are pregnant? Yes No

37. Has he made provision for the child's care? Yes No

38. Has he provided support for you during your pregnancy or confinement (the period of childbirth and immediately after)? Yes No

39. Is there anyone else who could be the father of the child? Yes No

40. If your answer to question #39 is **Yes**, complete the appropriate section of this form or use a **Supplemental Father Information Sheet** if the applicable section on this form has been completed.

41. If you answered **No** to Question #39, why are you sure the man identified in in #35 is the father?

42. Please write a brief history of your relationship with the father(s) including how you met the father and the circumstances of conception.

43. What was the approximate date and place of conception? _____

44. Please describe in detail why the father's identity and whereabouts are unknown and what specific steps you or someone on your behalf has taken to attempt to identify, locate, or contact him.

I DECLARE THAT THE STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

Time Mother's Signature

Date Mother's Printed Name

Address City State Zip

Attorney Signature Bar No.

Attorney's Name

Address City State Zip

Supplemental Father Information Sheet
Father's Name and Whereabouts Known [MCL 710.39]

1. Please provide the following information about the known father:
 - a. His full legal name: _____
 - b. His physical description: _____
 - c. His address: _____
 - d. His telephone number: _____
 - e. His date of birth: _____ (if you don't know, provide his approximate age)
2. Does he know you are pregnant? Yes No
3. Has the father established a custodial relationship with the child? Yes No
4. Has the father provided substantial and regular support or care in accordance with his ability to provide such support or care for you during your pregnancy? Yes No
5. Has the father provided substantial and regular support or care in accordance with his ability to provide such support or care for you or the child after the child's birth during the 90 days before the date of this affidavit? Yes No
6. Why do you believe this man to be a possible father of the child?

7. Please write a brief history of your relationship with the father including the circumstances of conception.

8. What was the approximate date and place of conception? _____

Supplemental Father Information Sheet
Father's Name Known, but Whose Whereabouts are Unknown [MCL 710.37(2)(b)]

1. Please provide the following information about the known father:

a. His full legal name: _____

b. His physical description: _____

c. His last known address: _____

(Include email address) _____

d. His telephone number: _____

e. His date of birth: _____ (if you don't know, provide his approximate age)

f. Names and addresses of his friends or family members: _____

i. Any other information: Facebook/Other Social Media Name(s), school(s) attended, employer(s), etc., you are able to provide that may lead to locating the father.

2. Does he know you are pregnant? Yes No

3. Has the father provided support for you? Yes No

4. Has the father shown any interest in the child? Yes No

5. Has the father made provision for the child's care for at least 90 days preceding the date of this affidavit? Yes No

6. Why do you believe this man to be a possible father of the child?

7. Please write a brief history of your relationship with the father(s) including how you met the father and the circumstances of conception.

8. What was the approximate date and place of conception? _____

9. Please describe in detail why the father's whereabouts are unknown and what specific steps you or someone on your behalf has taken to attempt to locate or contact him.

Supplemental Father Information Sheet
Father's Identity and Whereabouts Unknown [MCL 710.37(2)(a)]

1. Please provide the following information about the unknown father:

a. His first name, nickname or street name: _____

b. His physical description: _____

c. His birthdate or approximate age: _____

d. Names and addresses of his friends or family members: _____

i. Any other information: Facebook/Other Social Media Name(s), school(s) attended, employer(s), *etc.*, you are able to provide that may lead to locating the father.

2. Does he know you are pregnant? Yes No

3. Has he made provision for the child's care? Yes No

4. Has he provided support for you during your pregnancy or confinement (the period of childbirth and immediately after)? Yes No

5. Why do you believe this man to be a possible father of the child?

6. Please write a brief history of your relationship with the father(s) including how you met the father and the circumstances of conception.

7. What was the approximate date and place of conception? _____

8. Please describe in detail why the father's identity and whereabouts are unknown and what specific steps you or someone on your behalf has taken to attempt to identify, locate, or contact him.

HB-4647, As Passed House, March 27, 2014
HB-4647, As Passed Senate, March 27, 2014

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4647**

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 56 of chapter X (MCL 710.56), as amended by
2004 PA 487.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER X

Sec. 56. (1) ~~Six~~ **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. ~~of the adoptee.~~ If, after a
hearing, the court finds that the **ADOPTEE'S** best interests ~~of the~~

1 ~~adopte~~ will be served, it may extend the 6-month period for an
2 additional period of time not exceeding 18 months from the time of
3 formal placement for adoption. In an adoption proceeding for which
4 an adoption order is not entered within 18 months after formal
5 placement, the court shall hold a hearing and determine whether an
6 order of adoption shall be entered or the petition denied. If a
7 child is formally placed according to section 41(2) of this
8 chapter, the court may extend the 6-month period for an additional
9 period, ~~which~~ **THAT** may exceed 18 months from the time of formal
10 placement, until an order for adoption may be entered under
11 subsection (2). **FOR AN ADOPTEE WHO IS LESS THAN 1 YEAR OLD AT THE**
12 **TIME OF FILING, 3 MONTHS AFTER FORMAL PLACEMENT UNDER SECTION 51 OF**
13 **THIS CHAPTER, UNLESS THE COURT DETERMINES THAT CIRCUMSTANCES HAVE**
14 **ARISEN THAT MAKE ADOPTION UNDESIRABLE, THE COURT MAY ENTER AN ORDER**
15 **OF ADOPTION.**

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

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

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

27 (c) The court of appeals affirms the order terminating

1 parental rights.

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

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

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

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

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

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

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

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

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

24 (b) The written report of investigation required by section
25 46(2) of this chapter is filed.

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

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

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.22 Definitions.

Sec. 22. As used in this chapter:

(a) "Adoptee" means the individual who is to be adopted, regardless of whether the individual is a child or an adult.

(b) "Adoption attorney" means an attorney acting as counsel in an adoption proceeding or case.

(c) "Adult former sibling" means an individual who is 18 years of age or older and is related to an adult adoptee either biologically or through adoption by at least 1 common parent, regardless of whether the adult former sibling ever lived in the same household as the adult adoptee.

(d) "Agency placement" means a placement in which a child placing agency, the department, or a court selects the adoptive parent for the child and transfers physical custody of the child to the prospective adoptive parent.

(e) "Applicant" means an individual or individuals who desire to adopt a child and who have submitted an adoption application to a child placing agency.

(f) "Attending practitioner" means a licensed physician or a registered professional nurse certified as a nurse midwife by the Michigan board of nursing.

(g) "Best interests of the adoptee" or "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court to be applied to give the adoptee permanence at the earliest possible date:

(i) The love, affection, and other emotional ties existing between the adopting individual or individuals and the adoptee or, in the case of a hearing under section 39 of this chapter, the putative father and the adoptee.

(ii) The capacity and disposition of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, the putative father to give the adoptee love, affection, and guidance, and to educate and create a milieu that fosters the religion, racial identity, and culture of the adoptee.

(iii) The capacity and disposition of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, the putative father, to provide the adoptee with food, clothing, education, permanence, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.

(iv) The length of time the adoptee has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.

(v) The permanence as a family unit of the proposed adoptive home, or, in the case of a hearing under section 39 of this chapter, the home of the putative father.

(vi) The moral fitness of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, of the putative father.

(vii) The mental and physical health of the adopting individual or individuals or, in the case of a hearing under section 39 of this chapter, of the putative father, and of the adoptee.

(viii) The home, school, and community record of the adoptee.

(ix) The reasonable preference of the adoptee, if the adoptee is 14 years of age or less and if the court considers the adoptee to be of sufficient age to express a preference.

(x) The ability and willingness of the adopting individual or individuals to adopt the adoptee's siblings.

(xi) Any other factor considered by the court to be relevant to a particular adoption proceeding, or to a putative father's request for child custody.

(h) "Born out of wedlock" means a child conceived and born to a woman who was not married from the conception to the date of birth of the child, or a child whom the court has determined to be a child born during a marriage but not the issue of that marriage.

(i) "Central adoption registry" means the registry established by the department under section 27b of this chapter to control the release of identifying adoption information.

(j) "Child" means an individual less than 18 years of age.

(k) "Child placing agency" means a private organization licensed under 1973 PA 116, MCL 722.111 to 722.128, to place children for adoption.

(l) "Consent" means a document in which all parental rights over a specific child are voluntarily relinquished to the court for placement with a specific adoptive parent.

(m) "Court" means the family division of circuit court of this state, or if the context requires, the court having jurisdiction over adoption in another state or country.

(n) "Department" means the family independence agency.

(o) "Direct placement" means a placement in which a parent or guardian selects an adoptive parent for a

child, other than a stepparent or an individual related to the child within the fifth degree by marriage, blood, or adoption, and transfers physical custody of the child to the prospective adoptive parent.

(p) "Formal placement" means a placement that is approved by the court under section 51 of this chapter.

(q) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(r) "Petitioner", except as used in section 68b of this chapter, means the individual or individuals who file an adoption petition with the court.

(s) "Placement" or "to place" means selection of an adoptive parent for a child and transfer of physical custody of the child to a prospective adoptive parent according to this chapter.

(t) "Relative" means an individual who is related to the child within the fifth degree by marriage, blood, or adoption.

(u) "Release" means a document in which all parental rights over a specific child are voluntarily relinquished to the department or to a child placing agency.

(v) "Rescission petition" means a petition filed by an adult adoptee and his or her parent whose rights have been terminated to rescind the adoption in which a stepparent acquired parental rights and to restore parental rights of that parent according to section 66 of this chapter.

(w) "Suitable to be a parent of an adoptee" means a conclusion that there is no specific concern with respect to an individual that would suggest that placement of any child, or a particular child, in the home of the individual would pose a risk of harm to the physical or psychological well-being of the child.

(x) "Temporary placement" means a placement that occurs before court approval under section 51 of this chapter and that meets the requirements of section 23d of this chapter.

(y) "Within the fifth degree by marriage, blood, or adoption" means any of the following relationships: parent, step-parent, grandparent, step-grandparent, brother, step-brother, sister, step-sister, uncle, step-uncle, aunt, step-aunt, first cousin, step-first cousin, great aunt, step-great aunt, great uncle, step-great uncle, great grandparent, step-great grandparent, first cousin once removed, step-first cousin once removed, great great grandparent, step-great great grandparent, great great uncle, step-great great uncle, great great aunt, step-great great aunt, great great great grandparent, or step-great great great grandparent.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1990, Act 175, Imd. Eff. July 2, 1990;—Am. 1992, Act 247, Imd. Eff. Nov. 19, 1992;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.23a Direct placement by parent or guardian of child for adoption; temporary placement; formal placement; selection by parent or guardian not delegated; information to be provided by prospective adoptive parent, adoption attorney, or child placing agency; placement of child with stepparent or relative; attendance of child at hearing.

Sec. 23a. (1) A parent or guardian having legal and physical custody of a child may make a direct placement of the child for adoption by making a temporary placement under section 23d of this chapter or a formal placement under section 51 of this chapter. A temporary placement becomes a formal placement when the court orders the termination of the rights of the parent or parents or the guardian and approves placement under section 51 of this chapter. A formal placement under section 51 of this chapter is not required to be preceded by a temporary placement.

(2) A parent or guardian shall personally select a prospective adoptive parent in a direct placement. The selection shall not be delegated.

(3) In a direct placement the prospective adoptive parent, an adoption attorney, or a child placing agency shall provide information about a prospective adoptive parent to the parent or guardian before placement. This information shall include the specific information contained in a preplacement assessment as described in section 23f of this chapter, and may include additional information requested by the parent or guardian. The information does not have to include identifying information described in section 27(3) of this chapter. The parent or guardian and the prospective adoptive parent shall determine whether to exchange identifying information and whether to meet each other.

(4) A parent or guardian having legal and physical custody of a child may make a formal placement of the child for adoption under section 51 of this chapter with a stepparent or a relative.

(5) The court may allow the child to attend his or her adoption hearing held under this act.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 2004, Act 487, Imd. Eff. Dec. 28, 2004.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.23b Placement of child by child placing agency or department of social services; written authorization from parent or guardian for temporary placement; assistance; involvement of parent or guardian in selection of adoptive parent; validity of authorization.

Sec. 23b. (1) A child placing agency or the department that acquires legal and physical custody of a child pursuant to section 29 of this chapter or chapter XIIA may formally place a child for adoption under section 51 of this chapter. A child placing agency that acquires written authorization pursuant to subsection (3) from the parent or guardian having legal custody of a child may make a temporary placement of the child under section 23d of this chapter. A child placing agency may assist a parent or guardian to make a direct placement under section 23a of this chapter.

(2) In an agency placement, a child placing agency or the department may involve the parent or guardian of a child in the selection of an adoptive parent and may facilitate the exchange of identifying information or meetings between a biological parent and an adoptive parent.

(3) In a written document signed by a witness and by the parent or guardian in the presence of the witness, a parent or guardian having legal and physical custody of a child may authorize a child placing agency to make a temporary placement of the child under section 23d of this chapter. If the parent of the child being temporarily placed is an unemancipated minor, the authorization is not valid unless it is also signed in the presence of the witness by a parent or guardian of that minor parent.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.23e Temporary placement; hearing to determine custody; petition; ex parte order to return child to parent or guardian; petition requesting court jurisdiction; temporary disposition; powers of court; act as exclusive remedy.

Sec. 23e. (1) Not later than 14 days after the filing of a petition by the prosecutor as required by section 23d(4) of this chapter, by a prospective adoptive parent as permitted in section 23d(6) of this chapter, or by a child placing agency as required by section 23d(7) of this chapter, the court shall hold a hearing to determine the custody of a child for whom a temporary placement has been made.

(2) Upon receiving a petition filed under section 23d(5) of this chapter, the court shall immediately issue an ex parte order directing the prospective adoptive parent to return the child to the parent or guardian with legal custody within 24 hours after receipt of the order, unless the court proceeds under subsection (3).

(3) The court may appoint an attorney to represent the child or refer the matter to the department. The attorney or the department may file a petition on the child's behalf requesting the court to take jurisdiction under section 2(b) of chapter XIIA. If that petition has not been filed within 14 days after the court appoints an attorney or refers the matter to the department under this section, the court shall order the return of the child to the parent or guardian with legal custody. During the period before the petition for jurisdiction under section 2(b) of chapter XIIA is filed and a preliminary hearing is held or the return of custody is ordered, the court shall remove the child from the home of the prospective adoptive parent and make a temporary disposition appropriate for the welfare of the child as authorized by section 18 of chapter XIIA.

(4) Subject to subsection (2), the court may appoint a guardian under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, in response to a petition filed by the prospective adoptive parent or another individual interested in the child's welfare, and make a temporary disposition appropriate for the child's welfare as authorized by section 18 of chapter XIIA until an order of guardianship is entered.

(5) The court may order the return of a child to a child placing agency that has obtained legal custody of the child.

(6) The court may appoint a guardian ad litem for the child or for a minor parent of the child.

(7) This act provides the exclusive remedy for all custody disputes arising out of a temporary placement.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1994, Act 373, Eff. Jan. 1, 1995;—Am. 2000, Act 55, Eff. Apr. 1, 2000.

Popular name: Probate Code

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.62 Effect of denying order of adoption.

Sec. 62. If the court denies an order of adoption, the court may return the child to the parents or original custodian and restore their rights, or make a disposition appropriate for the welfare of the ward as is authorized by section 18 of chapter 12a by an ex parte order entered in the court.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975.

Popular name: Probate Code

Court Findings

Revoke Consent sec. 44(11)

- Timely (A)
- Voluntary (B)
- Best interest (C)
 - Return custody
 - Continue adoption
 - Child's welfare
- But also (12)
 - Fitness
 - Ability to care for
 - If yes, best interest factors:
 - Child's age and length of physical custody
 - Capacity to love
 - Capacity to provide necessities
 - Permanence of family unit
 - Moral fitness
 - Mental/physical health
 - Home, school, community
 - Child's reasonable preference
 - Ability to adopt siblings
 - Other factors

Revoke Release sec. 29(14)

- Timely request (A)
- Voluntary (B)
- Best interest (C)
 - Return custody
 - Continue adoption
 - Child's welfare

<p align="center">STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center">STATEMENT TO ACCOMPANY CONSENT IN DIRECT PLACEMENT</p>	<p align="center">FILE NO.</p>
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In the matter of adoptee _____ Full name of child DOB: _____

1. I am the parent or guardian of the adoptee and I intend to consent to a direct placement of the adoptee.
2. I have received a list of adoption support groups.
3. I am being assisted by a child-placing agency. I have received a copy of the written document described in MCL 722.956(1)(c).
4. I have received counseling related to this adoption.
 I waive counseling related to this adoption.
5. I have not received or been promised any money or anything of value for the consent to the adoption, except for lawful payments as itemized on the schedule filed with the consent.
6. The validity and finality of my consent is not affected by any collateral or separate agreement between myself and the adoptive parent.
7. I understand that the welfare of the adoptee is served if the parent keeps the child-placing agency or Michigan Department of Human Services informed of any health problems that the parent develops that could affect the adoptee.
8. I understand that the welfare of the adoptee is served if I keep my address current with the child-placing agency or Michigan Department of Human Services in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years or older.

I declare that this statement has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Date

Signature of parent or guardian

Name of parent or guardian (print)

Address

City, state, zip Telephone no.

Do not write below this line - For court use only

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	STATEMENT TO ACCOMPANY RELEASE	FILE NO.
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In the matter of adoptee _____ DOB: _____
Full name of child

1. I am the parent or guardian of the adoptee and I intend to sign a release of the child for purposes of adoption.
2. I have received a list of adoption support groups.
3. I intend to release the child to a child-placing agency. I have received a copy of the written document described in MCL 722.956(1)(c).
4. I have received counseling related to this adoption.
 I waive counseling related to this adoption.
5. I have not received or been promised any money or anything of value for the release of the child, except for lawful payments as itemized on the schedule filed with the release.
6. The validity and finality of my release is not affected by any collateral or separate agreement between myself and the adoptive parent, nor between myself and the agency to whom the child is to be released.
7. I understand that the welfare of the adoptee is served if the parent keeps the child-placing agency or Michigan Department of Human Services informed of any health problems that the parent develops that could affect the adoptee.
8. I understand that the welfare of the adoptee is served if I keep my address current with the child-placing agency or Michigan Department of Human Services in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years or older.

I declare that this statement has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

 Date

 Signature of parent or guardian

 Name of parent or guardian (print)

 Address

 City, state, zip

 Telephone no.

Do not write below this line - For court use only

<p align="center">STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY</p>	<p align="center">ORDER TERMINATING PARENTAL RIGHTS AFTER RELEASE OR CONSENT</p>	<p align="center">FILE NO.</p>
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In the matter of _____ DOB: _____ , adoptee
Full name of child

1. Date of hearing: _____ Judge: _____
Bar no.

THE COURT FINDS:

2. A release of the child has been executed according to law by _____
Name(s)

3. The consent to the adoption is genuine and is given by the person(s) having legal authority to sign the consent and the best interests of the adoptee will be served by the adoption.

4. The adoptee is an Indian child as defined in MCR 3.002(5) and the court has considered the application of the Indian Child Welfare Act in this matter.

IT IS ORDERED:

5. The parental rights of _____ are terminated.
Name(s)

Date

Judge

Do not write below this line - For court use only

STATE OF MICHIGAN 6 th JUDICIAL CIRCUIT - FAMILY DIVISION OAKLAND COUNTY	ORDER PLACING CHILD AFTER CONSENT	FILE NO.
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In the matter of Baby Boy Doe _____ DOB: 10.31.2014 _____, adoptee
Full name of child

adoptee is an Indian child

1. Date of hearing: 11.4.2014 _____ Judge: Hon. Jane Smith _____ P28274 _____
Bar no.

THE COURT FINDS:

2. A petition for an order of adoption has been filed.
 The petitioner is married but the spouse did not join in the petition.
3. A report of investigation has been filed and reviewed by the court.
 Good cause has been shown that the spouse of the petitioner is excused from joining in or consenting to the petition.
4. The best interests of the adoptee will be served by the adoption.
5. The rights of both parents or the person in loco parentis have been terminated.
6. Other:

IT IS ORDERED:

7. The adoptee is made a ward of this court for purposes of adoption and placement in the home of the adoptive parents, Mary Ellen and Robert James Jones _____, is approved.
Name(s)
8. MORNING STAR ADOPTION CENTER _____ shall supervise the adoptee in the home and Court agent or employee, child-placing agency, or Michigan Department of Human Services shall make reports to the court regarding the adjustment of the adoptee in the home every 3 months.
9. The adoptive parent(s) may consent to all medical, surgical, dental, optical, psychological, educational, and related services provided to the adoptee.
10. Other : **Adoptive parents may request finalization 3 months after formal placement for an adoptee who is less than one year old at the time of filing.**

Date

Judge

NOTE: "Absent good cause to the contrary, the ...preadoptive placement of an Indian child must be in the following order of preference: (1) a member of the child's extended family; (2) a member of the Indian child's tribe; or (3) an Indian family."
MCL 712B.23

Do not write below this line - For court use only

HB-4648, As Passed House, March 27, 2014
HB-4648, As Passed Senate, March 27, 2014

**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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8

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.