

# HOUSE BILL No. 4589

April 18, 2013, Introduced by Rep. Heise and referred to the Committee on Families,  
Children, and Seniors.

A bill to amend 1939 PA 288, entitled  
"Probate code of 1939,"  
by amending section 41 of chapter X (MCL 710.41), as amended by  
1994 PA 222, and by adding section 42 to chapter X.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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CHAPTER X

Sec. 41. (1) Except as provided in section 23d of this  
chapter, a child shall not be placed in a home for the purpose of  
adoption until an order terminating parental rights has been  
entered ~~pursuant to~~ **UNDER** this chapter or chapter XIIIA and the  
court has formally approved placement under section 51 of this  
chapter. After an order terminating parental rights has been  
entered, the court shall enter any appropriate orders ~~pursuant to~~

1 ~~Such~~ **UNDER SECTIONS**  
2 **45, 46, AND 51 OF THIS CHAPTER,** orders **OF THE COURT** shall ~~not~~ be  
3 withheld ~~because~~ **UNTIL** the period specified for a rehearing or an  
4 appeal as of right has ~~not~~ expired, or ~~because of the pendency of~~  
5 ~~any~~ **IF** rehearing or appeal as of right **IS PENDING.**

6 (2) If an order terminating parental rights is entered  
7 ~~pursuant to~~ **UNDER** this chapter or chapter XIIIA, the child may be  
8 placed in a home for the purpose of adoption during the period  
9 specified for a rehearing or an appeal as of right and the period  
10 during which a rehearing or appeal as of right is pending. When a  
11 child placing agency, the court, or the department formally places  
12 a child or the court approves placement of a child ~~pursuant to~~  
13 **UNDER** this subsection, the child placing agency, court, or  
14 department shall inform the person or persons in whose home the  
15 child is placed that an adoption will not be ordered until 1 of the  
16 following occurs:

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

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

24 (c) There is a decision of the court of appeals affirming the  
25 order terminating parental rights, **THE TIME FOR REHEARING IN THE**  
26 **COURT OF APPEALS HAS EXPIRED, AND THE TIME FOR FILING AN**  
27 **APPLICATION FOR LEAVE TO APPEAL TO THE SUPREME COURT HAS EXPIRED.**

1           (3) This section shall ~~DOES~~ not be construed to prevent a  
2 child ~~residing~~ **WHO RESIDES** in a licensed foster home from being  
3 adopted by the foster parent or parents, **EXCEPT IF THE LICENSED**  
4 **FOSTER HOME OR FOSTER PARENT OR PARENTS HAVE BEEN DETERMINED TO BE**  
5 **UNSUITABLE TO CONTINUE AS A FOSTER HOME OR FOSTER PARENT OR PARENTS**  
6 **AS DETERMINED BY THE DEPARTMENT, A CHILD PLACING AGENCY, OR THE**  
7 **COURT.**

8           (4) This section does not apply if the petitioner for adoption  
9 is married to a parent having legal custody of the child.

10           **SEC. 42. (1) DURING THE COURSE OF AN INVESTIGATION BEING**  
11 **CONDUCTED BY THE DEPARTMENT, A CHILD PLACING AGENCY, OR THE COURT**  
12 **TO DETERMINE IF A FOSTER PARENT OR PARENTS ARE UNSUITABLE TO**  
13 **CONTINUE PROVIDING FOSTER CARE, THE DEPARTMENT OR A CHILD PLACING**  
14 **AGENCY SHALL NOT RECOMMEND THE FOSTER PARENT OR PARENTS BEING**  
15 **INVESTIGATED FOR ADOPTION AND NO ADOPTION PROCEEDING MAY BE**  
16 **COMMENCED UNTIL THE INVESTIGATION IS COMPLETE AND A DETERMINATION**  
17 **IS MADE BY THE COURT AFTER A HEARING THAT IT IS IN THE CHILD'S BEST**  
18 **INTEREST TO ALLOW THE ADOPTION TO PROCEED. IF AN ADOPTION**  
19 **PROCEEDING HAS ALREADY BEEN COMMENCED AND THE FOSTER PARENT OR**  
20 **PARENTS ARE PETITIONERS IN THE PROCEEDING, THE PROCEEDING SHALL BE**  
21 **SUSPENDED UNTIL THE INVESTIGATION IS COMPLETE AND COURT DETERMINES**  
22 **THAT IT IS IN THE CHILD'S BEST INTEREST TO ALLOW THE ADOPTION TO**  
23 **PROCEED.**

24           (2) IF THE DEPARTMENT, A CHILD PLACING AGENCY, OR THE COURT  
25 DETERMINES A FOSTER PARENT OR PARENTS TO BE UNSUITABLE TO CONTINUE  
26 TO PROVIDE CARE FOR A FOSTER CHILD PLACED IN THEIR CARE, THAT  
27 FOSTER PARENT OR PARENTS SHALL NOT BE CONSIDERED ELIGIBLE TO ADOPT

1 THAT FOSTER CHILD. APPLICATION OF THIS SECTION DOES NOT DEPEND ON  
2 THE FOSTER CHILD BEING REMOVED FROM THE FOSTER HOME OR FROM THE  
3 FOSTER PARENT'S OR PARENTS' CARE.