



## Michigan Supreme Court

State Court Administrative Office

**Child Welfare Services**

Michigan Hall of Justice

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Kelly Howard  
Director

### MEMORANDUM

DATE: January 29, 2015

TO: Chief Circuit Court Judges  
cc: Family Division Judges  
Family Division Administrators  
Circuit Court Administrators

FROM: Kelly Howard

RE: New Child Welfare Laws

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On January 10, 2015, the Governor signed into law five bills affecting child protection cases. A summary of the bills follows.

If you have any questions about these new laws, please contact me at (517)373-8671 or HowardK@courts.mi.gov, or Casey Anbender at (517)373-5234 or AnbenderC@courts.mi.gov.

**1. Adoption Venue:** 2014 Public Act 531 amends the Michigan Adoption Code<sup>1</sup> to allow an adoption petition to be filed in the county where the parental rights to a child were terminated or where there is a pending termination petition. Before this amendment, the law only allowed an adoption petition to be filed in the venue where termination of parental rights occurred if the petitioners resided out of state or there were more than one applicant for adoption (i.e., the “competing parties” situation). The new law allows any petitioner, not limited to those living out of state or involved in a competing party case, to file the adoption petition in the county where the parents’ parental rights were terminated or are pending termination.

The law now allows anyone to file an adoption petition in any of the following:

- a. The county in which the petitioner resides.
- b. The county in which the adoptee is found.

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<sup>1</sup> MCL 710.24.

- c. The county in which parental rights were terminated or are pending termination. If both parents' rights were terminated at different times and in different courts, the petition must be filed where parental rights were first terminated.
- d. If there has been a temporary placement of the child, the petition must be filed in the county which made the temporary placement.

**2. Young Adult Guardianship Extension:** 2014 Public Act 533 amends the Juvenile Code<sup>2</sup> to require a court that appointed a juvenile guardian for a youth age 16 or older to retain jurisdiction of the youth past their 18<sup>th</sup> birthday, until the Department of Human Services (DHS) determines eligibility for extended guardianship assistance.<sup>3</sup> The law requires DHS to complete the guardianship assistance eligibility determination within 120 days after the youth's 18th birthday. If DHS determines that the youth will receive extended guardianship assistance, the court must retain jurisdiction until the youth no longer receives guardianship assistance until age 21.

Correspondingly, 2014 Public Act 534 amends the Young Adult Voluntary Foster Care Act<sup>4</sup> to require the court to retain jurisdiction of a youth for whom DHS *is determining* extended guardianship assistance. Before this Act, the law required the court to retain jurisdiction only for youth *receiving* guardianship assistance.

These amendments were inadvertently missed when the Young Adult Voluntary Foster Care Act was enacted in 2012. The effect was that some courts closed juvenile guardianship cases before DHS had determined the youth's eligibility for continued assistance. Closing the case makes the youth ineligible for continued assistance, which is only available to open juvenile guardianship cases.

**3. Filing Fee Exemption:** 2014 Public Act 532 amends the Revised Judicature Act<sup>5</sup> to remove the court filing fee requirement on actions including child abuse/neglect, delinquency, and young adult voluntary foster care act.

**4. Private Agency Defined as "party":** 2014 Public Act 519 amends the Juvenile Code<sup>6</sup> to include a private agency under contract with DHS for the care and supervision of children in foster care in the definition of "party" to a child protective proceeding. The law now defines "party" as the petitioner, DHS, child, respondent, parent, guardian, or legal custodian, and any licensed child caring institution or child placing agency under contract with DHS to provide for a child's care and supervision. The law includes a sunset date of May 1, 2018.<sup>7</sup>

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<sup>2</sup> MCL 712A.1 and MCL 712A.2a.

<sup>3</sup> Pursuant to the Young Adult Voluntary Foster Care Act, youth may enter young adult voluntary foster care or receive extended guardianship assistance until age 21.

<sup>4</sup> MCL 400.669.

<sup>5</sup> MCL 600.2529

<sup>6</sup> MCL 712A.2.

<sup>7</sup> The bill was introduced within a package of bills designed to implement performance based funding in one county. Each of the bills in the package included a sunset date of May 1, 2018, to require legislative reconsideration of performance based funding after three years. This bill is not germane to performance based funding, but was raised during the performance based funding discussions, and therefore, the bill included the sunset date.

**5. Performance Based Funding in Kent County:** 2014 Public Act 520 amends the Social Welfare Act<sup>8</sup> to require DHS to pay 100% of the administrative rate to foster care case management service providers in Kent County for families of children that were (or are) court-ordered into foster care due to child abuse or neglect.

In addition, the law requires DHS, subject to appropriations, to implement a new prospective payment system for foster care case management in accordance with the FY 2015 DHS appropriations boilerplate pertaining to a performance based funding model for child welfare services.

The law also states that Kent County would only be required to contribute towards foster care services in an amount not greater than the county's average net contribution for child protection cases in the previous 5 fiscal years before October 1, 2015. The law includes a sunset date of May 1, 2018.

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<sup>8</sup> MCL 400.117a.