

**HOUSE BILL NO. 5485**

(As amended March 15, 2000)

A bill to amend 1939 PA 288, entitled  
"Probate code of 1939,"  
by amending section 23e of chapter X and sections 2, [13a,] and 18  
of chapter XIIA (MCL 710.23e, 712A.2, [712A.13a,] and 712A.18),  
section 23e of chapter X as amended by 1994 PA 373,  
sections 2 [and 13a] of chapter XIIA as amended by 1998 PA  
530, and section 18 of chapter XIIA as amended by 1999 PA 86.

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

1

CHAPTER X

2

Sec. 23e. (1) Not later than 14 days after the filing of a

3

petition by the prosecutor ~~pursuant to~~ AS REQUIRED BY section

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23d(4) of this chapter, by a prospective adoptive parent

5

~~pursuant to~~ AS PERMITTED IN section 23d(6) of this chapter, or

6

by a child placing agency ~~pursuant to~~ AS REQUIRED BY section

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23d(7) of this chapter, the court shall hold a hearing to

1 determine the custody of a child for whom a temporary placement  
2 has been made.

3 (2) Upon receiving a petition filed under section 23d(5) of  
4 this chapter, the court shall immediately issue an ex parte order  
5 directing the prospective adoptive parent to return the child to  
6 the parent or guardian with legal custody within 24 hours after  
7 receipt of the order, unless the court proceeds under subsection  
8 (3).

9 (3) The court may appoint an attorney to represent the child  
10 or refer the matter to the department. The attorney or the  
11 department may file a petition on THE CHILD'S behalf ~~of the~~  
12 ~~child~~ requesting the court to take jurisdiction under section  
13 2(b) of chapter XIIA. If that petition has not been filed within  
14 14 days after the court appoints an attorney or refers the matter  
15 to the department under this section, the court shall order the  
16 return of the child to the parent or guardian with legal  
17 custody. During the period before the petition for jurisdiction  
18 under section 2(b) of chapter XIIA is filed and a preliminary  
19 hearing is held or the return of custody is ordered, the court  
20 shall remove the child from the home of the prospective adoptive  
21 parent and make a temporary disposition appropriate for the wel-  
22 fare of the child as authorized by section 18 of chapter XIIA.

23 (4) Subject to subsection (2), the court may appoint a  
24 guardian under the ~~revised probate code, Act No. 642 of the~~  
25 ~~Public Acts of 1978, being sections 700.1 to 700.993 of the~~  
26 ~~Michigan Compiled Laws, pursuant~~ ESTATES AND PROTECTED  
27 INDIVIDUALS CODE, 1998 PA 386, MCL 700.1101 TO 700.8102, IN

1 RESPONSE to a petition filed by the prospective adoptive parent  
2 or another individual interested in the CHILD'S welfare, ~~of the~~  
3 ~~child,~~ and make a temporary disposition appropriate for the  
4 CHILD'S welfare ~~of the child~~ as authorized by section 18 of  
5 chapter XIIIA until an order of guardianship is entered.

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

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

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

12 CHAPTER XIIIA

13 Sec. 2. The court has the following authority and  
14 jurisdiction:

15 (a) Exclusive original jurisdiction superior to and regard-  
16 less of the jurisdiction of ~~any other~~ ANOTHER court in proceed-  
17 ings concerning a juvenile under 17 years of age who is found  
18 within the county if 1 or more of the following applies:

19 (1) Except as otherwise provided in this sub-subdivision,  
20 the juvenile has violated any municipal ordinance or law of the  
21 state or of the United States. If the court enters into an  
22 agreement under section 2e of this chapter, the court has juris-  
23 diction over a juvenile who committed a civil infraction as pro-  
24 vided in that section. The court has jurisdiction over a juve-  
25 nile 14 years of age or older who is charged with a specified  
26 juvenile violation only if the prosecuting attorney files a  
27 petition in the court instead of authorizing a complaint and

1 warrant. As used in this sub-subdivision, "specified juvenile  
2 violation" means ~~any~~ 1 OR MORE of the following:

3 (A) A violation of section 72, 83, 86, 89, 91, 316, 317,  
4 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA  
5 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316,  
6 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

7 (B) A violation of section 84 or 110a(2) of the Michigan  
8 penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile  
9 is armed with a dangerous weapon. As used in this paragraph,  
10 "dangerous weapon" means 1 or more of the following:

11 (i) A loaded or unloaded firearm, whether operable or  
12 inoperable.

13 (ii) A knife, stabbing instrument, brass knuckles, black-  
14 jack, club, or other object specifically designed or customarily  
15 carried or possessed for use as a weapon.

16 (iii) An object that is likely to cause death or bodily  
17 injury when used as a weapon and that is used as a weapon or car-  
18 ried or possessed for use as a weapon.

19 (iv) An object or device that is used or fashioned in a  
20 manner to lead a person to believe the object or device is an  
21 object or device described in subparagraphs (i) to (iii).

22 (C) A violation of section 186a of the Michigan penal code,  
23 1931 PA 328, MCL 750.186a, regarding escape or attempted escape  
24 from a juvenile facility, but only if the juvenile facility from  
25 which the individual escaped or attempted to escape was 1 of the  
26 following:

1 (i) A high-security or medium-security facility operated by  
2 the family independence agency or a county juvenile agency.

3 (ii) A high-security facility operated by a private agency  
4 under contract with the family independence agency or a county  
5 juvenile agency.

6 (D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of  
7 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

8 (E) An attempt to commit a violation described in paragraphs  
9 (A) to (D).

10 (F) Conspiracy to commit a violation described in paragraphs  
11 (A) to (D).

12 (G) Solicitation to commit a violation described in para-  
13 graphs (A) to (D).

14 (H) ~~Any~~ A lesser included offense of a violation described  
15 in paragraphs (A) to (G) if the individual is charged with a vio-  
16 lation described in paragraphs (A) to (G).

17 (I) ~~Any other~~ ANOTHER violation arising out of the same  
18 transaction as a violation described in paragraphs (A) to (G) if  
19 the individual is charged with a violation described in para-  
20 graphs (A) to (G).

21 (2) The juvenile has deserted his or her home without suffi-  
22 cient cause, and the court finds on the record that the juvenile  
23 has been placed or refused alternative placement or the juvenile  
24 and the juvenile's parent, guardian, or custodian have exhausted  
25 or refused family counseling.

26 (3) The juvenile is repeatedly disobedient to the reasonable  
27 and lawful commands of his or her parents, guardian, or

1 custodian, and the court finds on the record by clear and  
2 convincing evidence that court-accessed services are necessary.

3       (4) The juvenile willfully and repeatedly absents himself or  
4 herself from school or other learning program intended to meet  
5 the juvenile's educational needs, or repeatedly violates rules  
6 and regulations of the school or other learning program, and the  
7 court finds on the record that the juvenile, the juvenile's  
8 parent, guardian, or custodian, and school officials or learning  
9 program personnel have met on the juvenile's educational problems  
10 and educational counseling and alternative agency help have been  
11 sought. As used in this sub-subdivision only, "learning program"  
12 means an organized educational program that is appropriate, given  
13 the age, intelligence, ability, and ~~any~~ psychological limita-  
14 tions of a juvenile, in the subject areas of reading, spelling,  
15 mathematics, science, history, civics, writing, and English  
16 grammar.

17       (b) Jurisdiction in proceedings concerning ~~any~~ A juvenile  
18 under 18 years of age found within the county:

19       (1) Whose parent or other person legally responsible for the  
20 care and maintenance of the juvenile, when able to do so,  
21 neglects or refuses to provide proper or necessary support, edu-  
22 cation, medical, surgical, or other care necessary for his or her  
23 health or morals, who is subject to a substantial risk of harm to  
24 his or her mental well-being, who is abandoned by his or her par-  
25 ents, guardian, or other custodian, or who is without proper cus-  
26 tody or guardianship. As used in this sub-subdivision:

1 (A) "Education" means learning based on an organized  
2 educational program that is appropriate, given the age,  
3 intelligence, ability, and ~~any~~ psychological limitations of a  
4 juvenile, in the subject areas of reading, spelling, mathematics,  
5 science, history, civics, writing, and English grammar.

6 (B) "Without proper custody or guardianship" does not mean a  
7 parent has placed the juvenile with another person who is legally  
8 responsible for the care and maintenance of the juvenile and who  
9 is able to and does provide the juvenile with proper care and  
10 maintenance.

11 (2) Whose home or environment, by reason of neglect, cruel-  
12 ty, drunkenness, criminality, or depravity on the part of a  
13 parent, guardian, nonparent adult, or other custodian, is an  
14 unfit place for the juvenile to live in.

15 (3) Whose parent has substantially failed, without good  
16 cause, to comply with a limited guardianship placement plan  
17 described in section ~~424a of the revised probate code, 1978 PA~~  
18 ~~642, MCL 700.424a~~ 5205 OF THE ESTATES AND PROTECTED INDIVIDUALS  
19 CODE, 1998 PA 386, MCL 700.5205, regarding the juvenile.

20 (4) Whose parent has substantially failed, without good  
21 cause, to comply with a court-structured plan described in sec-  
22 tion ~~424b or 424c of the revised probate code, 1978 PA 642, MCL~~  
23 ~~700.424b and 700.424c~~ 5207 OR 5209 OF THE ESTATES AND PROTECTED  
24 INDIVIDUALS CODE, 1998 PA 386, MCL 700.5207 AND 700.5209, regard-  
25 ing the juvenile.

26 (5) If the juvenile has a guardian under the ~~revised~~  
27 ~~probate code, 1978 PA 642, MCL 700.1 to 700.993~~ ESTATES AND

1 PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.1101 TO  
2 700.8102, and the juvenile's parent meets both of the following  
3 criteria:

4 (A) The parent, having the ability to support or assist in  
5 supporting the juvenile, has failed or neglected, without good  
6 cause, to provide regular and substantial support for the juve-  
7 nile for 2 years or more before the filing of the petition or, if  
8 a support order has been entered, has failed to substantially  
9 comply with the order for 2 years or more before the filing of  
10 the petition.

11 (B) The parent, having the ability to visit, contact, or  
12 communicate with the juvenile, has regularly and substantially  
13 failed or neglected, without good cause, to do so for 2 years or  
14 more before the filing of the petition.

15 If a petition is filed in the court alleging that a juvenile  
16 is within the provisions of subdivision (b)(1), (2), (3), (4), or  
17 (5) and the custody of that juvenile is subject to the prior or  
18 continuing order of another court of record of this state, the  
19 manner of notice to the other court of record and the authority  
20 of the court to proceed is governed by rule of the supreme  
21 court.

22 (c) Jurisdiction over juveniles under 18 years of age,  
23 jurisdiction of whom has been waived to the family division of  
24 circuit court by a circuit court under a provision in a temporary  
25 order for custody of juveniles based upon a complaint for divorce  
26 or upon a motion ~~pursuant~~ RELATED to a complaint for divorce by  
27 the prosecuting attorney, in a divorce judgment dissolving a



1 marriage between the JUVENILE'S parents, ~~of the juveniles,~~ or  
2 by an amended judgment relative to the JUVENILE'S custody ~~of the~~  
3 ~~juvenile~~ in a divorce.

4 (d) If the court finds on the record that voluntary services  
5 have been exhausted or refused, concurrent jurisdiction in pro-  
6 ceedings concerning ~~any~~ A juvenile between the ages of 17 and  
7 18 found within the county who is ~~any~~ 1 OR MORE of the  
8 following:

9 (1) Repeatedly addicted to the use of drugs or the intemper-  
10 ate use of alcoholic liquors.

11 (2) Repeatedly associating with criminal, dissolute, or dis-  
12 orderly persons.

13 (3) Found of his or her own free will and knowledge in a  
14 house of prostitution, assignation, or ill-fame.

15 (4) Repeatedly associating with thieves, prostitutes, pimps,  
16 or procurers.

17 (5) Willfully disobedient to the reasonable and lawful com-  
18 mands of his or her parents, guardian, or other custodian and in  
19 danger of becoming morally depraved.

20 If ~~any~~ A juvenile is brought before the court in a county  
21 other than that in which the juvenile resides, before a hearing  
22 and with the consent of the judge of the court in the county of  
23 residence, the court may enter an order transferring jurisdiction  
24 of the matter to the court of the county of residence. Consent  
25 to transfer jurisdiction is not required if the county of resi-  
26 dence is a county juvenile agency and satisfactory proof of  
27 residence is furnished to the court of the county of residence.

1 The order ~~is~~ DOES not CONSTITUTE a legal settlement ~~as~~  
2 ~~defined~~ in THIS STATE THAT IS REQUIRED FOR THE PURPOSE OF sec-  
3 tion 55 of the social welfare act, 1939 PA 280, MCL 400.55. The  
4 order and a certified copy of the proceedings in the transferring  
5 court shall be delivered to the court of the county of  
6 residence. A case designated as a case in which the juvenile  
7 shall be tried in the same manner as an adult under section 2d of  
8 this chapter may be transferred for venue or for juvenile dispo-  
9 sition, but shall not be transferred on grounds of residency. If  
10 the case is not transferred, ~~the case shall be tried by~~ the  
11 court having jurisdiction of the offense SHALL TRY THE CASE.

12 (e) Authority to establish or assist in developing a program  
13 or programs within the county to prevent delinquency and provide  
14 services to act upon reports submitted to the court related to  
15 the behavior of ~~juveniles who do~~ A JUVENILE WHO DOES not  
16 require formal court jurisdiction but otherwise ~~fall~~ FALLS  
17 within subdivision (a). These services shall be used only if  
18 ~~they are voluntarily accepted by~~ the juvenile and his or her  
19 parents, guardian, or custodian VOLUNTARILY ACCEPTS THEM.

20 (f) If the court operates a detention home for juveniles  
21 within the court's jurisdiction under subdivision (a)(1), author-  
22 ity to place a juvenile within that home pending trial if the  
23 juvenile is within the circuit court's jurisdiction under section  
24 606 of the revised judicature act of 1961, 1961 PA 236, MCL  
25 600.606, and if the circuit court orders the family division of  
26 circuit court in the same county to place the juvenile in that

1 home. The family division of circuit court shall comply with  
2 that order.

3 (g) Authority to place a juvenile in a county jail under  
4 section 27a of chapter IV of the code of criminal procedure, 1927  
5 PA 175, MCL 764.27a, if the court designates the case under sec-  
6 tion 2d of this chapter as a case in which the juvenile is to be  
7 tried in the same manner as an adult and the court determines  
8 there is probable cause to believe that the offense was committed  
9 and probable cause to believe the juvenile committed that  
10 offense.

11 (h) Jurisdiction over a proceeding under section 2950 or  
12 2950a of the revised judicature act of 1961, 1961 PA 236,  
13 MCL 600.2950 and 600.2950a, in which a minor less than 18 years  
14 of age is the respondent. Venue for an initial action under sec-  
15 tion 2950 or 2950a of the revised judicature act of 1961, 1961  
16 PA 236, MCL 600.2950 and 600.2950a, is proper in the county of  
17 residence of either the petitioner or respondent. If the respon-  
18 dent does not live in this state, venue for the initial action is  
19 proper in the petitioner's county of residence.

[Sec. 13a. (1) As used in this section and sections 2, 6b,  
13b, 17c, 17d, 18f, 19, 19a, 19b, and 19c of this chapter:

(a) "Agency" means a public or private organization,  
institution, or facility responsible under court order or  
contractual arrangement for a juvenile's care and supervision.

(b) "Attorney" means, if appointed to represent a child in a  
proceeding under section 2(b) or (c) of this chapter, an attorney  
serving as the child's legal advocate in a traditional attorney-  
client relationship with the child, as governed by the Michigan  
rules of professional conduct. An attorney defined under this  
subdivision owes the same duties of undivided loyalty,  
confidentiality, and zealous representation of the child's expressed  
wishes as the attorney would to an adult client. For the purpose of  
a notice required under these sections, attorney includes a child's  
lawyer-guardian ad litem.

(c) "Case service plan" means the plan developed by an agency  
and prepared pursuant to section 18f of this chapter that includes  
services to be provided by and responsibilities and obligations of  
the agency and activities, responsibilities, and obligations of the  
parent. The case service plan may be referred to using different  
names than case service plan including, but not limited to, a  
parent/agency agreement or a parent/agency treatment plan and  
service agreement.

(d) "Foster care" means care provided to a juvenile in a foster  
family home, foster family group home, or ~~juvenile~~ CHILD caring

institution licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, or care provided to a juvenile in a relative's home under a court order.

(e) "Guardian ad litem" means an individual whom the court appoints to assist the court in determining the child's best interests. A guardian ad litem does not need to be an attorney.

(f) "Lawyer-guardian ad litem" means an attorney appointed under section 17c of this chapter. A lawyer-guardian ad litem represents the child, and has the powers and duties, as set forth in section 17d of this chapter. The provisions of section 17d of this chapter also apply to a lawyer-guardian ad litem appointed under each of the following:

(i) Section ~~427 or 437~~ of the revised probate code, 1978 PA ~~642, MCL 700.427 and 700.437~~ 5213 OR 5219 OF THE ESTATE AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5213 AND 700.5219.

(ii) Section 4 of the child custody act of 1970, 1970 PA 91, MCL 722.24.

(iii) Section 10 of the child protection law, 1975 PA 238, MCL 722.630.

(g) "Nonparent adult" means a person who is 18 years of age or older and who, regardless of the person's domicile, meets all of the following criteria in relation to a child over whom the court takes jurisdiction under this chapter:

(i) Has substantial and regular contact with the child.

(ii) Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.

(iii) Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.

(h) "Permanent foster family agreement" means an agreement for a child 14 years old or older to remain with a particular foster family until the child is 18 years old under standards and requirements established by the family independence agency, which agreement is among all of the following:

(i) The child.

(ii) If the child is a temporary ward, the child's family.

(iii) The foster family.

(iv) The child placing agency responsible for the child's care in foster care.

(2) If a juvenile is alleged to be within the provisions of section 2(b) of this chapter, the court may authorize a petition to be filed at the conclusion of the preliminary hearing or inquiry. The court may authorize the petition upon a showing of probable cause that 1 or more of the allegations in the petition are true and fall within the provisions of section 2(b) of this chapter. If a petition is before the court because the family independence agency is required to submit the petition under section 17 of the child protection law, 1975 PA 238, MCL 722.637, the court shall hold a hearing on the petition within 24 hours or on the next business day after the petition is submitted, at which hearing the court shall consider at least the matters governed by subsections (4) and (5).

(3) Except as provided in subsection (5), if a petition under subsection (2) is authorized, the court may release the juvenile in the custody of either of the juvenile's parents or the juvenile's guardian or custodian under reasonable terms and conditions necessary for either the juvenile's physical health or mental well-being.

(4) The court may order a parent, guardian, custodian, nonparent adult, or other person residing in a child's home to leave the home and, except as the court orders, not to subsequently return to the home if all of the following take place:

(a) A petition alleging abuse of the child by the parent, guardian, custodian, nonparent adult, or other person is authorized under subsection (2).

(b) The court after a hearing finds probable cause to believe the parent, guardian, custodian, nonparent adult, or other person committed the abuse.

(c) The court finds on the record that the presence in the home of the person alleged to have committed the abuse presents a substantial risk of harm to the child's life, physical health, or mental well-being.

(5) If a petition alleges abuse by a person described in subsection (4), regardless of whether the court orders the alleged abuser to leave the child's home under subsection (4), the court shall not leave the child in or return the child to the child's home or place the child with a person not licensed under 1973 PA 116, MCL 722.111 to 722.128, unless the court finds that the conditions of custody at the placement and with the individual with whom the child is placed are adequate to safeguard the child from the risk of harm to the child's life, physical health, or mental well-being.

(6) In determining whether to enter an order under subsection (4), the court may consider whether the parent who is to remain in the juvenile's home is married to the person to be removed or has a legal right to retain possession of the home.

(7) An order entered under subsection (4) may also contain 1 or more of the following terms or conditions:

(a) The court may require the alleged abusive parent to pay appropriate support to maintain a suitable home environment for the juvenile during the duration of the order.

(b) The court may order the alleged abusive person, according to terms the court may set, to surrender to a local law enforcement agency any firearms or other potentially dangerous weapons the alleged abusive person owns, possesses, or uses.

(c) The court may include any reasonable term or condition necessary for the juvenile's physical or mental well-being or necessary to protect the juvenile.

(8) If the court orders placement of the juvenile outside the juvenile's home, the court shall inform the parties of the following:

(a) That the agency has the responsibility to prepare an initial services plan within 30 days of the juvenile's placement.

(b) The general elements of an initial services plan as required by the rules promulgated under 1973 PA 116, MCL 722.111 to 722.128.

(c) That participation in the initial services plan is voluntary without a court order.

(9) Before or within 7 days after a child is placed in a relative's home, the family independence agency shall perform a criminal record check and central registry clearance. If the child is placed in the home of a relative, the court shall order a home study to be performed and a copy of the home study to be submitted to the court not more than 30 days after the placement.

(10) In determining placement of a juvenile pending trial, the court shall order the juvenile placed in the most family-like setting available consistent with the juvenile's needs.

(11) If a juvenile is removed from his or her home, the court shall permit the juvenile's parent to have frequent parenting time with the juvenile. However, if parenting time, even if supervised, may be harmful to the juvenile, the court shall order the child to have a psychological evaluation or counseling, or both, to determine the appropriateness and the conditions of parenting time. The court

may suspend parenting time while the psychological evaluation or counseling is conducted.

(12) Upon the motion of any party, the court shall review custody and placement orders and initial services plans pending trial and may modify those orders and plans as the court considers under this section are in the juvenile's best interests.

(13) The court shall include in an order placing a child in foster care an order directing the release of information concerning the child in accordance with this subsection. If a child is placed in foster care, within 10 days after receipt of a written request, the agency shall provide the person who is providing the foster care with copies of all initial, updated, and revised case service plans and court orders relating to the child and all of the child's medical, mental health, and education reports, including reports compiled before the child was placed with that person.

(14) In an order placing a child in foster care, the court shall include both of the following:

(a) An order that the child's parent, guardian, or custodian provide the supervising agency with the name and address of each of the child's medical providers.

(b) An order that each of the child's medical providers release the child's medical records. The order may specify providers by profession or type of institution.

(15) As used in this section, "abuse" means 1 or more of the following:

(a) Harm or threatened harm by a person to a juvenile's health or welfare that occurs through nonaccidental physical or mental injury.

(b) Engaging in sexual contact or sexual penetration as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, with a juvenile.

(c) Sexual exploitation of a juvenile, which includes, but is not limited to, allowing, permitting, or encouraging a juvenile to engage in prostitution or allowing, permitting, encouraging, or engaging in photographing, filming, or depicting a juvenile engaged in a listed sexual act as defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(d) Maltreatment of a juvenile.]

20           Sec. 18. (1) If the court finds that a juvenile concerning  
21 whom a petition is filed is not within this chapter, the court  
22 shall enter an order dismissing the petition. Except as other-  
23 wise provided in subsection (10), if the court finds that a juve-  
24 nile is within this chapter, the court may enter any of the fol-  
25 lowing orders of disposition that are appropriate for the welfare  
26 of the juvenile and society in view of the facts proven and  
27 ascertained:

1 (a) Warn the juvenile or the juvenile's parents, guardian,  
2 or custodian and, except as provided in subsection (7), dismiss  
3 the petition.

4 (b) Place the juvenile on probation, or under supervision in  
5 the juvenile's own home or in the home of an adult who is related  
6 to the juvenile. As used in this subdivision, "related" means  
7 being a parent, grandparent, brother, sister, stepparent, step-  
8 sister, stepbrother, uncle, or aunt by marriage, blood, or  
9 adoption. The court shall order the terms and conditions of pro-  
10 bation or supervision, including reasonable rules for the conduct  
11 of the parents, guardian, or custodian, if any, as the court  
12 determines necessary for the physical, mental, or moral  
13 well-being and behavior of the juvenile.

14 (c) If a juvenile is within the court's jurisdiction under  
15 section 2(a) of this chapter, or under section 2(h) of this chap-  
16 ter for a supplemental petition, place the juvenile in a suitable  
17 foster care home subject to the court's supervision. If a juve-  
18 nile is within the court's jurisdiction under section 2(b) of  
19 this chapter, the court shall not place a juvenile in a foster  
20 care home subject to the court's supervision.

21 (d) Except as otherwise provided in this subdivision, place  
22 the juvenile in or commit the juvenile to a private institution  
23 or agency approved or licensed by the department of consumer and  
24 industry services for the care of juveniles of similar age, sex,  
25 and characteristics. If the juvenile is not a ward of the court,  
26 the court shall commit the juvenile to the family independence  
27 agency or, if the county is a county juvenile agency, to that

1 county juvenile agency for placement in or commitment to such an  
2 institution or agency as the family independence agency or county  
3 juvenile agency determines is most appropriate, subject to any  
4 initial level of placement the court designates.

5 (e) Except as otherwise provided in this subdivision, commit  
6 the juvenile to a public institution, county facility, institu-  
7 tion operated as an agency of the court or county, or agency  
8 authorized by law to receive juveniles of similar age, sex, and  
9 characteristics. If the juvenile is not a ward of the court, the  
10 court shall commit the juvenile to the family independence agency  
11 or, if the county is a county juvenile agency, to that county  
12 juvenile agency for placement in or commitment to such an insti-  
13 tution or facility as the family independence agency or county  
14 juvenile agency determines is most appropriate, subject to any  
15 initial level of placement the court designates. If a child is  
16 not less than 17 years of age and is in violation of a personal  
17 protection order, the court may commit the child to a county jail  
18 within the adult prisoner population. In a placement under sub-  
19 division (d) or a commitment under this subdivision, except to a  
20 state institution or a county juvenile agency institution, the  
21 juvenile's religious affiliation shall be protected by placement  
22 or commitment to a private child-placing or child-caring agency  
23 or institution, if available. Except for commitment to the  
24 family independence agency or a county juvenile agency, an order  
25 of commitment under this subdivision to a state institution or  
26 agency described in the youth rehabilitation services act, 1974  
27 PA 150, MCL 803.301 to 803.309, or in 1935 PA 220, MCL 400.201 to



1 400.214, the court shall name the superintendent of the  
2 institution to which the juvenile is committed as a special  
3 guardian to receive benefits due the juvenile from the government  
4 of the United States. An order of commitment under this subdivi-  
5 sion to the family independence agency or a county juvenile  
6 agency shall name that agency as a special guardian to receive  
7 those benefits. The benefits received by the special guardian  
8 shall be used to the extent necessary to pay for the portions of  
9 the cost of care in the institution or facility that the parent  
10 or parents are found unable to pay.

11 (f) Provide the juvenile with medical, dental, surgical, or  
12 other health care, in a local hospital if available, or else-  
13 where, maintaining as much as possible a local physician-patient  
14 relationship, and with clothing and other incidental items the  
15 court determines are necessary.

16 (g) Order the parents, guardian, custodian, or any other  
17 person to refrain from continuing conduct that the court deter-  
18 mines has caused or tended to cause the juvenile to come within  
19 or to remain under this chapter or that obstructs placement or  
20 commitment of the juvenile ~~pursuant to~~ BY an order under this  
21 section.

22 (h) Appoint a guardian under ~~section 424 of the revised~~  
23 ~~probate code, 1978 PA 642, MCL 700.424, or~~ section 5204 of the  
24 estates and protected individuals code, 1998 PA 386, MCL  
25 700.5204, ~~pursuant~~ IN RESPONSE to a petition filed with the  
26 court by a person interested in the juvenile's welfare. If the

1 court appoints a guardian ~~pursuant to~~ AS AUTHORIZED BY this  
2 subdivision, it may dismiss the petition under this chapter.

3 (i) Order the juvenile to engage in community service.

4 (j) If the court finds that a juvenile has violated a munic-  
5 ipal ordinance or a state or federal law, order the juvenile to  
6 pay a civil fine in the amount of the civil or penal fine pro-  
7 vided by the ordinance or law. Money collected from fines levied  
8 under this subsection shall be distributed as provided in section  
9 29 of this chapter.

10 (k) Order the juvenile to pay court costs. Money collected  
11 from costs ordered under this subsection shall be distributed as  
12 provided in section 29 of this chapter.

13 (l) If a juvenile is within the court's jurisdiction under  
14 section 2(a)(1) of this chapter, order the juvenile's parent or  
15 guardian to personally participate in treatment reasonably avail-  
16 able in the parent's or guardian's location.

17 (m) If a juvenile is within the court's jurisdiction under  
18 section 2(a)(1) of this chapter, place the juvenile in and order  
19 the juvenile to complete satisfactorily a program of training in  
20 a juvenile boot camp established by the family independence  
21 agency under the juvenile boot camp act, 1996 PA 263,  
22 MCL 400.1301 to 400.1309, as provided in that act. If the county  
23 is a county juvenile agency, however, the court shall commit the  
24 juvenile to that county juvenile agency for placement in the pro-  
25 gram under that act. Upon receiving a report of satisfactory  
26 completion of the program from the family independence agency,  
27 the court shall authorize the juvenile's release from placement

1 in the juvenile boot camp. Following satisfactory completion of  
2 the juvenile boot camp program, the juvenile shall complete an  
3 additional period of not less than 120 days or more than 180 days  
4 of intensive supervised community reintegration in the juvenile's  
5 local community. To place or commit a juvenile under this subdi-  
6 vision, the court shall determine all of the following:

7 (i) Placement in a juvenile boot camp will benefit the  
8 juvenile.

9 (ii) The juvenile is physically able to participate in the  
10 program.

11 (iii) The juvenile does not appear to have any mental handi-  
12 cap that would prevent participation in the program.

13 (iv) The juvenile will not be a danger to other juveniles in  
14 the boot camp.

15 (v) There is an opening in a juvenile boot camp program.

16 (vi) If the court must commit the juvenile to a county juve-  
17 nile agency, the county juvenile agency is able to place the  
18 juvenile in a juvenile boot camp program.

19 (n) If the court entered a judgment of conviction under sec-  
20 tion 2d of this chapter, enter any disposition under this section  
21 or, if the court determines that the best interests of the public  
22 would be served, impose any sentence upon the juvenile that could  
23 be imposed upon an adult convicted of the offense for which the  
24 juvenile was convicted. If the juvenile is convicted of a viola-  
25 tion or conspiracy to commit a violation of section 7403(2)(a)(i)  
26 of the public health code, 1978 PA 368, MCL 333.7403, the court  
27 may impose the alternative sentence permitted under that section

1 if the court determines that the best interests of the public  
2 would be served. The court may delay imposing a sentence of  
3 imprisonment under this subdivision for a period not longer than  
4 the period during which the court has jurisdiction over the juve-  
5 nile under this chapter by entering an order of disposition  
6 delaying imposition of sentence and placing the juvenile on pro-  
7 bation upon the terms and conditions it considers appropriate,  
8 including any disposition under this section. If the court  
9 delays imposing sentence under this section, section 18i of this  
10 chapter applies. If the court imposes sentence, it shall enter a  
11 judgment of sentence. If the court imposes a sentence of impris-  
12 onment, the juvenile shall receive credit against the sentence  
13 for time served before sentencing. In determining whether to  
14 enter an order of disposition or impose a sentence under this  
15 subdivision, the court shall consider all of the following fac-  
16 tors, giving greater weight to the seriousness of the offense and  
17 the juvenile's prior record:

18       (i) The seriousness of the offense in terms of community  
19 protection, including, but not limited to, the existence of any  
20 aggravating factors recognized by the sentencing guidelines, the  
21 use of a firearm or other dangerous weapon, and the impact on any  
22 victim.

23       (ii) The juvenile's culpability in committing the offense,  
24 including, but not limited to, the level of the juvenile's par-  
25 ticipation in planning and carrying out the offense and the exis-  
26 tence of any aggravating or mitigating factors recognized by the  
27 sentencing guidelines.

1           (iii) The juvenile's prior record of delinquency including,  
2 but not limited to, any record of detention, any police record,  
3 any school record, or any other evidence indicating prior delin-  
4 quent behavior.

5           (iv) The juvenile's programming history, including, but not  
6 limited to, the juvenile's past willingness to participate mean-  
7 ingfully in available programming.

8           (v) The adequacy of the punishment or programming available  
9 in the juvenile justice system.

10          (vi) The dispositional options available for the juvenile.

11          (2) An order of disposition placing a juvenile in or commit-  
12 ting a juvenile to care outside of the juvenile's own home and  
13 under state, county juvenile agency, or court supervision shall  
14 contain a provision for reimbursement by the juvenile, parent,  
15 guardian, or custodian to the court for the cost of care or  
16 service. The order shall be reasonable, taking into account both  
17 the income and resources of the juvenile, parent, guardian, or  
18 custodian. The amount may be based upon the guidelines and model  
19 schedule created under subsection (6). If the juvenile is  
20 receiving an adoption support subsidy under ~~section 115j(4)~~  
21 SECTIONS 115F TO 115I of the social welfare act, 1939 PA 280, MCL  
22 ~~400.115j~~ 400.115F TO 400.115I, the amount shall not exceed the  
23 amount of the support subsidy. The reimbursement provision  
24 applies during the entire period the juvenile remains in care  
25 outside of the juvenile's own home and under state, county juve-  
26 nile agency, or court supervision, unless the juvenile is in the  
27 permanent custody of the court. The court shall provide for the

1 collection of all amounts ordered to be reimbursed and the money  
2 collected shall be accounted for and reported to the county board  
3 of commissioners. Collections to cover delinquent accounts or to  
4 pay the balance due on reimbursement orders may be made after a  
5 juvenile is released or discharged from care outside the  
6 juvenile's own home and under state, county juvenile agency, or  
7 court supervision. Twenty-five percent of all amounts collected  
8 ~~pursuant to~~ UNDER an order entered under this subsection shall  
9 be credited to the appropriate fund of the county to offset the  
10 administrative cost of collections. The balance of all amounts  
11 collected under an order entered under this subsection shall be  
12 divided in the same ratio in which the county, state, and federal  
13 government participate in the cost of care outside the juvenile's  
14 own home and under state, county juvenile agency, or court  
15 supervision. The court may also collect FROM THE GOVERNMENT OF  
16 THE UNITED STATES benefits paid for the cost of care of a court  
17 ward. ~~from the government of the United States.~~ Money collected  
18 for juveniles placed by the court with or committed to the family  
19 independence agency or a county juvenile agency shall be  
20 accounted for and reported on an individual juvenile basis. In  
21 cases of delinquent accounts, the court may also enter an order  
22 to intercept state or federal tax refunds of a juvenile, parent,  
23 guardian, or custodian and initiate the necessary offset proceed-  
24 ings in order to recover the cost of care or service. The court  
25 shall send to the person who is the subject of the intercept  
26 order advance written notice of the proposed offset. The notice  
27 shall include notice of the opportunity to contest the offset on

1 the grounds that the intercept is not proper because of a mistake  
2 of fact concerning the amount of the delinquency or the identity  
3 of the person subject to the order. The court shall provide for  
4 the prompt reimbursement of an amount withheld in error or an  
5 amount found to exceed the delinquent amount.

6 (3) An order of disposition placing a juvenile in the  
7 juvenile's own home under subsection (1)(b) may contain a provi-  
8 sion for reimbursement by the juvenile, parent, guardian, or cus-  
9 todian to the court for the cost of service. If an order is  
10 entered under this subsection, an amount due shall be determined  
11 and treated in the same manner provided for an order entered  
12 under subsection (2).

13 (4) An order directed to a parent or a person other than the  
14 juvenile is not effective and binding on the parent or other  
15 person unless opportunity for hearing is given by issuance of  
16 summons or notice as provided in sections 12 and 13 of this chap-  
17 ter and until a copy of the order, bearing the seal of the court,  
18 is served on the parent or other person as provided in section 13  
19 of this chapter.

20 (5) If the court appoints an attorney to represent a juve-  
21 nile, parent, guardian, or custodian, the court may require in an  
22 order entered under this section that the juvenile, parent,  
23 guardian, or custodian reimburse the court for attorney fees.

24 (6) The office of the state court administrator, under the  
25 supervision and direction of the supreme court and in consulta-  
26 tion with the family independence agency and the Michigan probate  
27 judges association, shall create guidelines and a model schedule

1 the court may use in determining the ability of the juvenile,  
2 parent, guardian, or custodian to pay for care and any costs of  
3 service ordered under subsection (2) or (3). The guidelines and  
4 model schedule shall take into account both the income and  
5 resources of the juvenile, parent, guardian, or custodian.

6 (7) If the court finds that a juvenile comes under section  
7 30 of this chapter, the court shall order the juvenile or the  
8 juvenile's parent to pay restitution as provided in sections 30  
9 and 31 of this chapter and in sections 44 and 45 of the crime  
10 victim's rights act, 1985 PA 87, MCL 780.794 and 780.795.

11 (8) If the court imposes restitution as a condition of pro-  
12 bation, the court shall require the juvenile to do either of the  
13 following as an additional condition of probation:

14 (a) Engage in community service or, with the victim's con-  
15 sent, perform services for the victim.

16 (b) Seek and maintain paid employment and pay restitution to  
17 the victim from the earnings of that employment.

18 (9) If the court finds that the juvenile is in intentional  
19 default of the payment of restitution, a court may, as provided  
20 in section 31 of this chapter, revoke or alter the terms and con-  
21 ditions of probation for nonpayment of restitution. If a juve-  
22 nile who is ordered to engage in community service intentionally  
23 refuses to perform the required community service, the court may  
24 revoke or alter the terms and conditions of probation.

25 (10) The court shall not enter an order of disposition for a  
26 juvenile offense as defined in section ~~1A~~ 1A of 1925 PA 289,  
27 MCL ~~28.241A~~ 28.241A, or a judgment of sentence for a conviction



1 until the court has examined the court file and has determined  
2 that the juvenile's fingerprints have been taken and forwarded as  
3 required by section 3 of 1925 PA 289, MCL 28.243, and as required  
4 by the sex offenders registration act, 1994 PA 295, MCL 28.721 to  
5 28.732. If a juvenile has not had his or her fingerprints taken,  
6 the court shall do either of the following:

7 (a) Order the juvenile to submit himself or herself to the  
8 police agency that arrested or obtained the warrant for the  
9 juvenile's arrest so the juvenile's fingerprints can be taken and  
10 forwarded.

11 (b) Order the juvenile committed to the sheriff's custody  
12 for taking and forwarding the juvenile's fingerprints.

13 (11) Upon final disposition, conviction, acquittal, or dis-  
14 missal of an offense within the court's jurisdiction under sec-  
15 tion 2(a)(1) of this chapter, USING FORMS APPROVED BY THE STATE  
16 COURT ADMINISTRATOR, the clerk of the court entering the final  
17 disposition, conviction, acquittal, or dismissal shall immedi-  
18 ately advise the department of state police of that final dispo-  
19 sition, conviction, acquittal, or dismissal ~~on forms approved by~~  
20 ~~the state court administrator,~~ as required by section 3 of 1925  
21 PA 289, MCL 28.243. The report to the department of state police  
22 shall include information as to the finding of the judge or jury  
23 and a summary of the disposition or sentence imposed.

24 (12) If the court enters an order of disposition based on an  
25 act that is a juvenile offense as defined in section 1 of 1989  
26 PA 196, MCL 780.901, the court shall order the juvenile to pay  
27 the assessment as provided in that act. If the court enters a

1 judgment of conviction under section 2d of this chapter for an  
2 offense that is a felony, serious misdemeanor, or specified mis-  
3 demeanor as defined in section 1 of 1989 PA 196, MCL 780.901, the  
4 court shall order the juvenile to pay the assessment as provided  
5 in that act.

6 (13) If the court has entered an order of disposition or a  
7 judgment of conviction for a listed offense as defined in section  
8 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722,  
9 the court, the family independence agency, or the county juvenile  
10 agency shall register the juvenile or accept the juvenile's reg-  
11 istration as provided in the sex offenders registration act, 1994  
12 PA 295, MCL 28.721 to 28.732.

13 (14) If the court enters an order of disposition placing a  
14 juvenile in a juvenile boot camp program, or committing a juve-  
15 nile to a county juvenile agency for placement in a juvenile boot  
16 camp program, and the court receives from the family independence  
17 agency a report that the juvenile has failed to perform satisfac-  
18 torily in the program, that the juvenile does not meet the  
19 program's requirements or is medically unable to participate in  
20 the program for more than 25 days, that there is no opening in a  
21 juvenile boot camp program, or that the county juvenile agency is  
22 unable to place the juvenile in a juvenile boot camp program, the  
23 court shall release the juvenile from placement or commitment and  
24 enter an alternative order of disposition. A juvenile shall not  
25 be placed in a juvenile boot camp ~~pursuant to~~ UNDER an order of  
26 disposition more than once, except that a juvenile returned to  
27 the court for a medical condition, because there was no opening

1 in a juvenile boot camp program, or because the county juvenile  
2 agency was unable to place the juvenile in a juvenile boot camp  
3 program may be placed again in the juvenile boot camp program  
4 after the medical condition is corrected, an opening becomes  
5 available, or the county juvenile agency is able to place the  
6 juvenile.

7       (15) If the juvenile is within the court's jurisdiction  
8 under section 2(a)(i) of this chapter for an offense other than a  
9 listed offense as defined in section 2(d)(i) to (ix) and (xi) to  
10 (xiii) of the sex offenders registration act, 1994 PA 295, MCL  
11 28.722, the court shall determine if the offense is a violation  
12 of a law of this state or a local ordinance of a municipality of  
13 this state that by its nature constitutes a sexual offense  
14 against an individual who is less than 18 years of age. If so,  
15 the order of disposition is for a listed offense as defined in  
16 section 2(d)(x) of the sex offenders registration act, 1994 PA  
17 295, MCL 28.722, and the court shall include the basis for that  
18 determination on the record and include the determination in the  
19 order of disposition.

20       (16) The court shall not impose a sentence of imprisonment  
21 in the county jail under subsection (1)(n) unless the present  
22 county jail facility for the juvenile's imprisonment would meet  
23 all requirements under federal law and regulations for housing  
24 juveniles. The court shall not impose the sentence until it con-  
25 sults with the sheriff to determine when the sentence will begin  
26 to ensure that space will be available for the juvenile.

**HB 5485, As Passed Senate, March 23, 2000**

House Bill No. 5485 as amended March 14, 2000

25

1           (17) In a proceeding under section 2(h) of this chapter,  
2 this section ~~shall~~ only ~~apply~~ APPLIES to a disposition for a  
3 violation of a personal protection order and subsequent  
4 proceedings.

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**HB 5485, As Passed Senate, March 23, 2000**

House Bill No. 5485 as amended March 14, 2000

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Enacting section 1. This amendatory act takes effect April 1, 2000.