

SENATE BILL No. 903

December 1, 1999, Introduced by Senator PETERS and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 1, 2, 2d, 16, 18, 18k, and 28 of chapter XIIIA (MCL 712A.1, 712A.2, 712A.2d, 712A.16, 712A.18, 712A.18k, and 712A.28), sections 1, 2d, 16, 18, 18k, and 28 as amended by 1998 PA 478 and section 2 as amended by 1998 PA 530.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIIA

Sec. 1. (1) As used in this chapter:

(a) "Civil infraction" means that term as defined in section 113 of the revised judicature act of 1961, 1961 PA 236, MCL 600.113.

(b) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act.

1 (c) "Court" means the family division of circuit court.

2 (D) "MICHIGAN YOUTH AUTHORITY" MEANS THE MICHIGAN YOUTH
3 AUTHORITY CREATED IN SECTION 3 OF THE MICHIGAN YOUTH AUTHORITY
4 ACT.

5 (2) Except as otherwise provided, proceedings under this
6 chapter are not criminal proceedings.

7 (3) This chapter shall be liberally construed so that each
8 juvenile coming within the court's jurisdiction receives the
9 care, guidance, and control, preferably in his or her own home,
10 conducive to the juvenile's welfare and the best interest of the
11 state. If a juvenile is removed from the control of his or her
12 parents, the juvenile shall be placed in care as nearly as possi-
13 ble equivalent to the care that should have been given to the
14 juvenile by his or her parents.

15 Sec. 2. The court has the following authority and
16 jurisdiction:

17 (a) Exclusive original jurisdiction superior to and regard-
18 less of the jurisdiction of any other court in proceedings con-
19 cerning a juvenile under 17 years of age who is found within the
20 county if 1 or more of the following ~~applies~~ APPLY:

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

1 juvenile violation only if the prosecuting attorney files a
2 petition in the court instead of authorizing a complaint and
3 warrant. As used in this sub-subdivision, "specified juvenile
4 violation" means any of the following:

5 (A) A violation of section 72, 83, 86, 89, 91, 316, 317,
6 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA
7 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316,
8 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

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

13 (i) A loaded or unloaded firearm, whether operable or
14 inoperable.

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

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

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

24 (C) A violation of section 186a of the Michigan penal code,
25 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
26 from a juvenile facility, but only if the juvenile facility from

1 which the individual escaped or attempted to escape was 1 of the
2 following:

3 (i) A high-security or medium-security facility operated by
4 the ~~family independence agency~~ MICHIGAN YOUTH AUTHORITY or a
5 county juvenile agency.

6 (ii) A high-security facility operated by a private agency
7 under contract with the ~~family independence agency~~ MICHIGAN
8 YOUTH AUTHORITY or a county juvenile agency.

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

11 (E) An attempt to commit a violation described in paragraphs
12 (A) to (D).

13 (F) Conspiracy to commit a violation described in paragraphs
14 (A) to (D).

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

17 (H) Any lesser included offense of a violation described in
18 paragraphs (A) to (G) if the individual is charged with a viola-
19 tion described in paragraphs (A) to (G).

20 (I) Any other violation arising out of the same transaction
21 as a violation described in paragraphs (A) to (G) if the individ-
22 ual is charged with a violation described in paragraphs (A) to
23 (G).

24 (2) The juvenile has deserted his or her home without suffi-
25 cient cause and the court finds on the record that the juvenile
26 has been placed or refused alternative placement or the juvenile

1 and the juvenile's parent, guardian, or custodian have exhausted
2 or refused family counseling.

3 (3) The juvenile is repeatedly disobedient to the reasonable
4 and lawful commands of his or her parents, guardian, or custodian
5 and the court finds on the record by clear and convincing evi-
6 dence that court-accessed services are necessary.

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

20 (b) Jurisdiction in proceedings concerning any juvenile
21 under 18 years of age found within the county:

22 (1) Whose parent or other person legally responsible for the
23 care and maintenance of the juvenile, when able to do so,
24 neglects or refuses to provide proper or necessary support, edu-
25 cation, medical, surgical, or other care necessary for his or her
26 health or morals, who is subject to a substantial risk of harm to
27 his or her mental well-being, who is abandoned by his or her

1 parents, guardian, or other custodian, or who is without proper
2 custody or guardianship. As used in this sub-subdivision:

3 (A) "Education" means learning based on an organized educa-
4 tional program that is appropriate, given the age, intelligence,
5 ability, and any psychological limitations of a juvenile, in the
6 subject areas of reading, spelling, mathematics, science, histo-
7 ry, civics, writing, and English grammar.

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

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

17 (3) Whose parent has substantially failed, without good
18 cause, to comply with a limited guardianship placement plan
19 described in section 424a of the revised probate code, 1978 PA
20 642, MCL 700.424a, OR SECTION 5205 OF THE ESTATES AND PROTECTED
21 INDIVIDUALS CODE, 1998 PA 386, MCL 700.5205, regarding the
22 juvenile.

23 (4) Whose parent has substantially failed, without good
24 cause, to comply with a court-structured plan described in
25 section 424b or 424c of the revised probate code, 1978 PA 642,
26 MCL 700.424b and 700.424c, OR SECTIONS 5207 AND 5208 OF THE

1 ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5207
2 AND 700.5208, regarding the juvenile.

3 (5) If the juvenile has a guardian under the revised probate
4 code, 1978 PA 642, MCL 700.1 to 700.993, OR THE ESTATES AND PRO-
5 TECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.1101 TO 700.8102,
6 and the juvenile's parent meets both of the following criteria:

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

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

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

25 (c) Jurisdiction over juveniles under 18 years of age,
26 jurisdiction of whom has been waived to the family division of
27 circuit court by a circuit court under a provision in a temporary

1 order for custody of juveniles based upon a complaint for divorce
2 or upon a motion pursuant to a complaint for divorce by the pros-
3 ecuting attorney, in a divorce judgment dissolving a marriage
4 between the parents of the juveniles, or by an amended judgment
5 relative to the custody of the juvenile in a divorce.

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

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

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

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

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

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

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

1 residence is furnished to the court of the county of residence.
2 The order is not a legal settlement as defined in section 55 of
3 the social welfare act, 1939 PA 280, MCL 400.55. The order and a
4 certified copy of the proceedings in the transferring court shall
5 be delivered to the court of the county of residence. A case
6 designated as a case in which the juvenile shall be tried in the
7 same manner as an adult under section 2d of this chapter may be
8 transferred for venue or for juvenile disposition, but shall not
9 be transferred on grounds of residency. If the case is not
10 transferred, the case shall be tried by the court having juris-
11 diction of the offense.

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 not require formal court juris-
16 diction but otherwise fall within subdivision (a). These serv-
17 ices shall be used only if they are voluntarily accepted by the
18 juvenile and his or her parents, guardian, or custodian.

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

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

9 (h) Jurisdiction over a proceeding under section 2950 or
10 2950a of the revised judicature act of 1961, 1961 PA 236,
11 MCL 600.2950 and 600.2950a, in which a minor less than 18 years
12 of age is the respondent. Venue for an initial action under sec-
13 tion 2950 or 2950a of the revised judicature act of 1961, 1961
14 PA 236, MCL 600.2950 and 600.2950a, is proper in the county of
15 residence of either the petitioner or respondent. If the respon-
16 dent does not live in this state, venue for the initial action is
17 proper in the petitioner's county of residence.

18 Sec. 2d. (1) In a petition or amended petition alleging
19 that a juvenile is within the court's jurisdiction under
20 section 2(a)(1) of this chapter for a specified juvenile viola-
21 tion, the prosecuting attorney may designate the case as a case
22 in which the juvenile is to be tried in the same manner as an
23 adult. An amended petition making a designation under this sub-
24 section shall be filed only by leave of the court.

25 (2) In a petition alleging that a juvenile is within the
26 court's jurisdiction under section 2(a)(1) of this chapter for an
27 offense other than a specified juvenile violation, the

1 prosecuting attorney may request that the court designate the
2 case as a case in which the juvenile is to be tried in the same
3 manner as an adult. The court may designate the case following a
4 hearing if it determines that the best interests of the juvenile
5 and the public would be served by the juvenile being tried in the
6 same manner as an adult. In determining whether the best inter-
7 ests of the juvenile and the public would be served, the court
8 shall consider all of the following factors, giving greater
9 weight to the seriousness of the alleged offense and the
10 juvenile's prior delinquency record than to the other factors:

11 (a) The seriousness of the alleged offense in terms of com-
12 munity protection, including, but not limited to, the existence
13 of any aggravating factors recognized by the sentencing guide-
14 lines, the use of a firearm or other dangerous weapon, and the
15 impact on any victim.

16 (b) The juvenile's culpability in committing the alleged
17 offense, including, but not limited to, the level of the
18 juvenile's participation in planning and carrying out the offense
19 and the existence of any aggravating or mitigating factors recog-
20 nized by the sentencing guidelines.

21 (c) The juvenile's prior record of delinquency including,
22 but not limited to, any record of detention, any police record,
23 any school record, or any other evidence indicating prior delin-
24 quent behavior.

25 (d) The juvenile's programming history, including, but not
26 limited to, the juvenile's past willingness to participate
27 meaningfully in available programming.

1 (e) The adequacy of the punishment or programming available
2 in the juvenile justice system.

3 (f) The dispositional options available for the juvenile.

4 (3) If a case is designated under this section, the case
5 shall be set for trial in the same manner as the trial of an
6 adult in a court of general criminal jurisdiction unless a proba-
7 ble cause hearing is required under subsection (4).

8 (4) If the petition in a case designated under this section
9 alleges an offense that if committed by an adult would be a
10 felony or punishable by imprisonment for more than 1 year, the
11 court shall conduct a probable cause hearing not later than 14
12 days after the case is designated to determine whether there is
13 probable cause to believe the offense was committed and whether
14 there is probable cause to believe the juvenile committed the
15 offense. This hearing may be combined with the designation hear-
16 ing under subsection (2) for an offense other than a specified
17 juvenile offense. A probable cause hearing under this section is
18 the equivalent of the preliminary examination in a court of gen-
19 eral criminal jurisdiction and satisfies the requirement for that
20 hearing. A probable cause hearing shall be conducted by a judge
21 other than the judge who will try the case if the juvenile is
22 tried in the same manner as an adult.

23 (5) If the court determines there is probable cause to
24 believe the offense alleged in the petition was committed and
25 probable cause to believe the juvenile committed the offense, the
26 case shall be set for trial in the same manner as the trial of an
27 adult in a court of general criminal jurisdiction.

1 (6) If the court determines that an offense did not occur or
2 there is not probable cause to believe the juvenile committed the
3 offense, the court shall dismiss the petition. If the court
4 determines there is probable cause to believe another offense was
5 committed and there is probable cause to believe the juvenile
6 committed that offense, the court may further determine whether
7 the case should be designated as a case in which the juvenile
8 should be tried in the same manner as an adult as provided in
9 subsection (2). If the court designates the case, the case shall
10 be set for trial in the same manner as the trial of an adult in a
11 court of general criminal jurisdiction.

12 (7) If a case is designated under this section, the proceed-
13 ings are criminal proceedings and shall afford all procedural
14 protections and guarantees to which the juvenile would be enti-
15 tled if being tried for the offense in a court of general crimi-
16 nal jurisdiction. A plea of guilty or nolo contendere or a ver-
17 dict of guilty shall result in entry of a judgment of
18 conviction. The conviction shall have the same effect and
19 liabilities as if it had been obtained in a court of general
20 criminal jurisdiction.

21 (8) Following a judgment of conviction, the court shall
22 enter a disposition or impose a sentence authorized under
23 section 18(1)(n) of this chapter.

24 (9) As used in this section, "specified juvenile violation"
25 means any of the following:

26 (a) A violation of section 72, 83, 86, 89, 91, 316, 317,
27 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA

1 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316,
2 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

3 (b) A violation of section 84 or 110a(2) of the Michigan
4 penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile
5 is armed with a dangerous weapon. As used in this subdivision,
6 "dangerous weapon" means 1 or more of the following:

7 (i) A loaded or unloaded firearm, whether operable or
8 inoperable.

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

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

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

18 (c) A violation of section 186a of the Michigan penal code,
19 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
20 from a juvenile facility, but only if the juvenile facility from
21 which the juvenile escaped or attempted to escape was 1 of the
22 following:

23 (i) A high-security or medium-security facility operated by
24 the ~~family independence agency~~ MICHIGAN YOUTH AUTHORITY or a
25 county juvenile agency.

1 (ii) A high-security facility operated by a private agency
2 under contract with the ~~family independence agency~~ MICHIGAN
3 YOUTH AUTHORITY or a county juvenile agency.

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

6 (e) An attempt to commit a violation described in subdivi-
7 sions (a) to (d).

8 (f) Conspiracy to commit a violation described in subdivi-
9 sions (a) to (d).

10 (g) Solicitation to commit a violation described in subdivi-
11 sions (a) to (d).

12 (h) Any lesser included offense of an offense described in
13 subdivisions (a) to (g) if the juvenile is alleged in the peti-
14 tion to have committed an offense described in subdivisions (a)
15 to (g).

16 (i) Any other offense arising out of the same transaction as
17 an offense described in subdivisions (a) to (g) if the juvenile
18 is alleged in the petition to have committed an offense described
19 in subdivisions (a) to (g).

20 Sec. 16. (1) If a juvenile under the age of 17 years is
21 taken into custody or detained, the juvenile shall not be con-
22 fined in any police station, prison, jail, lock-up, or reforma-
23 tory or transported with, or compelled or permitted to associate
24 or mingle with, criminal or dissolute persons. However, except
25 as otherwise provided in section 15(3), (4), and (5) of this
26 chapter, the court may order a juvenile 15 years of age or older
27 whose habits or conduct are considered a menace to other

1 juveniles, or who may not otherwise be safely detained, placed in
2 a jail or other place of detention for adults, but in a room or
3 ward separate from adults and for not more than 30 days, unless
4 longer detention is necessary for the service of process.

5 (2) The county board of commissioners in each county or of
6 counties contracting together may provide for the diagnosis,
7 treatment, care, training, and detention of juveniles in a child
8 care home or facility conducted as an agency of the county if the
9 home or facility meets licensing standards established under 1973
10 PA 116, MCL 722.111 to 722.128. The court or a court-approved
11 agency may arrange for the boarding of juveniles in any of the
12 following:

13 (a) If a juvenile is within the court's jurisdiction under
14 section 2(a) of this chapter, a suitable foster care home subject
15 to the court's supervision. If a juvenile is within the court's
16 jurisdiction under section 2(b) of this chapter, the court shall
17 not place a juvenile in a foster care home subject to the court's
18 supervision.

19 (b) A child caring institution or child placing agency
20 licensed by the department of consumer and industry services to
21 receive for care juveniles within the court's jurisdiction.

22 (c) If in a room or ward separate and apart from adult crim-
23 inals, the county jail for juveniles over 17 years of age within
24 the court's jurisdiction.

25 (3) If a detention home or facility is established as an
26 agency of the county, the judge may appoint a superintendent and
27 other necessary employees for the home or facility who shall

1 receive compensation as provided by the county board of
2 commissioners of the county. This section does not alter or
3 diminish the legal responsibility of the ~~family independence~~
4 ~~agency~~ MICHIGAN YOUTH AUTHORITY or a county juvenile agency to
5 receive juveniles committed by the court.

6 (4) If the court under subsection (2) arranges for the board
7 of juveniles temporarily detained in private homes or in a child
8 caring institution or child placing agency, a reasonable sum
9 fixed by the court for their board shall be paid by the county
10 treasurer as provided in section 25 of this chapter.

11 (5) A court shall not provide foster care home services
12 subject to the court's supervision to juveniles within section
13 2(b) of this chapter.

14 (6) A juvenile detention home described in subsection (3)
15 shall be operated under the direction of the county board of com-
16 missioners or, in a county that has an elected county executive,
17 under the county executive's direction. However, a different
18 method for directing the operation of a detention home may be
19 agreed to in any county by the chief judge of the circuit court
20 in that county and the county board of commissioners or, in a
21 county that has an elected county executive, the county
22 executive.

23 Sec. 18. (1) If the court finds that a juvenile concerning
24 whom a petition is filed is not within this chapter, the court
25 shall enter an order dismissing the petition. Except as other-
26 wise provided in subsection (10), if the court finds that a
27 juvenile is within this chapter, the court may enter any of the

1 following orders of disposition that are appropriate for the
2 welfare of the juvenile and society in view of the facts proven
3 and ascertained:

4 (a) Warn the juvenile or the juvenile's parents, guardian,
5 or custodian and, except as provided in subsection (7), dismiss
6 the petition.

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

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

24 (d) Except as otherwise provided in this subdivision, place
25 the juvenile in or commit the juvenile to a private institution
26 or agency approved or licensed by the department of consumer and
27 industry services for the care of juveniles of similar age, sex,

1 and characteristics. If the juvenile is not a ward of the court,
2 the court shall commit the juvenile to the ~~family independence~~
3 ~~agency~~ MICHIGAN YOUTH AUTHORITY or, if the county is a county
4 juvenile agency, to that county juvenile agency for placement in
5 or commitment to such an institution or agency as the ~~family~~
6 ~~independence agency~~ MICHIGAN YOUTH AUTHORITY or county juvenile
7 agency determines is most appropriate, subject to any initial
8 level of placement the court designates.

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

1 institution, if available. Except for commitment to the ~~family~~
2 ~~independence agency~~ MICHIGAN YOUTH AUTHORITY or a county juve-
3 nile agency, an order of commitment under this subdivision to ~~a~~
4 ~~state~~ AN institution or agency described in the youth rehabili-
5 tation services act, 1974 PA 150, MCL 803.301 to 803.309, or in
6 1935 PA 220, MCL 400.201 to 400.214, the court shall name the
7 superintendent of the institution to which the juvenile is com-
8 mitted as a special guardian to receive benefits due the juvenile
9 from the government of the United States. An order of commitment
10 under this subdivision to the ~~family independence agency~~
11 MICHIGAN YOUTH AUTHORITY or a county juvenile agency shall name
12 that AUTHORITY OR agency as a special guardian to receive those
13 benefits. The benefits received by the special guardian shall be
14 used to the extent necessary to pay for the portions of the cost
15 of care in the institution or facility that the parent or parents
16 are found unable to pay.

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

22 (g) Order the parents, guardian, custodian, or any other
23 person to refrain from continuing conduct that the court deter-
24 mines has caused or tended to cause the juvenile to come within
25 or to remain under this chapter or that obstructs placement or
26 commitment of the juvenile pursuant to an order under this
27 section.

1 (h) Appoint a guardian under section 424 of the revised
2 probate code, 1978 PA 642, MCL 700.424, OR SECTION 5204 OF THE
3 ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL
4 700.5204, pursuant to a petition filed with the court by a person
5 interested in the juvenile's welfare. If the court appoints a
6 guardian pursuant to this subdivision, it may dismiss the peti-
7 tion under this chapter.

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

9 (j) If the court finds that a juvenile has violated a munic-
10 ipal ordinance or a state or federal law, order the juvenile to
11 pay a civil fine in the amount of the civil or penal fine pro-
12 vided by the ordinance or law. Money collected from fines levied
13 under this subsection shall be distributed as provided in section
14 29 of this chapter.

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

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

22 (m) If a juvenile is within the court's jurisdiction under
23 section 2(a)(1) of this chapter, place the juvenile in and order
24 the juvenile to complete satisfactorily a program of training in
25 a juvenile boot camp established OR OPERATED by the ~~family inde-~~
26 ~~pendence agency~~ MICHIGAN YOUTH AUTHORITY under the juvenile boot
27 camp act, 1996 PA 263, MCL 400.1301 to 400.1309, as provided in

1 that act. If the county is a county juvenile agency, however,
2 the court shall commit the juvenile to that county juvenile
3 agency for placement in the program under that act. Upon receiv-
4 ing a report of satisfactory completion of the program from the
5 ~~family independence agency~~ MICHIGAN YOUTH AUTHORITY, the court
6 shall authorize the juvenile's release from placement in the
7 juvenile boot camp. Following satisfactory completion of the
8 juvenile boot camp program, the juvenile shall complete an addi-
9 tional period of not less than 120 days or more than 180 days of
10 intensive supervised community reintegration in the juvenile's
11 local community. To place or commit a juvenile under this subdi-
12 vision, the court shall determine all of the following:

13 (i) Placement in a juvenile boot camp will benefit the
14 juvenile.

15 (ii) The juvenile is physically able to participate in the
16 program.

17 (iii) The juvenile does not appear to have ~~any~~ A mental
18 handicap that would prevent participation in the program.

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

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

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

25 (n) If the court entered a judgment of conviction under sec-
26 tion 2d of this chapter, enter any disposition under this section
27 or, if the court determines that the best interests of the public

1 would be served, impose any sentence upon the juvenile that could
2 be imposed upon an adult convicted of the offense for which the
3 juvenile was convicted. If the juvenile is convicted of a viola-
4 tion or conspiracy to commit a violation of section
5 ~~7401(2)(a)(i)~~ or 7403(2)(a)(i) of the public health code, 1978
6 PA 368, MCL ~~333.7401~~ and 333.7403, the court may impose the
7 alternative sentence permitted under ~~those sections~~ THAT
8 SECTION if the court determines that the best interests of the
9 public would be served. The court may delay imposing a sentence
10 of imprisonment under this subdivision for a period not longer
11 than the period during which the court has jurisdiction over the
12 juvenile under this chapter by entering an order of disposition
13 delaying imposition of sentence and placing the juvenile on pro-
14 bation upon the terms and conditions it considers appropriate,
15 including any disposition under this section. If the court
16 delays imposing sentence under this section, section 18i of this
17 chapter applies. If the court imposes sentence, it shall enter a
18 judgment of sentence. If the court imposes a sentence of impris-
19 onment, the juvenile shall receive credit against the sentence
20 for time served before sentencing. In determining whether to
21 enter an order of disposition or impose a sentence under this
22 subdivision, the court shall consider all of the following fac-
23 tors, giving greater weight to the seriousness of the offense and
24 the juvenile's prior record:

25 (i) The seriousness of the offense in terms of community
26 protection, including, but not limited to, the existence of any
27 aggravating factors recognized by the sentencing guidelines, the

1 use of a firearm or other dangerous weapon, and the impact on any
2 victim.

3 (ii) The juvenile's culpability in committing the offense,
4 including, but not limited to, the level of the juvenile's par-
5 ticipation in planning and carrying out the offense and the exis-
6 tence of any aggravating or mitigating factors recognized by the
7 sentencing guidelines.

8 (iii) The juvenile's prior record of delinquency including,
9 but not limited to, ~~any~~ A record of detention, ~~any~~ police
10 record, ~~any~~ school record, or ~~any~~ other evidence indicating
11 prior delinquent behavior.

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

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

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

18 (2) An order of disposition placing a juvenile in or commit-
19 ting a juvenile to care outside of the juvenile's own home and
20 under state, county juvenile agency, or court supervision shall
21 contain a provision for reimbursement by the juvenile, parent,
22 guardian, or custodian to the court for the cost of care or
23 service. The order shall be reasonable, taking into account both
24 the income and resources of the juvenile, parent, guardian, or
25 custodian. The amount may be based upon the guidelines and model
26 schedule created under subsection (6). If the juvenile is
27 receiving an adoption support subsidy under section 115j(4) of

1 the social welfare act, 1939 PA 280, MCL 400.115j, the amount
2 shall not exceed the amount of the support subsidy. The reim-
3 bursement provision applies during the entire period the juvenile
4 remains in care outside of the juvenile's own home and under
5 state, county juvenile agency, or court supervision, unless the
6 juvenile is in the permanent custody of the court. The court
7 shall provide for the collection of all amounts ordered to be
8 reimbursed and the money collected shall be accounted for and
9 reported to the county board of commissioners. Collections to
10 cover delinquent accounts or to pay the balance due on reimburse-
11 ment orders may be made after a juvenile is released or dis-
12 charged from care outside the juvenile's own home and under
13 state, county juvenile agency, or court supervision. Twenty-five
14 percent of all amounts collected pursuant to an order entered
15 under this subsection shall be credited to the appropriate fund
16 of the county to offset the administrative cost of collections.
17 The balance of all amounts collected under an order entered under
18 this subsection shall be divided in the same ratio in which the
19 county, state, and federal government participate in the cost of
20 care outside the juvenile's own home and under state, county
21 juvenile agency, or court supervision. The court may also col-
22 lect benefits paid for the cost of care of a court ward from the
23 government of the United States. Money collected for juveniles
24 placed by the court with or committed to the ~~family independence~~
25 ~~agency~~ MICHIGAN YOUTH AUTHORITY or a county juvenile agency
26 shall be accounted for and reported on an individual juvenile
27 basis. In cases of delinquent accounts, the court may also enter

1 an order to intercept state or federal tax refunds of a juvenile,
2 parent, guardian, or custodian and initiate the necessary offset
3 proceedings in order to recover the cost of care or service. The
4 court shall send to the person who is the subject of the inter-
5 cept order advance written notice of the proposed offset. The
6 notice shall include notice of the opportunity to contest the
7 offset on the grounds that the intercept is not proper because of
8 a mistake of fact concerning the amount of the delinquency or the
9 identity of the person subject to the order. The court shall
10 provide for the prompt reimbursement of an amount withheld in
11 error or an amount found to exceed the delinquent amount.

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

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

26 (5) If the court appoints an attorney to represent a
27 juvenile, parent, guardian, or custodian, the court may require

1 in an order entered under this section that the juvenile, parent,
2 guardian, or custodian reimburse the court for attorney fees.

3 (6) The office of the state court administrator, under the
4 supervision and direction of the supreme court and in consulta-
5 tion with the family independence agency and the Michigan probate
6 judges association, shall create guidelines and a model schedule
7 the court may use in determining the ability of the juvenile,
8 parent, guardian, or custodian to pay for care and ~~any~~ costs of
9 service ordered under subsection (2) or (3). The guidelines and
10 model schedule shall take into account both the income and
11 resources of the juvenile, parent, guardian, or custodian.

12 (7) If the court finds that a juvenile comes under section
13 30 of this chapter, the court shall order the juvenile or the
14 juvenile's parent to pay restitution as provided in sections 30
15 and 31 of this chapter and in sections 44 and 45 of the crime
16 victim's rights act, 1985 PA 87, MCL 780.794 and 780.795.

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

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

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

24 (9) If the court finds that the juvenile is in intentional
25 default of the payment of restitution, a court may, as provided
26 in section 31 of this chapter, revoke or alter the terms and
27 conditions of probation for nonpayment of restitution. If a

1 juvenile who is ordered to engage in community service
2 intentionally refuses to perform the required community service,
3 the court may revoke or alter the terms and conditions of
4 probation.

5 (10) The court shall not enter an order of disposition for a
6 juvenile offense as defined in section 1A of 1925 PA 289, MCL
7 28.241A, or a judgment of sentence for a conviction until the
8 court has examined the court file and has determined that the
9 juvenile's fingerprints have been taken as required by section 3
10 of 1925 PA 289, MCL 28.243. If a juvenile has not had his or her
11 fingerprints taken, the court shall do either of the following:

12 (a) Order the juvenile to submit himself or herself to the
13 police agency that arrested or obtained the warrant for the
14 juvenile's arrest so the juvenile's fingerprints can be taken.

15 (b) Order the juvenile committed to the sheriff's custody
16 for taking the juvenile's fingerprints.

17 (11) Upon final disposition, conviction, acquittal, or dis-
18 missal of an offense within the court's jurisdiction under sec-
19 tion 2(a)(1) of this chapter, the clerk of the court entering the
20 final disposition, conviction, acquittal, or dismissal shall
21 immediately advise the department of state police of that final
22 disposition, conviction, acquittal, or dismissal on forms
23 approved by the state court administrator, as required by section
24 3 of 1925 PA 289, MCL 28.243. The report to the department of
25 state police shall include information as to the finding of the
26 judge or jury and a summary of the disposition or sentence
27 imposed.

1 (12) If the court enters an order of disposition based on an
2 act that is a juvenile offense as defined in section 1 of 1989
3 PA 196, MCL 780.901, the court shall order the juvenile to pay
4 the assessment as provided in that act. If the court enters a
5 judgment of conviction under section 2d of this chapter for an
6 offense that is a felony, serious misdemeanor, or specified mis-
7 demeanor as defined in section 1 of 1989 PA 196, MCL 780.901, the
8 court shall order the juvenile to pay the assessment as provided
9 in that act.

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

17 (14) If the court enters an order of disposition placing a
18 juvenile in a juvenile boot camp program, or committing a juve-
19 nile to a county juvenile agency for placement in a juvenile boot
20 camp program, and the court receives from the ~~family indepen-~~
21 ~~dence agency~~ MICHIGAN YOUTH AUTHORITY a report that the juvenile
22 has failed to perform satisfactorily in the program, that the
23 juvenile does not meet the program's requirements or is medically
24 unable to participate in the program for more than 25 days, that
25 there is no opening in a juvenile boot camp program, or that the
26 county juvenile agency is unable to place the juvenile in a
27 juvenile boot camp program, the court shall release the juvenile

1 from placement or commitment and enter an alternative order of
2 disposition. A juvenile shall not be placed in a juvenile boot
3 camp pursuant to an order of disposition more than once, except
4 that a juvenile returned to the court for a medical condition,
5 because there was no opening in a juvenile boot camp program, or
6 because the county juvenile agency was unable to place the juve-
7 nile in a juvenile boot camp program may be placed again in the
8 juvenile boot camp program after the medical condition is cor-
9 rected, an opening becomes available, or the county juvenile
10 agency is able to place the juvenile.

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

18 (16) In a proceeding under section 2(h) of this chapter,
19 this section shall only apply to a disposition for a violation of
20 a personal protection order and subsequent proceedings.

21 Sec. 18k. (1) An individual convicted of or found responsi-
22 ble for a violation of section 91, 316, or 317 of the Michigan
23 penal code, 1931 PA 328, MCL 750.91, 750.316, and 750.317, or a
24 violation or attempted violation of section 349, 520b, 520c,
25 520d, 520e, or 520g of that act, MCL 750.349, 750.520b, 750.520c,
26 750.520d, 750.520e, and 750.520g, shall provide samples for
27 chemical testing for DNA identification profiling or a

1 determination of the sample's genetic markers and shall provide
2 samples for chemical testing for a determination of his or her
3 secretor status. However, if at the time the individual is con-
4 victed of or found responsible for the violation the investigat-
5 ing law enforcement agency, the department of state police, the
6 ~~family independence agency~~ MICHIGAN YOUTH AUTHORITY, or the
7 county juvenile agency already has a sample from the individual
8 that meets the requirements of the rules promulgated under the
9 DNA identification profiling system act, 1990 PA 250, MCL 28.171
10 to 28.176, the individual is not required to provide another
11 sample.

12 (2) The investigating law enforcement agency shall provide
13 for collecting the samples required to be provided under
14 subsection (1) in a medically approved manner by qualified per-
15 sons using supplies provided by the department of state police
16 and shall forward those samples and any samples described in
17 subsection (1) that were already in the agency's possession to
18 the department of state police. The collecting and forwarding of
19 samples shall be done in the manner required under the rules
20 promulgated under the DNA identification profiling system act,
21 1990 PA 250, MCL 28.171 to 28.176.

22 (3) The ~~family independence agency~~ MICHIGAN YOUTH
23 AUTHORITY or a county juvenile agency, investigating law enforce-
24 ment agency, prosecuting agency, or court that has in its posses-
25 sion a DNA identification profile obtained from a sample of an
26 individual convicted of or found responsible for an offense
27 described in subsection (1) shall forward the DNA identification

1 profile to the department of state police at or before the time
2 the court imposes sentence or enters an order of disposition upon
3 that conviction or finding of responsibility unless the depart-
4 ment of state police already has a DNA identification profile of
5 the individual.

6 (4) As used in this section:

7 (a) "DNA identification profile" and "DNA identification
8 profiling" mean those terms as defined in section 2 of the DNA
9 identification profiling system act, 1990 PA 250, MCL 28.172.

10 (b) "Investigating law enforcement agency" means the law
11 enforcement agency responsible for the investigation of the
12 offense for which the individual is convicted or found
13 responsible.

14 (c) "Sample" means a portion of an individual's blood,
15 saliva, or tissue collected from the individual.

16 Sec. 28. (1) Before June 1, 1988, the court shall maintain
17 records of all cases brought before it and as provided in the
18 juvenile diversion act. The records shall be open only by court
19 order to persons having a legitimate interest, except that diver-
20 sion records shall be open only as provided in the juvenile
21 diversion act.

22 (2) Beginning June 1, 1988, the court shall maintain records
23 of all cases brought before it and as provided in the juvenile
24 diversion act. Except as otherwise provided in this subsection,
25 records of a case brought before the court shall be open to the
26 general public. Diversion records shall be open only as provided
27 in the juvenile diversion act. Except as otherwise provided in

1 section 49 of the crime victim's rights act, 1985 PA 87, MCL
2 780.799, if the hearing of a case brought before the court is
3 closed under section 17 of this chapter, the records of that
4 hearing shall be open only by court order to persons having a
5 legitimate interest.

6 (3) If the court issues an order in respect to payments by a
7 parent under section 18(2) of this chapter, a copy shall be
8 mailed to the department of treasury. Action taken against par-
9 ents or adults shall not be released for publicity unless the
10 parents or adults are found guilty of contempt of court. The
11 court shall furnish the family independence agency, THE MICHIGAN
12 YOUTH AUTHORITY, and a county juvenile agency with reports of the
13 administration of the court in a form recommended by the Michigan
14 association of probate and juvenile court judges. Copies of
15 these reports shall, upon request, be made available to other
16 state departments by the family independence agency OR THE
17 MICHIGAN YOUTH AUTHORITY.

18 (4) As used in this section:

19 (a) "Juvenile diversion act" means the juvenile diversion
20 act, 1988 PA 13, MCL 722.821 to 722.831.

21 (b) "Persons having a legitimate interest" includes a member
22 of a local foster care review board established under 1984 PA
23 422, MCL 722.131 to 722.139a.

24 Enacting section 1. This amendatory act does not take
25 effect unless Senate Bill No. 901

26 of the 90th Legislature is enacted into
27 law.