

SENATE BILL No. 988

June 11, 2014, Introduced by Senators PAPPAGEORGE, NOFS, COLBECK, ROBERTSON, CASWELL, HUNE and MARLEAU and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 18, 30, and 31 of chapter XIIA (MCL 712A.18, 712A.30, and 712A.31), section 18 as amended by 2011 PA 295 and sections 30 and 31 as amended by 1996 PA 561.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

1
2 Sec. 18. (1) If the court finds that a juvenile concerning
3 whom a petition is filed is not within this chapter, the court
4 shall enter an order dismissing the petition. Except as otherwise
5 provided in subsection (10), if the court finds that a juvenile is
6 within this chapter, the court may enter any of the following
7 orders of disposition that are appropriate for the welfare of the

1 juvenile and society in view of the facts proven and ascertained:

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

5 (b) Place the juvenile on probation, or under supervision in
6 the juvenile's own home or in the home of an adult who is related
7 to the juvenile. As used in this subdivision, "related" means an
8 individual who is not less than 18 years of age and related to the
9 ~~child-JUVENILE~~ by blood, marriage, or adoption, as grandparent,
10 great-grandparent, great-great-grandparent, aunt or uncle, great-
11 aunt or great-uncle, great-great-aunt or great-great-uncle,
12 sibling, stepsibling, nephew or niece, first cousin or first cousin
13 once removed, and the spouse of any of the above, even after the
14 marriage has ended by death or divorce. A ~~child-JUVENILE~~ may be
15 placed with the parent of a man whom the court has found probable
16 cause to believe is the putative father if there is no man with
17 legally established rights to the ~~child-JUVENILE~~. This placement
18 of the ~~child-JUVENILE~~ with the parent of a man whom the court has
19 found probable cause to believe is the putative father is for the
20 purposes of placement only and is not to be construed as a finding
21 of paternity or to confer legal standing. The court shall order the
22 terms and conditions of probation or supervision, including
23 reasonable rules for the conduct of the parents, guardian, or
24 custodian, if any, as the court determines necessary for the
25 physical, mental, or moral well-being and behavior of the juvenile.
26 The court may order that the juvenile participate in a juvenile
27 drug treatment court under chapter 10A of the revised judicature

1 act of 1961, 1961 PA 236, MCL 600.1060 to 600.1084. The court also
2 shall order, as a condition of probation or supervision, that the
3 juvenile shall pay the minimum state cost prescribed by section 18m
4 of this chapter.

5 (c) If a juvenile is within the court's jurisdiction under
6 section 2(a) of this chapter, or under section 2(h) of this chapter
7 for a supplemental petition, place the juvenile in a suitable
8 foster care home subject to the court's supervision. If a juvenile
9 is within the court's jurisdiction under section 2(b) of this
10 chapter, the court shall not place a juvenile in a foster care home
11 subject to the court's supervision.

12 (d) Except as otherwise provided in this subdivision, place
13 the juvenile in or commit the juvenile to a private institution or
14 agency approved or licensed by the department of ~~consumer and~~
15 ~~industry~~ **HUMAN** services for the care of juveniles of similar age,
16 sex, and characteristics. If the juvenile is not a ward of the
17 court, the court shall commit the juvenile to the ~~family~~
18 ~~independence agency~~ **DEPARTMENT OF HUMAN SERVICES** or, if the county
19 is a county juvenile agency, to that county juvenile agency for
20 placement in or commitment to ~~such~~ an institution or agency as the
21 department of human services or county juvenile agency determines
22 is most appropriate, subject to any initial level of placement the
23 court designates.

24 (e) Except as otherwise provided in this subdivision, commit
25 the juvenile to a public institution, county facility, institution
26 operated as an agency of the court or county, or agency authorized
27 by law to receive juveniles of similar age, sex, and

1 characteristics. If the juvenile is not a ward of the court, the
2 court shall commit the juvenile to the department of human services
3 or, if the county is a county juvenile agency, to that county
4 juvenile agency for placement in or commitment to ~~such an~~
5 institution or facility as the department of human services or
6 county juvenile agency determines is most appropriate, subject to
7 any initial level of placement the court designates. If a ~~child~~
8 **JUVENILE** is not less than 17 years of age and is in violation of a
9 personal protection order, the court may commit the ~~child~~**JUVENILE**
10 to a county jail within the adult prisoner population. In a
11 placement under subdivision (d) or a commitment under this
12 subdivision, except to a state institution or a county juvenile
13 agency institution, the juvenile's religious affiliation shall be
14 protected by placement or commitment to a private child-placing or
15 child-caring agency or institution, if available. Except for
16 commitment to the department of human services or a county juvenile
17 agency, an order of commitment under this subdivision to a state
18 institution or agency described in the youth rehabilitation
19 services act, 1974 PA 150, MCL 803.301 to 803.309, or in 1935 PA
20 220, MCL 400.201 to 400.214, the court shall name the
21 superintendent of the institution to which the juvenile is
22 committed as a special guardian to receive benefits due the
23 juvenile from the government of the United States. An order of
24 commitment under this subdivision to the department of human
25 services or a county juvenile agency shall name that agency as a
26 special guardian to receive those benefits. The benefits received
27 by the special guardian shall be used to the extent necessary to

1 pay for the portions of the cost of care in the institution or
2 facility that the parent or parents are found unable to pay **OR,**
3 **UNDER SUBSECTION (20), NOT REQUIRED TO PAY.**

4 (f) Provide the juvenile with medical, dental, surgical, or
5 other health care, in a local hospital if available, or elsewhere,
6 maintaining as much as possible a local physician-patient
7 relationship, and with clothing and other incidental items the
8 court determines are necessary.

9 (g) Order the parents, guardian, custodian, or any other
10 person to refrain from continuing conduct that the court determines
11 has caused or tended to cause the juvenile to come within or to
12 remain under this chapter or that obstructs placement or commitment
13 of the juvenile by an order under this section.

14 (h) Appoint a guardian under section 5204 of the estates and
15 protected individuals code, 1998 PA 386, MCL 700.5204, in response
16 to a petition filed with the court by a person interested in the
17 juvenile's welfare. If the court appoints a guardian as authorized
18 by this subdivision, it may dismiss the petition under this
19 chapter.

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

21 (j) If the court finds that a juvenile has violated a
22 municipal ordinance or a state or federal law, order the juvenile
23 to pay a civil fine in the amount of the civil or penal fine
24 provided by the ordinance or law. Money collected from fines levied
25 under this subsection shall be distributed as provided in section
26 29 of this chapter.

27 (k) If a juvenile is within the court's jurisdiction under

1 section 2(a)(1) of this chapter, order the juvenile's parent or
2 guardian to personally participate in treatment reasonably
3 available in the parent's or guardian's location.

4 (l) If a juvenile is within the court's jurisdiction under
5 section 2(a)(1) of this chapter, place the juvenile in and order
6 the juvenile to complete satisfactorily a program of training in a
7 juvenile boot camp established by the department of human services
8 under the juvenile boot camp act, 1996 PA 263, MCL 400.1301 to
9 400.1309, as provided in that act. If the county is a county
10 juvenile agency, ~~however,~~ the court shall commit the juvenile to
11 that county juvenile agency for placement in the program under that
12 act. Upon receiving a report of satisfactory completion of the
13 program from the department of human services, the court shall
14 authorize the juvenile's release from placement in the juvenile
15 boot camp. Following satisfactory completion of the juvenile boot
16 camp program, the juvenile shall complete an additional period of
17 not less than 120 days or more than 180 days of intensive
18 supervised community reintegration in the juvenile's local
19 community. To place or commit a juvenile under this subdivision,
20 the court shall determine all of the following:

21 (i) Placement in a juvenile boot camp will benefit the
22 juvenile.

23 (ii) The juvenile is physically able to participate in the
24 program.

25 (iii) The juvenile does not appear to have any mental handicap
26 that would prevent participation in the program.

27 (iv) The juvenile will not be a danger to other juveniles in

1 the boot camp.

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

3 (vi) If the court must commit the juvenile to a county juvenile
4 agency, the county juvenile agency is able to place the juvenile in
5 a juvenile boot camp program.

6 (m) If the court entered a judgment of conviction under
7 section 2d of this chapter, enter any disposition under this
8 section or, if the court determines that the best interests of the
9 public would be served, impose any sentence upon the juvenile that
10 could be imposed upon an adult convicted of the offense for which
11 the juvenile was convicted. If the juvenile is convicted of a
12 violation or conspiracy to commit a violation of section
13 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7403,
14 the court may impose the alternative sentence permitted under that
15 section if the court determines that the best interests of the
16 public would be served. The court may delay imposing a sentence of
17 imprisonment under this subdivision for a period not longer than
18 the period during which the court has jurisdiction over the
19 juvenile under this chapter by entering an order of disposition
20 delaying imposition of sentence and placing the juvenile on
21 probation upon the terms and conditions it considers appropriate,
22 including any disposition under this section. If the court delays
23 imposing sentence under this section, section 18i of this chapter
24 applies. If the court imposes sentence, it shall enter a judgment
25 of sentence. If the court imposes a sentence of imprisonment, the
26 juvenile shall receive credit against the sentence for time served
27 before sentencing. In determining whether to enter an order of

1 disposition or impose a sentence under this subdivision, the court
2 shall consider all of the following factors, giving greater weight
3 to the seriousness of the offense and the juvenile's prior record:

4 (i) The seriousness of the offense in terms of community
5 protection, including, but not limited to, the existence of any
6 aggravating factors recognized by the sentencing guidelines, the
7 use of a firearm or other dangerous weapon, and the impact on any
8 victim.

9 (ii) The juvenile's culpability in committing the offense,
10 including, but not limited to, the level of the juvenile's
11 participation in planning and carrying out the offense and the
12 existence of any aggravating or mitigating factors recognized by
13 the sentencing guidelines.

14 (iii) The juvenile's prior record of delinquency including, but
15 not limited to, any record of detention, any police record, any
16 school record, or any other evidence indicating prior delinquent
17 behavior.

18 (iv) The juvenile's programming history, including, but not
19 limited to, the juvenile's past willingness to participate
20 meaningfully in available programming.

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

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

24 (2) ~~An~~ **EXCEPT AS PROVIDED IN SUBSECTION (20), AN** order of
25 disposition placing a juvenile in or committing a juvenile to care
26 outside of the juvenile's own home and under state, county juvenile
27 agency, or court supervision shall contain a provision for

1 reimbursement by the juvenile, parent, guardian, or custodian to
2 the court for the cost of care or service. The order shall be
3 reasonable, taking into account both the income and resources of
4 the juvenile, parent, guardian, or custodian. The amount may be
5 based upon the guidelines and model schedule created under
6 subsection (6). If the juvenile is receiving an adoption support
7 subsidy under sections 115f to 115m of the social welfare act, 1939
8 PA 280, MCL 400.115f to 400.115m, the amount shall not exceed the
9 amount of the support subsidy. The reimbursement provision applies
10 during the entire period the juvenile remains in care outside of
11 the juvenile's own home and under state, county juvenile agency, or
12 court supervision, unless the juvenile is in the permanent custody
13 of the court. The court shall provide for the collection of all
14 amounts ordered to be reimbursed and the money collected shall be
15 accounted for and reported to the county board of commissioners.
16 Collections to cover delinquent accounts or to pay the balance due
17 on reimbursement orders may be made after a juvenile is released or
18 discharged from care outside the juvenile's own home and under
19 state, county juvenile agency, or court supervision. Twenty-five
20 percent of all amounts collected under an order entered under this
21 subsection shall be credited to the appropriate fund of the county
22 to offset the administrative cost of collections. The balance of
23 all amounts collected under an order entered under this subsection
24 shall be divided in the same ratio in which the county, state, and
25 federal government participate in the cost of care outside the
26 juvenile's own home and under state, county juvenile agency, or
27 court supervision. The court may also collect from the government

1 of the United States benefits paid for the cost of care of a court
2 ward. Money collected for juveniles placed by the court with or
3 committed to the department of human services or a county juvenile
4 agency shall be accounted for and reported on an individual
5 juvenile basis. In cases of delinquent accounts, the court may also
6 enter an order to intercept state or federal tax refunds of a
7 juvenile, parent, guardian, or custodian **EXCEPT IF THE PARENT,**
8 **GUARDIAN, OR CUSTODIAN WAS THE VICTIM OF THE OFFENSE FROM WHICH THE**
9 **DELINQUENT ACCOUNT AROSE** and initiate the necessary offset
10 proceedings in order to recover the cost of care or service. The
11 court shall send to the person who is the subject of the intercept
12 order advance written notice of the proposed offset. The notice
13 shall include notice of the opportunity to contest the offset on
14 the grounds that the intercept is not proper because of a mistake
15 of fact concerning the amount of the delinquency or the identity of
16 the person subject to the order. The court shall provide for the
17 prompt reimbursement of an amount withheld in error or an amount
18 found to exceed the delinquent amount.

19 (3) An order of disposition placing a juvenile in the
20 juvenile's own home under subsection (1)(b) may contain a provision
21 for reimbursement by the juvenile, parent, guardian, or custodian
22 to the court for the cost of service. If an order is entered under
23 this subsection, an amount due shall be determined and treated in
24 the same manner provided for an order entered under subsection (2).

25 (4) An order directed to a parent or a person other than the
26 juvenile is not effective and binding on the parent or other person
27 unless opportunity for hearing is given by issuance of summons or

1 notice as provided in sections 12 and 13 of this chapter and until
2 a copy of the order, bearing the seal of the court, is served on
3 the parent or other person as provided in section 13 of this
4 chapter.

5 (5) ~~If~~**EXCEPT AS PROVIDED IN SUBSECTION (20), IF** the court
6 appoints an attorney to represent a juvenile, parent, guardian, or
7 custodian, the court may require in an order entered under this
8 section that the juvenile, parent, guardian, or custodian reimburse
9 the court for attorney fees.

10 (6) The office of the state court administrator, under the
11 supervision and direction of the supreme court, shall create
12 guidelines that the court may use in determining the ability of the
13 juvenile, parent, guardian, or custodian to pay for care and any
14 costs of service ordered under subsection (2) or (3). The
15 guidelines shall take into account both the income and resources of
16 the juvenile, parent, guardian, or custodian.

17 (7) ~~If~~**EXCEPT AS PROVIDED IN SUBSECTION (20), IF** the court
18 finds that a juvenile comes under section 30 of this chapter, the
19 court shall order the juvenile or the juvenile's parent to pay
20 restitution as provided in sections 30 and 31 of this chapter and
21 in sections 44 and 45 of the crime victim's rights act, 1985 PA 87,
22 MCL 780.794 and 780.795.

23 (8) If the court imposes restitution as a condition of
24 probation, the court shall require the juvenile to do either of the
25 following as an additional condition of probation:

26 (a) Engage in community service or, with the victim's consent,
27 perform services for the victim.

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

3 (9) If the court finds that the juvenile is in intentional
4 default of the payment of restitution, a court may, as provided in
5 section 31 of this chapter, revoke or alter the terms and
6 conditions of probation for nonpayment of restitution. If a
7 juvenile who is ordered to engage in community service
8 intentionally refuses to perform the required community service,
9 the court may revoke or alter the terms and conditions of
10 probation.

11 (10) The court shall not enter an order of disposition for a
12 juvenile offense as defined in section 1a of 1925 PA 289, MCL
13 28.241a, or a judgment of sentence for a conviction until the court
14 has examined the court file and has determined that the juvenile's
15 fingerprints have been taken and forwarded as required by section 3
16 of 1925 PA 289, MCL 28.243, and as required by the sex offenders
17 registration act, 1994 PA 295, MCL 28.721 to 28.736. If a juvenile
18 has not had his or her fingerprints taken, the court shall do
19 either of the following:

20 (a) Order the juvenile to submit himself or herself to the
21 police agency that arrested or obtained the warrant for the
22 juvenile's arrest so the juvenile's fingerprints can be taken and
23 forwarded.

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

26 (11) Upon final disposition, conviction, acquittal, or
27 dismissal of an offense within the court's jurisdiction under

1 section 2(a)(1) of this chapter, using forms approved by the state
2 court administrator, the clerk of the court entering the final
3 disposition, conviction, acquittal, or dismissal shall immediately
4 advise the department of state police of that final disposition,
5 conviction, acquittal, or dismissal as required by section 3 of
6 1925 PA 289, MCL 28.243. The report to the department of state
7 police shall include information as to the finding of the judge or
8 jury and a summary of the disposition or sentence imposed.

9 (12) If the court enters an order of disposition based on an
10 act that is a juvenile offense as defined in section 1 of 1989 PA
11 196, MCL 780.901, the court shall order the juvenile to pay the
12 assessment as provided in that act. If the court enters a judgment
13 of conviction under section 2d of this chapter for an offense that
14 is a felony, misdemeanor, or ordinance violation, the court shall
15 order the juvenile to pay the assessment as provided in that act.

16 (13) If the court has entered an order of disposition or a
17 judgment of conviction for a listed offense as defined in section 2
18 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the
19 court, department of human services, or the county juvenile agency
20 shall register the juvenile or accept the juvenile's registration
21 as provided in the sex offenders registration act, 1994 PA 295, MCL
22 28.721 to 28.736.

23 (14) If the court enters an order of disposition placing a
24 juvenile in a juvenile boot camp program, or committing a juvenile
25 to a county juvenile agency for placement in a juvenile boot camp
26 program, and the court receives from the department of human
27 services a report that the juvenile has failed to perform

1 satisfactorily in the program, that the juvenile does not meet the
2 program's requirements or is medically unable to participate in the
3 program for more than 25 days, that there is no opening in a
4 juvenile boot camp program, or that the county juvenile agency is
5 unable to place the juvenile in a juvenile boot camp program, the
6 court shall release the juvenile from placement or commitment and
7 enter an alternative order of disposition. A juvenile shall not be
8 placed in a juvenile boot camp under an order of disposition more
9 than once, except that a juvenile returned to the court for a
10 medical condition, because there was no opening in a juvenile boot
11 camp program, or because the county juvenile agency was unable to
12 place the juvenile in a juvenile boot camp program may be placed
13 again in the juvenile boot camp program after the medical condition
14 is corrected, an opening becomes available, or the county juvenile
15 agency is able to place the juvenile.

16 (15) If the juvenile is within the court's jurisdiction under
17 section 2(a)(1) of this chapter for an offense other than a listed
18 offense as defined in section 2 of the sex offenders registration
19 act, 1994 PA 295, MCL 28.722, the court shall determine if the
20 offense is a violation of a law of this state or a local ordinance
21 of a municipality of this state that by its nature constitutes a
22 sexual offense against an individual who is less than 18 years of
23 age. If so, the order of disposition is for a listed offense as
24 defined in section 2 of the sex offenders registration act, 1994 PA
25 295, MCL 28.722, and the court shall include the basis for that
26 determination on the record and include the determination in the
27 order of disposition.

1 (16) The court shall not impose a sentence of imprisonment in
2 the county jail under subsection (1)(m) unless the present county
3 jail facility for the juvenile's imprisonment would meet all
4 requirements under federal law and regulations for housing
5 juveniles. The court shall not impose the sentence until it
6 consults with the sheriff to determine when the sentence will begin
7 to ensure that space will be available for the juvenile.

8 (17) In a proceeding under section 2(h) of this chapter, this
9 section only applies to a disposition for a violation of a personal
10 protection order and subsequent proceedings.

11 (18) If a juvenile is within the court's jurisdiction under
12 section 2(a)(1) of this chapter, the court shall order the juvenile
13 to pay costs as provided in section 18m of this chapter.

14 (19) A juvenile who has been ordered to pay the minimum state
15 cost as provided in section 18m of this chapter as a condition of
16 probation or supervision and who is not in willful default of the
17 payment of the minimum state cost may petition the court at any
18 time for a remission of the payment of any unpaid portion of the
19 minimum state cost. If the court determines that payment of the
20 amount due will impose a manifest hardship on the juvenile or his
21 or her immediate family, the court may remit all or part of the
22 amount of the minimum state cost due or modify the method of
23 payment.

24 **(20) THE COURT SHALL NOT ORDER THE JUVENILE'S PARENT, OR, IF**
25 **THE PARENT IS MARRIED, THE PARENT'S SPOUSE WITH WHOM THE PARENT**
26 **RESIDES, TO PAY REIMBURSEMENT OF COSTS OR FEES OR TO PAY**
27 **RESTITUTION UNDER THIS SECTION IF THE PARENT IS THE VICTIM OF THE**

1 **OFFENSE FOR WHICH THE REIMBURSEMENT OR RESTITUTION IS ORDERED.**

2 Sec. 30. (1) For purposes of this section and section 31:

3 (a) "Juvenile offense" means a violation by a juvenile of a
4 penal law of this state or a violation by a juvenile of an
5 ordinance of a local unit of government of this state punishable by
6 imprisonment or by a fine that is not a civil fine.

7 (b) "Victim" means an individual who suffers direct or
8 threatened physical, financial, or emotional harm as a result of
9 the commission of a juvenile offense. For purposes of subsections
10 (2), (3), (6), (8), (9), and (13), victim includes a sole
11 proprietorship, partnership, corporation, association, governmental
12 entity, or other legal entity that suffers direct physical or
13 financial harm as a result of the commission of a juvenile offense.

14 (2) Except as provided in subsection (8), at the dispositional
15 hearing for a juvenile offense, the court shall order, in addition
16 to or in lieu of any other disposition authorized by law, that the
17 juvenile make full restitution to any victim of the juvenile's
18 course of conduct that gives rise to the disposition or to the
19 victim's estate.

20 (3) If a juvenile offense results in damage to or loss or
21 destruction of property of a victim of the juvenile offense, or
22 results in the seizure or impoundment of property of a victim of
23 the juvenile offense, the order of restitution may require that the
24 juvenile do 1 or more of the following, as applicable:

25 (a) Return the property to the owner of the property or to a
26 person designated by the owner.

27 (b) If return of the property under subdivision (a) is

1 impossible, impractical, or inadequate, pay an amount equal to the
2 greater of subparagraph (i) or (ii), less the value, determined as
3 of the date the property is returned, of that property or any part
4 of the property that is returned:

5 (i) The value of the property on the date of the damage, loss,
6 or destruction.

7 (ii) The value of the property on the date of disposition.

8 (c) Pay the costs of the seizure or impoundment, or both.

9 (4) If a juvenile offense results in physical or psychological
10 injury to a victim, the order of restitution may require that the
11 juvenile do 1 or more of the following, as applicable:

12 (a) Pay an amount equal to the cost of actual medical and
13 related professional services and devices relating to physical and
14 psychological care.

15 (b) Pay an amount equal to the cost of actual physical and
16 occupational therapy and rehabilitation.

17 (c) Reimburse the victim or the victim's estate for after-tax
18 income loss suffered by the victim as a result of the juvenile
19 offense.

20 (d) Pay an amount equal to the cost of psychological and
21 medical treatment for members of the victim's family that has been
22 incurred as a result of the juvenile offense.

23 (e) Pay an amount equal to the costs of actual homemaking and
24 child care expenses incurred as a result of the juvenile offense.

25 (5) If a juvenile offense resulting in bodily injury also
26 results in the death of a victim, the order of restitution may
27 require that the juvenile pay an amount equal to the cost of actual

1 funeral and related services.

2 (6) If the victim or victim's estate consents, the order of
3 restitution may require that the juvenile make restitution in
4 services in lieu of money.

5 (7) If the victim is deceased, the court shall order that the
6 restitution be made to the victim's estate.

7 (8) The court shall order restitution to the crime victims
8 compensation board or to any individuals, partnerships,
9 corporations, associations, governmental entities, or any other
10 legal entities that have compensated the victim or victim's estate
11 for a loss incurred by the victim to the extent of the compensation
12 paid for that loss. The court shall also order restitution, for the
13 costs of services provided, to persons or entities that have
14 provided services to the victim as a result of the juvenile
15 offense. Services that are subject to restitution under this
16 subsection include, but are not limited to, shelter, food,
17 clothing, and transportation. ~~However, an~~ **AN** order of restitution
18 shall require that all restitution to a victim or victim's estate
19 under the order be made before any restitution to any other person
20 or entity under that order is made. The court shall not order
21 restitution to be paid to a victim or victim's estate if the victim
22 or victim's estate has received or is to receive compensation for
23 that loss, and the court shall state on the record with specificity
24 the reasons for its actions. If an entity entitled to restitution
25 under this subsection for compensating the victim or the victim's
26 estate cannot or refuses to be reimbursed for that compensation,
27 the restitution paid for that entity shall be deposited by the

1 state treasurer in the crime victim's rights fund created under
2 section 4 of ~~Act No. 196 of the Public Acts of 1989, being section~~
3 ~~780.904 of the Michigan Compiled Laws, 1989 PA 196, MCL 780.904,~~ or
4 its successor fund.

5 (9) Any amount paid to a victim or victim's estate under an
6 order of restitution shall be set off against any amount later
7 recovered as compensatory damages by the victim or the victim's
8 estate in any federal or state civil proceeding and shall reduce
9 the amount payable to a victim or a victim's estate by an award
10 from the crime victims compensation board made after an order of
11 restitution under this section.

12 (10) If not otherwise provided by the court under this
13 subsection, restitution shall be made immediately. ~~However, the~~ **THE**
14 court may require that the juvenile make restitution under this
15 section within a specified period or in specified installments.

16 (11) If the juvenile is placed on probation, any restitution
17 ordered under this section shall be a condition of that probation.
18 The court may revoke probation if the juvenile fails to comply with
19 the order and if the juvenile has not made a good faith effort to
20 comply with the order. In determining whether to revoke probation,
21 the court shall consider the juvenile's employment status, earning
22 ability, and financial resources, the willfulness of the juvenile's
23 failure to pay, and any other special circumstances that may have a
24 bearing on the juvenile's ability to pay.

25 (12) A juvenile who is required to pay restitution and who is
26 not in willful default of the payment of the restitution may at any
27 time petition the court to modify the method of payment. If the

1 court determines that payment under the order will impose a
2 manifest hardship on the juvenile or his or her immediate family,
3 the court may modify the method of payment.

4 (13) An order of restitution entered under this section
5 remains effective until it is satisfied in full. An order of
6 restitution is a judgment and lien against all property of the
7 individual ordered to pay restitution for the amount specified in
8 the order of restitution. The lien may be recorded as provided by
9 law. An order of restitution may be enforced by the prosecuting
10 attorney, a victim, a victim's estate, or any other person or
11 entity named in the order to receive the restitution in the same
12 manner as a judgment in a civil action or a lien.

13 (14) Notwithstanding any other provision of this section, a
14 juvenile shall not be detained for a violation of probation, or
15 otherwise, for failure to pay restitution as ordered under this
16 section unless the court determines that the juvenile has the
17 resources to pay the ordered restitution and has not made a good
18 faith effort to do so.

19 (15) ~~If~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF**
20 the court determines that the juvenile is or will be unable to pay
21 all of the restitution ordered, after notice to the juvenile's
22 parent and an opportunity for the parent to be heard, the court may
23 order the parent or parents having supervisory responsibility for
24 the juvenile at the time of the acts upon which an order of
25 restitution is based to pay any portion of the restitution ordered
26 that is outstanding. **THE COURT SHALL NOT ORDER THE JUVENILE'S**
27 **PARENT, OR, IF THE PARENT IS MARRIED, THE PARENT'S SPOUSE WITH WHOM**

1 **THE PARENT RESIDES, TO PAY RESTITUTION UNDER THIS SECTION IF THAT**
2 **PARENT WAS THE VICTIM OF THE JUVENILE OFFENSE FOR WHICH RESTITUTION**
3 **IS ORDERED.** An order under this subsection does not relieve the
4 juvenile of his or her obligation to pay restitution, but the
5 amount owed by the juvenile shall be offset by any amount paid by
6 his or her parent. As used in this subsection, "parent" does not
7 include a foster parent.

8 (16) If the court orders a parent to pay restitution under
9 subsection (15), the court shall take into account the financial
10 resources of the parent and the burden that the payment of
11 restitution will impose, with due regard to any other moral or
12 legal financial obligations that the parent may have. If a parent
13 is required to pay restitution under subsection (15), the court
14 shall provide for payment to be made in specified installments and
15 within a specified period of time.

16 (17) A parent who has been ordered to pay restitution under
17 subsection (15) may petition the court for a modification of the
18 amount of restitution owed by the parent or for a cancellation of
19 any unpaid portion of the parent's obligation. The court shall
20 cancel all or part of the parent's obligation due if the court
21 determines that payment of the amount due will impose a manifest
22 hardship on the parent.

23 (18) In each case in which payment of restitution is ordered
24 as a condition of probation, the juvenile caseworker or probation
25 officer assigned to the case shall review the case not less than
26 twice yearly to ensure that restitution is being paid as ordered.
27 The final review shall be conducted not less than 60 days before

1 the expiration of the probationary period. If the juvenile
2 caseworker or probation officer determines the restitution is not
3 being paid as ordered, the juvenile caseworker or probation officer
4 shall file a written report of the violation with the court on a
5 form prescribed by the state court administrative office. The
6 report shall include a statement of the amount of the arrearage and
7 any reasons for the arrearage that are known by the juvenile
8 caseworker or probation officer. The juvenile caseworker or
9 probation officer shall immediately provide a copy of the report to
10 the prosecuting attorney. If a motion is filed or other proceedings
11 are initiated to enforce payment of restitution and the court
12 determines that restitution is not being paid or has not been paid
13 as ordered by the court, the court shall promptly take action
14 necessary to compel compliance.

15 (19) If the court determines that an individual who is ordered
16 to pay restitution under this section is remanded to the
17 jurisdiction of the department of corrections, the court shall
18 provide a copy of the order of restitution to the department of
19 corrections when the court determines that the individual is
20 remanded to the department's jurisdiction.

21 Sec. 31. (1) In determining the amount of restitution to order
22 under section 30 of this chapter, the court shall consider the
23 amount of the loss sustained by any victim as a result of the
24 juvenile offense. In determining whether to order the juvenile's
25 supervisory parent to pay restitution under section 30(15) of this
26 chapter, the court shall consider the financial resources of the
27 juvenile's supervisory parent and the other factors specified in

1 section 30(16) of this chapter. **THE COURT SHALL NOT ORDER THE**
2 **JUVENILE'S PARENT, OR, IF THE PARENT IS MARRIED, THE PARENT'S**
3 **SPOUSE WITH WHOM THE PARENT RESIDES, TO PAY RESTITUTION UNDER THIS**
4 **SECTION IF THAT PARENT WAS THE VICTIM OF THE JUVENILE OFFENSE FOR**
5 **WHICH RESTITUTION IS ORDERED.**

6 (2) The court may order the person preparing a report for the
7 purpose of disposition to obtain information pertaining to the
8 factors set forth in subsection (1). That person shall include the
9 information collected in the disposition report or in a separate
10 report, as the court directs.

11 (3) The court shall disclose to the juvenile, the juvenile's
12 supervisory parent, and the prosecuting attorney all portions of
13 the disposition or other report pertaining to the matters described
14 in subsection (1).

15 (4) Any dispute as to the proper amount or type of restitution
16 shall be resolved by the court by a preponderance of the evidence.
17 The burden of demonstrating the amount of the loss sustained by a
18 victim as a result of the juvenile offense shall be on the
19 prosecuting attorney. The burden of demonstrating the financial
20 resources of the juvenile's supervisory parent and the other
21 factors specified in section 30(16) of this chapter ~~shall be~~ **IS** on
22 the supervisory parent.

23 Enacting section 1. This amendatory act is retroactive and
24 applies to orders of restitution and orders to pay reimbursement of
25 costs or fees entered before the effective date of this amendatory
26 act.