

SENATE BILL No. 137

February 14, 1989, Introduced by Senator NICHOLS and referred to the Committee on Finance.

A bill to amend section 18 of chapter XIIA of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

as amended by Act No. 224 of the Public Acts of 1988, being section 712A.18 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 18 of chapter XIIA of Act No. 288 of the
2 Public Acts of 1939, as amended by Act No. 224 of the Public Acts
3 of 1988, being section 712A.18 of the Michigan Compiled Laws, is
4 amended to read as follows:

5 **CHAPTER XIIA**

6 Sec. 18. (1) If the court finds that a child concerning
7 whom a petition has been filed is not within this chapter, the
8 court shall enter an order dismissing the petition. Except as
9 otherwise provided in subsection (15), if the court finds that a
10 child is within this chapter, the court may enter any of the fol-
11 lowing orders of disposition which is appropriate for the welfare
12 of the child and society in view of the facts proven and
13 ascertained:

14 (a) Warn the child or the child's parents, guardian, or cus-
15 todian and dismiss the petition.

16 (b) Place the child on probation, or under supervision in
17 the child's own home or in the home of an adult who is related to
18 the child. As used in this subdivision "related" means any of
19 the following relationships, by marriage, blood, or adoption:
20 parent, grandparent, brother, sister, stepparent, stepsister,
21 stepbrother, uncle, or aunt. The probation or supervision shall
22 be upon such terms and conditions, including reasonable rules for
23 the conduct of the parents, guardian, or custodian, if any,
24 designed for the physical, mental, or moral well-being and behav-
25 ior of the child, as the court determines.

1 (c) If a child is within the court's jurisdiction under
2 section 2(a) of this chapter, place the child in a suitable
3 foster care home subject to the court's supervision. Except as
4 otherwise provided in subsections (17) and (18), if a child is
5 within the court's jurisdiction under section 2(b) of this chap-
6 ter, the court shall not place a child in a foster care home
7 subject to the court's supervision.

8 (d) Place the child in or commit the child to a private
9 institution or agency approved or licensed by the state depart-
10 ment of social services for the care of children of similar age,
11 sex, and characteristics.

12 (e) Commit the child to a public institution, county facili-
13 ty, institution operated as an agency of the court or county, or
14 agency authorized by law to receive children of similar age, sex,
15 and characteristics. In a placement under subdivision (d) or a
16 commitment under this subdivision, except to a state institution,
17 the religious affiliation of the child shall be protected by
18 placement or commitment to a private child-placing or
19 child-caring agency or institution, if available. The court, in
20 every order of commitment under this subdivision to a state
21 institution or agency described in the youth rehabilitation serv-
22 ices act, Act No. 150 of the Public Acts of 1974, as amended,
23 being sections 803.301 to 803.309 of the Michigan Compiled Laws
24 or in Act No. 220 of the Public Acts of 1935, as amended, being
25 sections 400.201 to 400.214 of the Michigan Compiled Laws, shall
26 name the superintendent of the institution to which the child is
27 committed as a special guardian to receive benefits due the child

1 from the government of the United States, and the benefits shall
2 be used to the extent necessary to pay for the portions of the
3 cost of care in the institution which the parent or parents are
4 found unable to pay.

5 (f) Provide the child with medical, dental, surgical, or
6 other health care, in a local hospital if available, or else-
7 where, maintaining as much as possible a local physician-patient
8 relationship, and with clothing and other incidental items as the
9 court considers necessary.

10 (g) Order the parents, guardian, custodian, or any other
11 person to refrain from continuing conduct which, in the opinion
12 of the court, has caused or tended to cause the child to come
13 within or to remain under this chapter, or which obstructs place-
14 ment or commitment of the child pursuant to an order under this
15 section.

16 (2) An order of disposition placing a child in or committing
17 a child to care outside of the child's own home and under state
18 or court supervision shall contain a provision for the reimburse-
19 ment by the child, parent, guardian, or custodian to the court
20 for the cost of care or service. The order shall be reasonable,
21 taking into account both the income and resources of the child,
22 parent, guardian, or custodian. The amount may be based upon the
23 guidelines and model schedule created under subsection (6). The
24 reimbursement provision shall apply during the entire period the
25 child remains in care outside of the child's own home and under
26 state or court supervision, unless the child is in the permanent
27 custody of the court. The court shall provide for the collection

1 of all amounts ordered to be reimbursed, and the money collected
2 shall be accounted for and reported to the county board of
3 commissioners. Collections to cover delinquent accounts or to
4 pay the balance due on reimbursement orders may be made after a
5 child is released or discharged from care outside the child's own
6 home and under state or court supervision. Twenty-five percent
7 of all amounts collected pursuant to an order entered under this
8 subsection shall be credited to the appropriate fund of the
9 county to offset the administrative cost of collections. The
10 balance of all amounts collected pursuant to an order entered
11 under this subsection shall be divided in the same ratio in which
12 the county, state, and federal government participate in the cost
13 of care outside the child's own home and under state or court
14 supervision. The court may also collect benefits paid for the
15 cost of care of a court ward from the government of the United
16 States. Money collected for children placed with or committed to
17 the state department of social services shall be accounted for
18 and reported on an individual child basis. THE COURT MAY ALSO
19 ENTER AN ORDER TO INTERCEPT THE STATE INCOME TAX REFUND OF A
20 CHILD, PARENT, GUARDIAN, OR CUSTODIAN AND INITIATE THE NECESSARY
21 OFFSET PROCEEDINGS IN ORDER TO RECOVER THE COST OF CARE OR
22 SERVICE.

23 (3) An order of disposition placing a child in the child's
24 own home under subsection (1)(b) may contain a provision for the
25 reimbursement by the child, parent, guardian, or custodian to the
26 court for the cost of service. If an order is entered under this

1 subsection, amounts due shall be determined and treated in the
2 same manner provided for an order entered under subsection (2).

3 (4) An order directed to a parent or a person other than the
4 child shall not be effectual and binding on the parent or other
5 person unless opportunity for hearing has been given pursuant to
6 issuance of summons or notice as provided in sections 12 and 13
7 of this chapter, and until a copy of the order, bearing the seal
8 of the court, is served on the parent or other person, personally
9 or by first class mail, to the parent's or other person's last
10 known address, as provided in section 13 of this chapter.

11 (5) If the court appoints an attorney to represent a child,
12 parent, guardian, or custodian, an order entered under this sec-
13 tion may require the child, parent, guardian, or custodian to
14 reimburse the court for attorney fees.

15 (6) The office of the state court administrator, under the
16 supervision and direction of the supreme court and in consulta-
17 tion with the state department of social services and the
18 Michigan probate and juvenile court judges association, shall
19 create guidelines and a model schedule which may be used by the
20 court in determining the ability of the child, parent, guardian,
21 or custodian to pay for care and any costs of service ordered
22 under subsection (2) or (3). The guidelines and model schedule
23 shall take into account both the income and resources of the
24 child, parent, guardian, or custodian.

25 (7) If the court finds that a child has violated any munici-
26 pal ordinance or state or federal law, and the court has placed

1 the child on probation, the court may, as a condition of
2 probation, require the child to do either of the following:

3 (a) Both of the following:

4 (i) Pay restitution to the victim.

5 (ii) Engage in community service or with the victim's con-
6 sent perform services for the victim.

7 (b) Seek and maintain paid part-time or full-time employment
8 and pay restitution to the victim from the earnings of that paid
9 part-time or full-time employment.

10 (8) If the court imposes restitution as part of a sentence
11 of probation, the following shall apply:

12 (a) The court shall not require a child to pay restitution
13 unless the child is or will be able to pay all or part of the
14 restitution during the term of his or her probation. In deter-
15 mining the amount and method of payment of restitution, the court
16 shall take into account the financial resources of the child and
17 the burden that the payment of restitution will impose, with due
18 regard to any other moral or legal financial obligations that the
19 child may have.

20 (b) The amount of restitution a court orders a child to pay
21 under subsection (7)(b) shall not exceed 30% of the net income
22 per pay period from the child's paid part-time or full-time
23 employment.

24 (c) A child who is required to pay restitution and who is
25 not in intentional default of the payment of restitution may
26 petition the court, or an adult acting on the child's behalf may
27 petition the court, for a modification of the amount of

1 restitution owed or for a cancellation of any unpaid portion of
2 the restitution.

3 (d) The court shall cancel all or part of the amount of res-
4 titution due if it appears to the satisfaction of the court that
5 payment of the amount due will impose a manifest hardship on the
6 child.

7 (e) If the court cancels all or a part of the amount of res-
8 titution, the court may modify the terms and conditions of proba-
9 tion to require the child to engage in community service.

10 (9) If a child is required to pay restitution as part of the
11 sentence of probation, the court shall provide for payment to be
12 made in specified installments and within a specified period of
13 time.

14 (10) If the court finds that the child is in intentional
15 default of the payment of restitution, a court may revoke or
16 alter the terms and conditions of probation for nonpayment of
17 restitution.

18 (11) If a child who is ordered to engage in community serv-
19 ice intentionally refuses to perform the required community serv-
20 ice, the court may revoke or alter the terms and conditions of
21 probation.

22 (12) If the child is unable to pay all of the restitution
23 ordered, after notice to the child's custodial parent and an
24 opportunity for the parent to be heard, the court may order the
25 custodial parent to pay all or part of the unpaid portion of the
26 restitution ordered. The amount of restitution the parent is
27 ordered to pay under this subsection shall not exceed \$2,500.00.

1 (13) If the court orders the custodial parent to pay
2 restitution under subsection (12), the court shall take into
3 account the financial resources of the parent and the burden that
4 the payment of restitution will impose, with due regard to any
5 other moral or legal financial obligations that the parent may
6 have. If a parent is required to pay restitution under subsec-
7 tion (12), the court shall provide for payment to be made in
8 specified installments and within a specified period of time.

9 (14) A parent who has been ordered to pay restitution under
10 subsection (12) may petition the court for a modification of the
11 amount of restitution owed or for a cancellation of any unpaid
12 portion of the restitution. The court shall cancel all or part
13 of the amount of restitution due, if it appears to the satisfac-
14 tion of the court that payment of the amount due will impose a
15 manifest hardship on the parent.

16 (15) The court shall not enter an order of disposition for a
17 juvenile offense as defined in section 1a of Act No. 289 of the
18 Public Acts of 1925, being section 28.241a of the Michigan
19 Compiled Laws, until the court has examined the court file and
20 has determined that the child's fingerprints have been taken as
21 required by section 3 of Act No. 289 of the Public Acts of 1925,
22 being section 28.243 of the Michigan Compiled Laws. If a child
23 has not had his or her fingerprints taken, the court shall do
24 either of the following:

25 (a) Order the child to submit himself or herself to the
26 police agency that arrested or obtained the warrant for the
27 arrest of the child so the child's fingerprints can be taken.

1 (b) Order the child committed to the custody of the sheriff
2 for the taking of the child's fingerprints.

3 (16) Upon disposition or dismissal of a juvenile offense,
4 the clerk of the court entering the disposition or dismissal
5 shall immediately advise the department of state police of the
6 disposition or dismissal on forms approved by the state court
7 administrator. The report to the department of state police
8 shall include information as to the finding of the judge or jury
9 and a summary of the disposition imposed.

10 (17) Except as otherwise provided in subsection (18), if a
11 court is providing at the time of the enactment of this subsec-
12 tion foster care home services subject to the court's supervision
13 to children within section 2(b) of this chapter, the court may
14 continue to provide those services through December 31, 1989.
15 Beginning January 1, 1990, the court shall discontinue providing
16 those services.

17 (18) If a court located in a county with a population in
18 excess of 650,000 is providing at the time of the enactment of
19 this subsection foster care home services subject to the court's
20 supervision to children within section 2(b) of this chapter, the
21 court may continue to provide those services through
22 December 31, 1991. Beginning January 1, 1992, the court shall
23 discontinue those services.

24 Section 2. This amendatory act shall not take effect unless
25 Senate Bill No. 138
26 of the 85th Legislature is enacted into law.