

SENATE BILL NO. 567

May 4, 1999, Introduced by Senator ROGERS 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 section 18 of chapter XIIIA (MCL 712A.18), as amended
by 1998 PA 478.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XIIIA

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 other-
5 wise provided in subsection (10), if the court finds that a juve-
6 nile is within this chapter, the court may enter any of the fol-
7 lowing orders of disposition that are appropriate for the welfare
8 of the juvenile and society in view of the facts proven and
9 ascertained:

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

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

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

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

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

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

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

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

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

22 (h) Appoint a guardian under section 424 of the revised pro-
23 bate code, 1978 PA 642, MCL 700.424, OR SECTION 5204 OF THE
24 ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL
25 700.5204, pursuant to a petition filed with the court by a person
26 interested in the juvenile's welfare. If the court appoints a

1 guardian pursuant to this subdivision, it may dismiss the
2 petition under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 ~~7401(2)(a)(i) or 7403(2)(a)(i)~~ of the public health code, 1978
27 PA 368, MCL ~~333.7401 and~~ 333.7403, the court may impose the

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

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

24 (ii) The juvenile's culpability in committing the offense,
25 including, but not limited to, the level of the juvenile's par-
26 ticipation in planning and carrying out the offense and the

1 existence of any aggravating or mitigating factors recognized by
2 the sentencing guidelines.

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

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

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

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

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

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

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

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

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

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

25 (6) The office of the state court administrator, under the
26 supervision and direction of the supreme court and in
27 consultation with the family independence agency and the Michigan

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

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

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

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

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

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

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

1 28.241A, or a judgment of sentence for a conviction until the
2 court has examined the court file and has determined that the
3 juvenile's fingerprints have been taken AND FORWARDED as required
4 by section 3 of 1925 PA 289, MCL 28.243, AND AS REQUIRED BY THE
5 SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.721 TO
6 28.732. If a juvenile has not had his or her fingerprints taken,
7 the court shall do either of the following:

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

12 (b) Order the juvenile committed to the sheriff's custody
13 for taking AND FORWARDING the juvenile's fingerprints.

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

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

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

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

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

1 the court for a medical condition, because there was no opening
2 in a juvenile boot camp program, or because the county juvenile
3 agency was unable to place the juvenile in a juvenile boot camp
4 program may be placed again in the juvenile boot camp program
5 after the medical condition is corrected, an opening becomes
6 available, or the county juvenile agency is able to place the
7 juvenile.

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

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

18 Enacting section 1. This amendatory act take effect
19 September 1, 1999.

20 Enacting section 2. This amendatory act does not take
21 effect unless Senate Bill No. 566

22 of the 90th Legislature is
23 enacted into law.