

HOUSE BILL No. 4784

May 12, 2005, Introduced by Reps. Kahn, Spade, Polidori, Lemmons, Jr., Cushingberry, Sheltrown, Wojno, David Law, Jones, Pearce, Booher, Wenke, Meyer and Lemmons, III and referred to the Committee on Family and Children Services.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 18 of chapter XIIA (MCL 712A.18), as amended by
2004 PA 475.

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

1 (a) Warn the juvenile or the juvenile's parents, guardian, or
2 custodian and, except as provided in subsection (7), dismiss the
3 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 an
7 individual who is at least 18 years of age and related to the child
8 by blood, marriage, or adoption, as grandparent, great-grandparent,
9 great-great-grandparent, aunt or uncle, great-aunt or great-uncle,
10 great-great-aunt or great-great-uncle, sibling, stepsibling, nephew
11 or niece, first cousin or first cousin once removed, ~~and~~ OR the
12 spouse of any of the above, even after the marriage has ended by
13 death or divorce. A child may be placed with the parent of a man
14 whom the court has found probable cause to believe is the putative
15 father if there is no man with legally established rights to the
16 child. This placement of the child with the parent of a man whom
17 the court has found probable cause to believe is the putative
18 father is for the purposes of placement only and is not to be
19 construed as a finding of paternity or to confer legal standing.
20 The court shall order the terms and conditions of probation or
21 supervision, including reasonable rules for the conduct of the
22 parents, guardian, or custodian, if any, as the court determines
23 necessary for the physical, mental, or moral well-being and
24 behavior of the juvenile. The court may order that the juvenile
25 participate in a juvenile drug treatment court under chapter 10A of
26 the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to
27 600.1082. The court also shall order, as a condition of probation

1 or supervision, that the juvenile shall pay the minimum state cost
2 prescribed by section 18m of this chapter.

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

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

22 (e) Except as otherwise provided in this subdivision, commit
23 the juvenile to a public institution, county facility, institution
24 operated as an agency of the court or county, or agency authorized
25 by law to receive juveniles of similar age, sex, and
26 characteristics. If the juvenile is not a ward of the court, the
27 court shall commit the juvenile to the ~~family independence agency~~

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

1 care in the institution or facility that the parent or parents are
2 found unable to pay.

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

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

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

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

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

26 (k) If a juvenile is within the court's jurisdiction under
27 section 2(a)(1) of this chapter, order the juvenile's parent or

1 guardian to personally participate in treatment reasonably
2 available in the parent's or guardian's location.

3 (l) If a juvenile is within the court's jurisdiction under
4 section 2(a)(1) of this chapter, place the juvenile in and order
5 the juvenile to complete satisfactorily a program of training in a
6 juvenile boot camp established by the ~~family independence agency~~
7 **DEPARTMENT OF HUMAN SERVICES** under the juvenile boot camp act, 1996
8 PA 263, MCL 400.1301 to 400.1309, as provided in that act. If the
9 county is a county juvenile agency, ~~however,~~ the court shall
10 commit the juvenile to that county juvenile agency for placement in
11 the program under that act. Upon receiving a report of satisfactory
12 completion of the program from the ~~family independence agency~~
13 **DEPARTMENT OF HUMAN SERVICES**, the court shall authorize the
14 juvenile's release from placement in the juvenile boot camp.
15 Following satisfactory completion of the juvenile boot camp
16 program, the juvenile shall complete an additional period of not
17 less than 120 days or more than 180 days of intensive supervised
18 community reintegration in the juvenile's local community. To place
19 or commit a juvenile under this subdivision, the court shall
20 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~~ **A** mental
26 handicap 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~~ **THE COURT** shall enter
25 a judgment of sentence. If the court imposes a sentence of
26 imprisonment, the juvenile shall receive credit against the
27 sentence for time served before sentencing. In determining whether

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

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

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

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

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

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

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

25 (2) An order of disposition placing a juvenile in or
26 committing a juvenile to care outside of the juvenile's own home
27 and under state, county juvenile agency, or court supervision shall

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

1 supervision. The court may also collect from the government of the
2 United States benefits paid for the cost of care of a court ward.
3 Money collected for juveniles placed by the court with or committed
4 to the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** or
5 a county juvenile agency shall be accounted for and reported on an
6 individual juvenile basis. In cases of delinquent accounts, the
7 court may also enter an order to intercept state or federal tax
8 refunds of a juvenile, parent, guardian, or custodian and initiate
9 the necessary offset proceedings in order to recover the cost of
10 care or service. The court shall send to the person who is the
11 subject of the intercept order advance written notice of the
12 proposed offset. The notice shall include notice of the opportunity
13 to contest the offset on the grounds that the intercept is not
14 proper because of a mistake of fact concerning the amount of the
15 delinquency or the identity of the person subject to the order. The
16 court shall provide for the prompt reimbursement of an amount
17 withheld in error or an amount found to exceed the delinquent
18 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 the court appoints an attorney to represent a juvenile,
6 parent, guardian, or custodian, the court may require in an order
7 entered under this section that the juvenile, parent, guardian, or
8 custodian reimburse the court for attorney fees.

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

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

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

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

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

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

9 (10) The court shall not enter an order of disposition for a
10 juvenile offense as defined in section 1a of 1925 PA 289, MCL
11 28.241a, or a judgment of sentence for a conviction until the court
12 has examined the court file and has determined that the juvenile's
13 fingerprints have been taken and forwarded as required by section 3
14 of 1925 PA 289, MCL 28.243, and as required by the sex offenders
15 registration act, 1994 PA 295, MCL 28.721 to 28.732. If a juvenile
16 has not had his or her fingerprints taken, the court shall do
17 either of the following:

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

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

24 (11) Upon final disposition, conviction, acquittal, or
25 dismissal of an offense within the court's jurisdiction under
26 section 2(a)(1) of this chapter, using forms approved by the state
27 court administrator, the clerk of the court entering the final

1 disposition, conviction, acquittal, or dismissal shall immediately
2 advise the department of state police of that final disposition,
3 conviction, acquittal, or dismissal as required by section 3 of
4 1925 PA 289, MCL 28.243. The report to the department of state
5 police shall include information as to the finding of the judge or
6 jury and a summary of the disposition or sentence imposed.

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

15 (13) If the court has entered an order of disposition or a
16 judgment of conviction for a listed offense as defined in section 2
17 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the
18 court, the ~~family independence agency~~ **DEPARTMENT OF HUMAN**
19 **SERVICES**, or the county juvenile agency shall register the juvenile
20 or accept the juvenile's registration as provided in the sex
21 offenders registration act, 1994 PA 295, MCL 28.721 to 28.732.

22 (14) If the court enters an order of disposition placing a
23 juvenile in a juvenile boot camp program, or committing a juvenile
24 to a county juvenile agency for placement in a juvenile boot camp
25 program, and the court receives from the ~~family independence~~
26 ~~agency~~ **DEPARTMENT OF HUMAN SERVICES** a report that the juvenile has
27 failed to perform satisfactorily in the program, that the juvenile

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

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

27 (16) The court shall not impose a sentence of imprisonment in

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

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

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

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

23 (20) IF THE COURT ENTERS AN ORDER OF DISPOSITION PLACING A
24 JUVENILE WHO IS A PUBLIC WARD IN A PRIVATE INSTITUTE OR FACILITY
25 LOCATED IN ANOTHER STATE OR COUNTRY, STATE FUNDS SHALL NOT BE USED
26 TO COVER ANY PORTION OF THE COST OF CARE FOR THAT JUVENILE. AS USED
27 IN THIS SUBSECTION, "PUBLIC WARD" MEANS THAT TERM AS DEFINED IN

1 SECTION 2 OF THE YOUTH REHABILITATION SERVICES ACT, 1974 PA 150,
2 MCL 803.302.