

Act No. 389
Public Acts of 2020
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**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Senator Santana

ENROLLED SENATE BILL No. 700

AN ACT to amend 1939 PA 288, entitled "An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in

certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” by amending sections 1, 2d, 9a, 15, 18, 18g, 18h, and 18i (MCL 712A.1, 712A.2d, 712A.9a, 712A.15, 712A.18, 712A.18g, 712A.18h, and 712A.18i), section 1 of chapter XIIIa as amended by 2019 PA 109, section 2d of chapter XIIIa as amended by 1998 PA 478, sections 9a and 18h of chapter XIIIa as added by 1996 PA 244, section 15 of chapter XIIIa as amended by 2019 PA 111, sections 18 and 18i of chapter XIIIa as amended by 2019 PA 102, and section 18g of chapter XIIIa as added by 1996 PA 258.

The People of the State of Michigan enact:

CHAPTER XIIIa

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

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

(b) “Competency evaluation” means a court-ordered examination of a juvenile directed to developing information relevant to a determination of his or her competency to proceed at a particular stage of a court proceeding involving a juvenile who is the subject of a delinquency petition.

(c) “Competency hearing” means a hearing to determine whether a juvenile is competent to proceed.

(d) “County juvenile agency” means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.

(e) “Court” means the family division of circuit court.

(f) “Department” means the department of health and human services. A reference in this chapter to the “department of social welfare” or the “family independence agency” means the department of health and human services.

(g) “Foreign protection order” means that term as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.

(h) “Incompetent to proceed” means that a juvenile, based on age-appropriate norms, lacks a reasonable degree of rational and factual understanding of the proceeding or is unable to do 1 or more of the following:

(i) Consult with and assist his or her attorney in preparing his or her defense in a meaningful manner.

(ii) Sufficiently understand the charges against him or her.

(i) Until September 30, 2021, “juvenile” means a person who is less than 17 years of age who is the subject of a delinquency petition. Beginning October 1, 2021, “juvenile” means a person who is less than 18 years of age who is the subject of a delinquency petition.

(j) “Least restrictive environment” means a supervised community placement, preferably a placement with the juvenile’s parent, guardian, relative, or a facility or conditions of treatment that is a residential or institutional placement only utilized as a last resort based on the best interest of the juvenile or for reasons of public safety.

(k) “Licensed child caring institution” means a child caring institution as defined and licensed under 1973 PA 116, MCL 722.111 to 722.128.

(l) “MCI” means the Michigan children’s institute created and established by 1935 PA 220, MCL 400.201 to 400.214.

(m) “Mental health code” means the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(n) “Personal protection order” means a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, and includes a valid foreign protection order.

(o) “Public agency” means the department, a local unit of government, the family division of the circuit court, the juvenile division of the probate court, or a county juvenile agency.

(p) “Qualified juvenile forensic mental health examiner” means 1 of the following who performs forensic mental health examinations for the purposes of sections 1062 to 1074 of the mental health code, MCL 330.2062 to 330.2074, but does not exceed the scope of his or her practice as authorized by state law:

(i) A psychiatrist or psychologist who possesses experience or training in the following:

(A) Forensic evaluation procedures for juveniles.

(B) Evaluation, diagnosis, and treatment of children and adolescents with emotional disturbance, mental illness, or developmental disabilities.

(C) Clinical understanding of child and adolescent development.

(D) Familiarity with competency standards in this state.

(ii) A mental health professional other than a psychiatrist or psychologist who has completed a juvenile competency training program for forensic mental health examiners that is endorsed by the department under section 1072 of the mental health code, MCL 330.2072, and who possesses experience or training in all of the following:

(A) Forensic evaluation procedures for juveniles.

(B) Evaluation, diagnosis, and treatment of children and adolescents with emotional disturbance, mental illness, or developmental disabilities.

(C) Clinical understanding of child and adolescent development.

(D) Familiarity with competency standards in this state.

(g) “Qualified restoration provider” means an individual who the court determines, as a result of the opinion provided by the qualified forensic mental health examiner, has the skills and training necessary to provide restoration services. The court shall take measures to avoid any conflict of interest among agencies or individuals who may provide evaluation and restoration.

(r) “Reasonable and prudent parenting standard” means decisions characterized by careful and sensible parental decisions that maintain a child’s health, safety, and best interest while encouraging the emotional and developmental growth of the child when determining whether to allow a child in foster care to participate in extracurricular, enrichment, cultural, and social activities.

(s) “Restoration” means the process by which education or treatment of a juvenile results in that juvenile becoming competent to proceed.

(t) “Secure facility” means any public or private licensed child caring institution identified by the department as designed to physically restrict the movements and activities of the alleged or adjudicated juvenile offender that has the primary purpose of serving juveniles who have been alleged or adjudicated delinquent, other than a juvenile alleged or adjudicated under section 2(a)(2) to (4) of this chapter.

(u) “Serious misdemeanor” means that term as defined in section 61 of the William Van Regenmorter crime victim’s rights act, 1985 PA 87, MCL 780.811.

(v) “Valid foreign protection order” means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

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

(3) This chapter shall be liberally construed so that each juvenile coming within the court’s jurisdiction receives the care, guidance, and control, preferably in his or her own home, conducive to the juvenile’s welfare and the best interest of the state. If a juvenile is removed from the control of his or her parents, the juvenile shall be placed in care as nearly as possible equivalent to the care that should have been given to the juvenile by his or her parents.

Sec. 2d. (1) In a petition or amended petition alleging that a juvenile is within the court’s jurisdiction under section 2(a)(1) of this chapter for a specified juvenile violation, the prosecuting attorney may designate the case as a case in which the juvenile is to be tried in the same manner as an adult. An amended petition making a designation under this subsection must be filed only by leave of the court.

(2) In a petition alleging that a juvenile is within the court’s jurisdiction under section 2(a)(1) of this chapter for an offense other than a specified juvenile violation, the prosecuting attorney may request that the court designate the case as a case in which the juvenile is to be tried in the same manner as an adult. The court may designate the case following a hearing if it determines that the best interests of the juvenile and the public would be served by the juvenile being tried in the same manner as an adult. In determining whether the best interests of the juvenile and the public would be served, the court shall consider all of the following factors, giving greater weight to the seriousness of the alleged offense and the juvenile’s prior delinquency record than to the other factors:

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

(b) The juvenile’s culpability in committing the alleged offense, including, but not limited to, the level of the juvenile’s participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(c) The juvenile’s prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior.

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

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

(f) The dispositional options available for the juvenile.

(3) If a case is designated under this section, the case must be set for trial in the same manner as the trial of an adult in a court of general criminal jurisdiction unless a probable cause hearing is required under subsection (4).

(4) If the petition in a case designated under this section alleges an offense that if committed by an adult would be a felony or punishable by imprisonment for more than 1 year, the court shall conduct a probable cause hearing not later than 14 days after the case is designated to determine whether there is probable cause to believe the offense was committed and whether there is probable cause to believe the juvenile committed the offense. This hearing may be combined with the designation hearing under subsection (2) for an offense other than a specified juvenile offense. A probable cause hearing under this section is the equivalent of the preliminary examination in a court of general criminal jurisdiction and satisfies the requirement for that hearing. A probable cause hearing must be conducted by a judge other than the judge who will try the case if the juvenile is tried in the same manner as an adult.

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

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

(7) If a case is designated under this section, the proceedings are criminal proceedings and must afford all procedural protections and guarantees to which the juvenile would be entitled if being tried for the offense in a court of general criminal jurisdiction. A plea of guilty or nolo contendere or a verdict of guilty must result in entry of a judgment of conviction. The conviction must have the same effect and liabilities as if it had been obtained in a court of general criminal jurisdiction.

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

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

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

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

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

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

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

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

(i) A high-security or medium-security facility operated by the family independence agency or a county juvenile agency.

(ii) A high-security facility operated by a private agency under contract with the family independence agency or a county juvenile agency.

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

- (e) An attempt to commit a violation described in subdivisions (a) to (d).
- (f) Conspiracy to commit a violation described in subdivisions (a) to (d).
- (g) Solicitation to commit a violation described in subdivisions (a) to (d).
- (h) Any lesser included offense of an offense described in subdivisions (a) to (g) if the juvenile is alleged in the petition to have committed an offense described in subdivisions (a) to (g).
- (i) Any other offense arising out of the same transaction as an offense described in subdivisions (a) to (g) if the juvenile is alleged in the petition to have committed an offense described in subdivisions (a) to (g).

Sec. 9a. If the court acting under section 18(1)(p) of this chapter imposes a sentence of probation in the same manner as probation could be imposed upon an adult convicted of the same offense for which the juvenile was convicted or enters an order of disposition delaying imposition of sentence and placing the juvenile on probation, the probation supervision and related services shall not be performed by employees of the department of corrections.

Sec. 15. (1) In the case of a juvenile concerning whom a complaint has been made or a petition has been filed under this chapter, the court may order the juvenile, pending the hearing, detained in a facility as the court designates. The court may release the juvenile, pending the hearing, in the custody of a parent, guardian, or custodian, to be brought before the court at the time designated. As used in this subsection, "petition" includes all of the following:

- (a) Petition.
- (b) Supplemental petition.
- (c) Petition for revocation of probation.
- (d) Supplemental petition alleging a violation of a personal protection order.
- (e) A petition or supplemental petition alleging that a juvenile violated a court order under section 2(a)(2) to (4) of this chapter.
- (2) Custody, pending hearing, is limited to the following children:
 - (a) Those whose home conditions make immediate removal necessary.
 - (b) Those who have a record of unexcused failures to appear at juvenile court proceedings.
 - (c) Those who have failed to remain in a detention or nonsecure facility or placement in violation of a court order.
 - (d) Those whose offenses are so serious that release would endanger public safety.
 - (e) Those who have allegedly violated a personal protection order and for whom it appears there is a substantial likelihood of retaliation or continued violation.
 - (f) Those who have allegedly violated a court order under section 2(a)(2) to (4) of this chapter.
- (3) If a juvenile is taken into custody for violating a court order under section 2(a)(2) to (4) of this chapter and is detained in a secure facility, the petitioner shall ensure that an appropriately trained, licensed, or certified mental health or substance abuse professional interviews the juvenile in person within 24 hours to assess the immediate mental health and substance abuse needs of the juvenile. The assessment may alternatively be done upon filing the petition, prior to any order for placement in a secure facility. Within 48 hours of the placement in the secure facility, the petitioner shall submit the assessment to the court and the court shall conduct a hearing to determine all of the following:
 - (a) If there is reasonable cause to believe that the juvenile violated the court order.
 - (b) The appropriate placement of the juvenile pending the disposition of the alleged violation, including if the juvenile should be placed in a secure facility.
- (4) A child taken into custody under section 2(b) of this chapter or subsection (2)(a) must not be detained in any secure facility or in a cell or other secure area of any secure facility designed to incarcerate adults.
- (5) A juvenile taken into custody under section 2(a)(2) to (4) of this chapter must not be detained in a cell or other secure area of any secure facility designed to incarcerate adults unless either of the following applies:
 - (a) The juvenile is under the jurisdiction of the court under section 2(a)(1) of this chapter for an offense which, if committed by an adult, would be a felony.
 - (b) Until September 30, 2021, the juvenile is not less than 17 years of age and is under the jurisdiction of the court under a supplemental petition under section 2(h) of this chapter. Beginning October 1, 2021, the juvenile is not less than 18 years of age and is under the jurisdiction of the court under a supplemental petition under section 2(h) of this chapter.

Sec. 18. (1) If the court finds that a juvenile concerning whom a petition is filed is not within this chapter, the court shall enter an order dismissing the petition. Except as otherwise provided in subsection (10), if the court finds that a juvenile is within this chapter, the court shall order the juvenile returned to his or her parent if the return of the juvenile to his or her parent would not cause a substantial risk of harm to the juvenile or society. The court may also enter any of the following orders of disposition that are appropriate for the welfare of the juvenile and society in view of the facts proven and ascertained:

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

(b) Place the juvenile on probation, or under supervision in the juvenile's own home or in the home of an adult who is related to the juvenile. As used in this subdivision, "related" means an individual who is not less than 18 years of age and related to the child by blood, marriage, or adoption, as grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, and the spouse of any of the above, even after the marriage has ended by death or divorce. A child may be placed with the parent of a man whom the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child. This placement of the child with the parent of a man whom the court has found probable cause to believe is the putative father is for the purpose of placement only, is not a finding of paternity, and does not confer legal standing. The court shall order the terms and conditions of probation or supervision, including reasonable rules for the conduct of the parents, guardian, or custodian, if any, as the court determines necessary for the physical, mental, or moral well-being and behavior of the juvenile. The court may order that the juvenile participate in a juvenile drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1088. The court also shall order, as a condition of probation or supervision, that the juvenile shall pay the minimum state cost prescribed by section 18m of this chapter.

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

(d) Except as otherwise provided in this subdivision, place the juvenile in or commit the juvenile to a private institution or agency approved or licensed by the department's division of child welfare licensing for the care of juveniles of similar age, sex, and characteristics. If the juvenile is not a ward of the court, the court shall commit the juvenile to the department or, if the county is a county juvenile agency, to that county juvenile agency for placement in or commitment to an institution or agency as the department or county juvenile agency determines is most appropriate, subject to any initial level of placement the court designates.

(e) Except as otherwise provided in this subdivision, commit the juvenile to a public institution, county facility, institution operated as an agency of the court or county, or agency authorized by law to receive juveniles of similar age, sex, and characteristics. If the juvenile is not a ward of the court, the court shall commit the juvenile to the department or, if the county is a county juvenile agency, to that county juvenile agency for placement in or commitment to an institution or facility as the department or county juvenile agency determines is most appropriate, subject to any initial level of placement the court designates. In a placement under subdivision (d) or a commitment under this subdivision, except to a state institution or a county juvenile agency, the juvenile's religious affiliation must be protected by placement or commitment to a private child placing or child caring agency or institution, if available. Except for commitment to the department or a county juvenile agency, an order of commitment under this subdivision to a state institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, or in 1935 PA 220, MCL 400.201 to 400.214, the court shall name the superintendent of the institution where the juvenile is committed as a special guardian to receive benefits due the juvenile from the government of the United States. An order of commitment under this subdivision to the department or a county juvenile agency must name that agency as a special guardian to receive those benefits. The benefits received by the special guardian must be used to the extent necessary to pay for the portions of the cost of care in the institution or facility that the parent or parents are found unable to pay.

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

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

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

- (i) Order the juvenile to engage in community service.
- (j) If the court finds that a juvenile has violated a municipal ordinance or a state or federal law, order the juvenile to pay a civil fine in the amount of the civil or penal fine provided by the ordinance or law. Money collected from fines levied under this subsection must be distributed as provided in section 29 of this chapter.
- (k) If the court finds that the juvenile has violated a court order under section 2(a)(2) to (4) of this chapter, order the juvenile to be placed in a secure facility. A court order under this subdivision must state all of the following:
 - (i) The court order the juvenile violated.
 - (ii) The factual basis for determining that there was reasonable cause to believe that the juvenile violated the court order.
 - (iii) The court's finding of fact to support a determination that there is no appropriate less restrictive alternative placement available considering the best interests of the juvenile.
 - (iv) The length of time, not to exceed 7 days, that the juvenile may remain in the secure facility and the plan for the juvenile's release from the facility.
 - (v) That the order may not be renewed or extended.
- (l) For a second or subsequent violation of a court order under section 2(a)(2) to (4) of this chapter, issue a second or subsequent order under subdivision (k), but only if the court finds both of the following:
 - (i) The juvenile violated a court order after the date that the court issued the first order under subdivision (k).
 - (ii) The court has procedures in place to ensure that a juvenile held in a secure facility by a court order is not in custody more than 7 days or the length of time authorized by the court, whichever is shorter.
- (m) If a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter, order the juvenile's parent or guardian to personally participate in treatment reasonably available in the parent's or guardian's location.
- (n) If a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter, place the juvenile in and order the juvenile to complete satisfactorily a program of training in a juvenile boot camp established by the department under the juvenile boot camp act, 1996 PA 263, MCL 400.1301 to 400.1309, as provided in that act. If the county is a county juvenile agency, the court shall commit the juvenile to that county juvenile agency for placement in the program under that act. Upon receiving a report of satisfactory completion of the program from the department, the court shall authorize the juvenile's release from placement in the juvenile boot camp. Following satisfactory completion of the juvenile boot camp program, the juvenile shall complete an additional period of not less than 120 days or more than 180 days of intensive supervised community reintegration in the juvenile's local community. To place or commit a juvenile under this subdivision, the court shall determine all of the following:
 - (i) Placement in a juvenile boot camp will benefit the juvenile.
 - (ii) The juvenile is physically able to participate in the program.
 - (iii) The juvenile does not appear to have any mental handicap that would prevent participation in the program.
 - (iv) The juvenile will not be a danger to other juveniles in the boot camp.
 - (v) There is an opening in a juvenile boot camp program.
 - (vi) If the court must commit the juvenile to a county juvenile agency, the county juvenile agency is able to place the juvenile in a juvenile boot camp program.
- (o) If the court entered a judgment of conviction under section 2d of this chapter, enter any disposition under this section or, if the court determines that the best interests of the public would be served, impose any sentence upon the juvenile that could be imposed upon an adult convicted of the offense for which the juvenile was convicted. If the juvenile is convicted of a violation or conspiracy to commit a violation of section 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7403, the court may impose the alternative sentence permitted under that section if the court determines that the best interests of the public would be served. The court may delay imposing a sentence of imprisonment under this subdivision for a period not longer than the period during which the court has jurisdiction over the juvenile under this chapter by entering an order of disposition delaying imposition of sentence and placing the juvenile on probation upon the terms and conditions it considers appropriate, including any disposition under this section. If the court delays imposing sentence under this section, section 18i of this chapter applies. If the court imposes sentence, it shall enter a judgment of sentence. If the court imposes a sentence of imprisonment, the juvenile shall receive credit against the sentence for time served before sentencing. In determining whether to enter an order of disposition or impose a sentence under this subdivision,

the court shall consider all of the following factors, giving greater weight to the seriousness of the offense and the juvenile's prior record:

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

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

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

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

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

(vi) The dispositional options available for the juvenile.

(p) In a proceeding under section 2(b) or (c) of this chapter, if a juvenile is removed from the parent's custody at any time, the court shall permit the juvenile's parent to have regular and frequent parenting time with the juvenile. Parenting time between the juvenile and his or her parent shall not be less than 1 time every 7 days unless the court determines either that exigent circumstances require less frequent parenting time or that parenting time, even if supervised, may be harmful to the juvenile's life, physical health, or mental well-being. If the court determines that parenting time, even if supervised, may be harmful to the juvenile's life, physical health, or mental well-being, the court may suspend parenting time until the risk of harm no longer exists. The court may order the juvenile to have a psychological evaluation or counseling, or both, to determine the appropriateness and the conditions of parenting time.

(2) An order of disposition placing a juvenile in or committing a juvenile to care outside of the juvenile's own home and under state, county juvenile agency, or court supervision must contain a provision for reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of care or service. The order shall be reasonable, taking into account both the income and resources of the juvenile, parent, guardian, or custodian. The amount may be based upon the guidelines and model schedule created under subsection (6). If the juvenile is receiving an adoption assistance under sections 115f to 115m or 115t of the social welfare act, 1939 PA 280, MCL 400.115f to 400.115m and 400.115t, the amount must not exceed the amount of the support subsidy. The reimbursement provision applies during the entire period the juvenile remains in care outside of the juvenile's own home and under state, county juvenile agency, or court supervision, unless the juvenile is in the permanent custody of the court. The court shall provide for the collection of all amounts ordered to be reimbursed and the money collected must be accounted for and reported to the county board of commissioners. Collections to cover delinquent accounts or to pay the balance due on reimbursement orders may be made after a juvenile is released or discharged from care outside the juvenile's own home and under state, county juvenile agency, or court supervision. Twenty-five percent of all amounts collected under an order entered under this subsection must be credited to the appropriate fund of the county to offset the administrative cost of collections. The balance of all amounts collected under an order entered under this subsection must be divided in the same ratio in which the county, state, and federal government participate in the cost of care outside the juvenile's own home and under state, county juvenile agency, or court supervision. The court may also collect from the government of the United States benefits paid for the cost of care of a court ward. Money collected for juveniles placed by the court with or committed to the department or a county juvenile agency must be accounted for and reported on an individual juvenile basis. In cases of delinquent accounts, the court may also enter an order to intercept state or federal tax refunds of a juvenile, parent, guardian, or custodian and initiate the necessary offset proceedings in order to recover the cost of care or service. The court shall send to the person who is the subject of the intercept order advance written notice of the proposed offset. The notice must include notice of the opportunity to contest the offset on the grounds that the intercept is not proper because of a mistake of fact concerning the amount of the delinquency or the identity of the person subject to the order. The court shall provide for the prompt reimbursement of an amount withheld in error or an amount found to exceed the delinquent amount.

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

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

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

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

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

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

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

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

(9) If the court finds that the juvenile is in intentional default of the payment of restitution, a court may, as provided in section 30 of this chapter, revoke or alter the terms and conditions of probation for nonpayment of restitution. If a juvenile who is ordered to engage in community service intentionally refuses to perform the required community service, the court may revoke or alter the terms and conditions of probation.

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

(a) Order the juvenile to submit himself or herself to the police agency that arrested or obtained the warrant for the juvenile's arrest so the juvenile's biometric data can be collected and forwarded and his or her fingerprints can be taken and forwarded.

(b) Order the juvenile committed to the sheriff's custody for collecting and forwarding the juvenile's biometric data and taking and forwarding the juvenile's fingerprints.

(11) Upon final disposition, conviction, acquittal, or dismissal of an offense within the court's jurisdiction under section 2(a)(1) of this chapter, using forms approved by the state court administrator, the clerk of the court entering the final disposition, conviction, acquittal, or dismissal shall immediately advise the department of state police of that final disposition, conviction, acquittal, or dismissal as required by section 3 of 1925 PA 289, MCL 28.243. The report to the department of state police must include information as to the finding of the judge or jury and a summary of the disposition or sentence imposed.

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

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

(14) If the court enters an order of disposition placing a juvenile in a juvenile boot camp program, or committing a juvenile to a county juvenile agency for placement in a juvenile boot camp program, and the court receives from the department a report that the juvenile has failed to perform satisfactorily in the program, that the juvenile does not meet the program's requirements or is medically unable to participate in the program for more than 25 days, that there is no opening in a juvenile boot camp program, or that the county juvenile agency is unable to place the juvenile in a juvenile boot camp program, the court shall release the juvenile from placement or commitment and enter an alternative order of disposition. A juvenile must not be placed in a juvenile boot camp under an order of disposition more than once, except that a juvenile returned to the court for a medical condition, because there was no opening in a juvenile boot camp program, or because the county juvenile agency was unable to place the juvenile in a juvenile boot camp program may be placed again in the juvenile boot camp program after the medical condition is corrected, an opening becomes available, or the county juvenile agency is able to place the juvenile.

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

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

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

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

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

Sec. 18g. (1) In addition to any other disposition under this act, a juvenile other than a juvenile sentenced in the same manner as an adult under section 18(1)(p) of this chapter shall be committed under section 18(1)(e) of this chapter to a detention facility for a specified period of time if all of the following circumstances exist:

(a) The juvenile is under the jurisdiction of the juvenile division of the probate court under section 2(a)(1) of this chapter.

(b) The juvenile is adjudicated as or convicted of violating a criminal municipal ordinance or law of this state or the United States.

(c) The juvenile is found to have used a firearm during the criminal violation.

(2) The period of time specified under subsection (1) must not exceed the length of the sentence that could have been imposed if the juvenile had been sentenced as an adult.

(3) As used in this section, "firearm" means that term as defined in section 3t of 1846 RS 1, MCL 8.3t.

Sec. 18h. A juvenile sentenced to imprisonment under section 18(1)(p) of this chapter shall not be committed to the jurisdiction of the department of corrections. This section does not apply if the juvenile was convicted of a specified juvenile violation as defined in section 2d of this chapter.

Sec. 18i. (1) A delay in sentencing does not deprive the court of jurisdiction to sentence the juvenile under section 18(1)(o) of this chapter any time during the delay.

(2) If the court has entered an order of disposition under section 18(1)(o) of this chapter delaying imposition of sentence, the court shall conduct an annual review of the probation, including but not limited to the services being provided to the juvenile, the juvenile's placement, and the juvenile's progress in that placement. In conducting this review, the court shall examine any annual report prepared under section 3 of the juvenile facilities act, 1988 PA 73, MCL 803.223, and any report prepared upon the court's order by the officer or agency supervising probation. The court may order changes in the juvenile's probation based on the review including but not limited to imposition of sentence.

(3) If the court entered an order of disposition under section 18(1)(o) of this chapter delaying imposition of sentence, the court shall conduct a review hearing to determine whether the juvenile has been rehabilitated and whether the juvenile presents a serious risk to public safety. If the court determines that the juvenile has not been rehabilitated or that the juvenile presents a serious risk to public safety, jurisdiction over the juvenile shall be continued or the court may impose sentence. In making this determination, the court shall consider the following:

(a) The extent and nature of the juvenile's participation in education, counseling, or work programs.

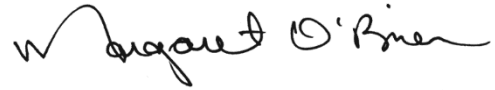
(b) The juvenile's willingness to accept responsibility for prior behavior.

- (c) The juvenile's behavior in his or her current placement.
 - (d) The prior record and character of the juvenile and his or her physical and mental maturity.
 - (e) The juvenile's potential for violent conduct as demonstrated by prior behavior.
 - (f) The recommendations of any institution or agency charged with the juvenile's care for the juvenile's release or continued custody.
 - (g) Other information the prosecuting attorney or juvenile may submit.
- (4) A review hearing shall be scheduled and held unless adjourned for good cause as near as possible to, but before, the juvenile's nineteenth birthday. If an institution or agency to which the juvenile was committed believes that the juvenile has been rehabilitated and that the juvenile does not present a serious risk to public safety, the institution or agency may petition the court to conduct a review hearing any time before the juvenile becomes 19 years of age or, if the court has continued jurisdiction, any time before the juvenile becomes 21 years of age.
- (5) Not less than 14 days before a review hearing is to be conducted, the prosecuting attorney, juvenile, and, if addresses are known, the juvenile's parent or guardian shall be notified. The notice shall state that the court may extend jurisdiction over the juvenile or impose sentence and shall advise the juvenile and the juvenile's parent or guardian of the right to legal counsel. If legal counsel has not been retained or appointed to represent the juvenile, the court shall appoint legal counsel and may assess the cost of providing counsel as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.
- (6) A commitment report prepared as provided in section 5 of the juvenile facilities act, 1988 PA 73, MCL 803.225, and any report prepared upon the court's order by the officer or agency supervising probation may be used by the court at a review hearing held under this section.
- (7) The court shall conduct a final review of the juvenile's probation not less than 3 months before the end of the probation period. If the court determines at this review that the best interests of the public would be served by imposing any other sentence provided by law for an adult offender, the court may impose the sentence. In making its determination, the court shall consider the criteria specified in subsection (3) and all of the following criteria:
- (a) The effect of treatment on the juvenile's rehabilitation.
 - (b) Whether the juvenile is likely to be dangerous to the public if released.
 - (c) The best interests of the public welfare and the protection of public security.
- (8) Not less than 14 days before a final review hearing under subsection (7) is to be conducted, the prosecuting attorney, juvenile, and, if addresses are known, the juvenile's parent or guardian shall be notified. The notice shall state that the court may impose a sentence upon the juvenile and shall advise the juvenile and the juvenile's parent or guardian of the right to legal counsel. If legal counsel has not been retained or appointed to represent the juvenile, the court shall appoint legal counsel and may assess the cost of providing counsel as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.
- (9) If a juvenile placed on probation under an order of disposition delaying imposition of sentence is found by the court to have violated probation by being convicted of a felony or a misdemeanor punishable by imprisonment for more than 1 year, or adjudicated as responsible for an offense that if committed by an adult would be a felony or a misdemeanor punishable by imprisonment for more than 1 year, the court shall revoke probation and sentence the juvenile to imprisonment for a term that does not exceed the penalty that could have been imposed for the offense for which the juvenile was originally convicted and placed on probation.
- (10) If a juvenile placed on probation under an order of disposition delaying imposition of sentence is found by the court to have violated probation other than as provided in subsection (9), the court may impose sentence or may order any of the following for the juvenile:
- (a) A change of placement.
 - (b) Community service.
 - (c) Substance use disorder counseling.
 - (d) Mental health counseling.
 - (e) Participation in a vocational-technical education program.
 - (f) Incarceration in a county jail for not more than 30 days as provided in this chapter. A juvenile shall be placed in a room or ward out of sight and sound from adult prisoners.
 - (g) Other participation or performance as the court considers necessary.
- (11) If a sentence of imprisonment is imposed under this section, the juvenile shall receive credit for the period of time served on probation.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 100th Legislature are enacted into law:

- (a) Senate Bill No. 893.
- (b) Senate Bill No. 894.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor

Compiler's note: Senate Bill No. 893, referred to in enacting section 2, was filed with the Secretary of State January 4, 2021, and became 2020 PA 390, Eff. Apr. 4, 2021.

Senate Bill No. 894, also referred to in enacting section 2, was filed with the Secretary of State January 4, 2021, and became 2020 PA 391, Eff. Apr. 4, 2021.