

SENATE BILL NO. 854

April 16, 2020, Introduced by Senator LASATA and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 18 and 30 of chapter XIIA (MCL 712A.18 and
712A.30), section 18 of chapter XIIA as amended by 2019 PA 102 and
section 30 of chapter XIIA as amended by 1996 PA 561, and by adding
section 31a to chapter XIIA.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XIIA
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

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

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

12 (b) Place the juvenile on probation, or under supervision in
13 the juvenile's own home or in the home of an adult who is related
14 to the juvenile. As used in this subdivision, "related" means an
15 individual who is not less than 18 years of age and related to the
16 child by blood, marriage, or adoption, as grandparent, great-
17 grandparent, great-great-grandparent, aunt or uncle, great-aunt or
18 great-uncle, great-great-aunt or great-great-uncle, sibling,
19 stepsibling, nephew or niece, first cousin or first cousin once
20 removed, and the spouse of any of the above, even after the
21 marriage has ended by death or divorce. A child may be placed with
22 the parent of a man whom the court has found probable cause to
23 believe is the putative father if there is no man with legally
24 established rights to the child. This placement of the child with
25 the parent of a man whom the court has found probable cause to
26 believe is the putative father is for the purpose of placement
27 only, is not a finding of paternity, and does not confer legal
28 standing. The court shall order the terms and conditions of
29 probation or supervision, including reasonable rules for the

1 conduct of the parents, guardian, or custodian, if any, as the
2 court determines necessary for the physical, mental, or moral well-
3 being and behavior of the juvenile. The court may order that the
4 juvenile participate in a juvenile drug treatment court under
5 chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL
6 600.1060 to 600.1088. The court also shall order, as a condition of
7 probation or supervision, that the juvenile shall pay the minimum
8 state cost prescribed by section 18m of this chapter.

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

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

27 (e) Except as otherwise provided in this subdivision, commit
28 the juvenile to a public institution, county facility, institution
29 operated as an agency of the court or county, or agency authorized

1 by law to receive juveniles of similar age, sex, and
2 characteristics. If the juvenile is not a ward of the court, the
3 court shall commit the juvenile to the department or, if the county
4 is a county juvenile agency, to that county juvenile agency for
5 placement in or commitment to an institution or facility as the
6 department or county juvenile agency determines is most
7 appropriate, subject to any initial level of placement the court
8 designates. In a placement under subdivision (d) or a commitment
9 under this subdivision, except to a state institution or a county
10 juvenile agency institution, the juvenile's religious affiliation
11 ~~shall~~**must** be protected by placement or commitment to a private
12 child placing or child caring agency or institution, if available.
13 Except for commitment to the department or a county juvenile
14 agency, an order of commitment under this subdivision to a state
15 institution or agency described in the youth rehabilitation
16 services act, 1974 PA 150, MCL 803.301 to 803.309, or in 1935 PA
17 220, MCL 400.201 to 400.214, the court shall name the
18 superintendent of the institution ~~to which~~**where** the juvenile is
19 committed as a special guardian to receive benefits due the
20 juvenile from the government of the United States. An order of
21 commitment under this subdivision to the department or a county
22 juvenile agency ~~shall~~**must** name that agency as a special guardian
23 to receive those benefits. The benefits received by the special
24 guardian ~~shall~~**must** be used to the extent necessary to pay for the
25 portions of the cost of care in the institution or facility that
26 the parent or parents are found unable to pay.

27 (f) Provide the juvenile with medical, dental, surgical, or
28 other health care, in a local hospital if available, or elsewhere,
29 maintaining as much as possible a local physician-patient

1 relationship, and with clothing and other incidental items the
2 court determines are necessary.

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

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

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

15 (j) If the court finds that a juvenile has violated a
16 municipal ordinance or a state or federal law, order the juvenile
17 to pay a civil fine in the amount of the civil or penal fine
18 provided by the ordinance or law. Money collected from fines levied
19 under this subsection ~~shall~~**must** be distributed as provided in
20 section 29 of this chapter.

21 (k) If a juvenile is within the court's jurisdiction under
22 section 2(a)(1) of this chapter, order the juvenile's parent or
23 guardian to personally participate in treatment reasonably
24 available in the parent's or guardian's location.

25 (l) If a juvenile is within the court's jurisdiction under
26 section 2(a)(1) of this chapter, place the juvenile in and order
27 the juvenile to complete satisfactorily a program of training in a
28 juvenile boot camp established by the department under the juvenile
29 boot camp act, 1996 PA 263, MCL 400.1301 to 400.1309, as provided

1 in that act. If the county is a county juvenile agency, the court
2 shall commit the juvenile to that county juvenile agency for
3 placement in the program under that act. Upon receiving a report of
4 satisfactory completion of the program from the department, the
5 court shall authorize the juvenile's release from placement in the
6 juvenile boot camp. Following satisfactory completion of the
7 juvenile boot camp program, the juvenile shall complete an
8 additional period of not less than 120 days or more than 180 days
9 of intensive supervised community reintegration in the juvenile's
10 local community. To place or commit a juvenile under this
11 subdivision, the court shall determine all of the following:

12 (i) Placement in a juvenile boot camp will benefit the
13 juvenile.

14 (ii) The juvenile is physically able to participate in the
15 program.

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

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

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

21 (vi) If the court must commit the juvenile to a county juvenile
22 agency, the county juvenile agency is able to place the juvenile in
23 a juvenile boot camp program.

24 (m) If the court entered a judgment of conviction under
25 section 2d of this chapter, enter any disposition under this
26 section or, if the court determines that the best interests of the
27 public would be served, impose any sentence upon the juvenile that
28 could be imposed upon an adult convicted of the offense for which
29 the juvenile was convicted. If the juvenile is convicted of a

1 violation or conspiracy to commit a violation of section
2 7403(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7403,
3 the court may impose the alternative sentence permitted under that
4 section if the court determines that the best interests of the
5 public would be served. The court may delay imposing a sentence of
6 imprisonment under this subdivision for a period not longer than
7 the period during which the court has jurisdiction over the
8 juvenile under this chapter by entering an order of disposition
9 delaying imposition of sentence and placing the juvenile on
10 probation upon the terms and conditions it considers appropriate,
11 including any disposition under this section. If the court delays
12 imposing sentence under this section, section 18i of this chapter
13 applies. If the court imposes sentence, it shall enter a judgment
14 of sentence. If the court imposes a sentence of imprisonment, the
15 juvenile shall receive credit against the sentence for time served
16 before sentencing. In determining whether to enter an order of
17 disposition or impose a sentence under this subdivision, the court
18 shall consider all of the following factors, giving greater weight
19 to the seriousness of the offense and the juvenile's prior record:

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

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

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

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

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

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

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

26 (2) An order of disposition placing a juvenile in or
27 committing a juvenile to care outside of the juvenile's own home
28 and under state, county juvenile agency, or court supervision ~~shall~~
29 **must** contain a provision for reimbursement by the juvenile, parent,

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

1 the court with or committed to the department or a county juvenile
2 agency ~~shall~~**must** be accounted for and reported on an individual
3 juvenile basis. In cases of delinquent accounts, the court may also
4 enter an order to intercept state or federal tax refunds of a
5 juvenile, parent, guardian, or custodian and initiate the necessary
6 offset proceedings in order to recover the cost of care or service.
7 The court shall send to the person who is the subject of the
8 intercept order advance written notice of the proposed offset. The
9 notice ~~shall~~**must** include notice of the opportunity to contest the
10 offset on the grounds that the intercept is not proper because of a
11 mistake of fact concerning the amount of the delinquency or the
12 identity of the person subject to the order. The court shall
13 provide for the prompt reimbursement of an amount withheld in error
14 or an amount found to exceed the delinquent amount.

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

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

29 (5) If the court appoints an attorney to represent a juvenile,

1 parent, guardian, or custodian, the court may require in an order
2 entered under this section that the juvenile, parent, guardian, or
3 custodian reimburse the court for attorney fees.

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

11 (7) If the court finds that a juvenile comes under section 30
12 of this chapter, the court shall order the juvenile or the
13 juvenile's parent to pay restitution as provided in sections 30,
14 ~~and 31, and 31a~~ of this chapter and in sections 44 and 45 of the
15 William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL
16 780.794 and 780.795.

17 (8) If the court imposes restitution as a condition of
18 probation, the court shall require the juvenile to do ~~either~~**1** of
19 the following as an additional condition of probation:

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

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

24 **(c) Participate, if applicable, in the juvenile restitution**
25 **for community service program created under section 31a of this**
26 **chapter.**

27 (9) If the court finds that the juvenile is in intentional
28 default of the payment of restitution, a court may, as provided in
29 section 30 of this chapter, revoke or alter the terms and

1 conditions of probation for nonpayment of restitution. If a
2 juvenile who is ordered to engage in community service
3 intentionally refuses to perform the required community service,
4 the court may revoke or alter the terms and conditions of
5 probation.

6 (10) The court shall not enter an order of disposition for a
7 juvenile offense as **that term is** defined in section 1a of 1925 PA
8 289, MCL 28.241a, or a judgment of sentence for a conviction until
9 the court has examined the court file and has determined that the
10 juvenile's biometric data have been collected and forwarded as
11 required by section 3 of 1925 PA 289, MCL 28.243, and the
12 juvenile's fingerprints have been taken and forwarded as required
13 by the sex offenders registration act, 1994 PA 295, MCL 28.721 to
14 28.736. If a juvenile's biometric data have not been collected or a
15 juvenile has not had his or her fingerprints taken, the court shall
16 do either of the following:

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

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

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

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

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

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

21 (14) If the court enters an order of disposition placing a
22 juvenile in a juvenile boot camp program, or committing a juvenile
23 to a county juvenile agency for placement in a juvenile boot camp
24 program, and the court receives from the department a report that
25 the juvenile has failed to perform satisfactorily in the program,
26 that the juvenile does not meet the program's requirements or is
27 medically unable to participate in the program for more than 25
28 days, that there is no opening in a juvenile boot camp program, or
29 that the county juvenile agency is unable to place the juvenile in

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

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

24 (16) The court shall not impose a sentence of imprisonment in
25 the county jail under subsection (1)(m) unless the present county
26 jail facility for the juvenile's imprisonment would meet all
27 requirements under federal law and regulations for housing
28 juveniles. The court shall not impose the sentence until it
29 consults with the sheriff to determine when the sentence will begin

1 to ensure that space will be available for the juvenile.

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

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

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

18 Sec. 30. (1) ~~For purposes of~~ **As used in** this section and
19 ~~section~~ **sections 31 and 31a of this chapter only:**

20 (a) "Juvenile offense" means a violation by a juvenile of a
21 penal law of this state or a violation by a juvenile of an
22 ordinance of a local unit of government of this state punishable by
23 imprisonment or by a fine that is not a civil fine.

24 (b) "Victim" means an individual who suffers direct or
25 threatened physical, financial, or emotional harm as a result of
26 the commission of a juvenile offense. ~~For purposes of~~ **As used in**
27 subsections (2), (3), (6), (8), (9), and (13) **only**, victim includes
28 a sole proprietorship, partnership, corporation, association,
29 governmental entity, or other legal entity that suffers direct

1 physical or financial harm as a result of the commission of a
2 juvenile offense.

3 (2) Except as provided in subsection (8), at the dispositional
4 hearing for a juvenile offense, the court shall order, in addition
5 to or ~~in lieu~~ **instead** of any other disposition authorized by law,
6 that the juvenile make full restitution to any victim of the
7 juvenile's course of conduct that ~~gives rise to~~ **caused** the
8 disposition or to the victim's estate.

9 (3) If a juvenile offense results in damage to or loss or
10 destruction of property of a victim of the juvenile offense, or
11 results in the seizure or impoundment of property of a victim of
12 the juvenile offense, the order of restitution may require that the
13 juvenile do 1 or more of the following: ~~, as applicable:~~

14 (a) Return the property to the owner of the property or to a
15 person designated by the owner.

16 (b) If return of the property under subdivision (a) is
17 impossible, impractical, or inadequate, pay an amount equal to the
18 greater of subparagraph (i) or (ii), less the value, determined as of
19 the date the property is returned, of that property or any part of
20 the property that is returned:

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

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

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

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

28 (a) Pay an amount equal to the cost of actual medical and
29 related professional services and devices relating to physical and

1 psychological care.

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

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

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

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

12 (5) If a juvenile offense resulting in bodily injury also
13 results in the death of a victim, the order of restitution may
14 require that the juvenile pay an amount equal to the cost of actual
15 funeral and related services.

16 (6) If the victim or victim's estate consents, the order of
17 restitution may require that the juvenile make restitution in
18 services ~~in lieu~~ **instead** of money.

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

21 (8) The court shall order restitution to the crime victims
22 compensation board or to any individuals, partnerships,
23 corporations, associations, governmental entities, or any other
24 legal entities that have compensated the victim or **the** victim's
25 estate for a loss incurred by the victim to the extent of the
26 compensation paid for that loss. The court shall also order
27 restitution ~~—~~for the costs of services provided ~~—~~to persons or
28 entities that have provided services to the victim as a result of
29 the juvenile offense. Services that are subject to restitution

1 under this subsection include, but are not limited to, shelter,
2 food, clothing, and transportation. However, an order of
3 restitution ~~shall~~**must** require that all restitution to a victim or
4 victim's estate under the order be made before any restitution to
5 any other person or entity under that order is made. The court
6 shall not order restitution to be paid to a victim or victim's
7 estate if the victim or victim's estate has received or is to
8 receive compensation for that loss, and the court shall state on
9 the record with specificity the reasons for its actions. If an
10 entity entitled to restitution under this subsection for
11 compensating the victim or the victim's estate cannot or refuses to
12 be reimbursed for that compensation, the restitution paid for that
13 entity ~~shall~~**must** be deposited by the state treasurer in the crime
14 victim's rights fund created under section 4 of ~~Act No. 196 of the~~
15 ~~Public Acts of 1989, being section 780.904 of the Michigan Compiled~~
16 ~~Laws, 1989 PA 196, MCL 780.904~~, or its successor fund.

17 (9) Any amount paid to a victim or ~~a~~ victim's estate under an
18 order of restitution ~~shall~~**must** be set off against any amount later
19 recovered as compensatory damages by the victim or the victim's
20 estate in any federal or state civil proceeding and ~~shall~~**must**
21 reduce the amount payable to a victim or a victim's estate by an
22 award from the crime victims compensation board made after an order
23 of restitution under this section.

24 (10) If not otherwise provided by the court under this
25 subsection, restitution ~~shall~~**must** be made immediately. However,
26 the court may require that the juvenile make restitution under this
27 section within a specified period or in specified installments.

28 (11) If the juvenile is placed on probation, any restitution
29 ordered under this section ~~shall~~**must** be a condition of that

1 probation. The court may revoke probation if the juvenile fails to
2 comply with the order and if the juvenile has not made a ~~good-faith~~
3 **good-faith** effort to comply with the order. In determining whether
4 to revoke probation, the court shall consider the juvenile's
5 employment status, earning ability, and financial resources, the
6 willfulness of the juvenile's failure to pay, and any other special
7 circumstances that may have a bearing on the juvenile's ability to
8 pay.

9 (12) A juvenile who is required to pay restitution and who is
10 not in willful default of the payment of the restitution may at any
11 time petition the court to modify the method of payment. If the
12 court determines that payment under the order will impose a
13 manifest hardship on the juvenile or his or her immediate family,
14 the court may modify the method of payment.

15 (13) An order of restitution entered under this section
16 remains effective until it is satisfied in full. An order of
17 restitution is a judgment and lien against all property of the
18 individual ordered to pay restitution for the amount specified in
19 the order of restitution. The lien may be recorded as provided by
20 law. An order of restitution may be enforced by the prosecuting
21 attorney, a victim, a victim's estate, or any other person or
22 entity named in the order to receive the restitution in the same
23 manner as a judgment in a civil action or a lien.

24 (14) Notwithstanding any other provision of this section, a
25 juvenile ~~shall~~**must** not be detained for a violation of probation,
26 or otherwise, for failure to pay restitution as ordered under this
27 section unless the court determines that the juvenile has the
28 resources to pay the ordered restitution and has not made a good
29 faith effort to do so.

1 (15) If the court determines that the juvenile is or will be
2 unable to pay all of the restitution ordered, after notice to the
3 juvenile's parent **or parents** and an opportunity for the parent **or**
4 **parents** to be heard, the court may order the parent or parents
5 having supervisory responsibility for the juvenile at the time of
6 the acts upon which an order of restitution is based to pay any
7 portion of the restitution ordered that is outstanding. An order
8 under this subsection does not relieve the juvenile of his or her
9 obligation to pay restitution **as ordered**, but the amount owed by
10 the juvenile ~~shall be~~ **is** offset by any amount paid by his or her
11 parent. As used in this subsection, "parent" does not include a
12 foster parent.

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

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

28 (18) **At any time, if the court finds that the juvenile or the**
29 **juvenile's parent is or will be unable to pay the restitution**

1 ordered, the court may order the juvenile to participate in the
2 juvenile restitution for community service program under section
3 31a of this chapter, if applicable.

4 (19) ~~(18)~~—In each case in which payment of restitution is
5 ordered as a condition of probation, the juvenile caseworker or
6 probation officer assigned to the case shall review the case not
7 less than twice yearly to ensure that restitution is being paid as
8 ordered. The final review ~~shall~~**must** be conducted not less than 60
9 days before the ~~expiration of the probationary period~~ **expires**. If
10 the juvenile caseworker or probation officer determines the
11 restitution is not being paid as ordered, the juvenile caseworker
12 or probation officer shall file a written report of the violation
13 with the court on a form prescribed by the state court
14 administrative office. The report ~~shall~~**must** include a statement of
15 the amount of the arrearage and any reasons for the arrearage that
16 are known by the juvenile caseworker or probation officer. The
17 juvenile caseworker or probation officer shall immediately provide
18 a copy of the report to the prosecuting attorney. If a motion is
19 filed or other proceedings are initiated to enforce payment of
20 restitution and the court determines that restitution is not being
21 paid or has not been paid as ordered by the court, the court shall
22 promptly take action necessary to compel compliance.

23 (20) ~~(19)~~—If the court determines that an individual who is
24 ordered to pay restitution under this section is remanded to the
25 jurisdiction of the department of corrections, the court shall
26 provide a copy of the order of restitution to the department of
27 corrections when the court determines that the individual is
28 remanded to the department's jurisdiction.

29 **Sec. 31a. (1) The state court administrative office shall**

1 establish a pilot program in 4 counties in this state to administer
2 the juvenile restitution for community service program. The state
3 court administrative office shall establish and operate the
4 juvenile restitution for community service program beginning
5 October 1, 2020 through September 30, 2023. This program shall only
6 provide restitution to victims and shall not provide funds for
7 fines or court costs.

8 (2) Subject to subsection (3), the juvenile restitution for
9 community service program must do all of the following:

10 (a) Provide a juvenile ordered to pay restitution the
11 opportunity to pay up to \$1,000.00 or 50% of the restitution owed,
12 whichever is less, through hours of community service completed.

13 (b) Attach a dollar value equal to this state's current hourly
14 minimum wage to each hour of community service completed.

15 (c) Track the hours of community service completed by the
16 juvenile.

17 (d) Distribute the funds credited to the juvenile through
18 community service each month directly to the victim or victims.

19 (e) Notify the court of the number of community service hours
20 completed by the juvenile to be credited to the amount of ordered
21 restitution.

22 (3) The court shall make the initial determination of
23 eligibility for and referral to the juvenile restitution for
24 community service program. To be eligible for this program, a
25 juvenile must meet all of the following:

26 (a) Be involved in juvenile court through formal probation,
27 consent calendar, or another court approved diversion program.

28 (b) Be between the ages of 10 and 17. Juveniles under the age
29 of 15 must be given referral priority over older juveniles.

1 (c) Be ordered by the court to pay restitution to a victim or
2 victims.

3 (d) Be unable to pay restitution through other means under
4 section 30 of this chapter.

5 (e) Be unable to pay restitution from any source of funds and,
6 if applicable, have family that is determined to be indigent,
7 including, but not limited to, a demonstrated inability to provide
8 funds through receipt of public assistance or income less than 125%
9 of the federal poverty level as that term is defined in section 2
10 of the individual or family development account program act, 2006
11 PA 513, MCL 206.902.

12 (4) Community service hours completed by a juvenile as part of
13 the juvenile restitution for community service program are separate
14 from and additional to any other court ordered community service
15 hours required as part of probation or a diversion agreement.

16 (5) Not more than 90 days after the conclusion of the pilot
17 program established under this section, the state court
18 administrative office shall submit a report to the legislative
19 committees of the senate and house of representatives with the
20 primary responsibility for juvenile issues. The report must include
21 all of the following:

22 (a) How pilot program participant counties were selected.

23 (b) Relevant statistical data, including, but not limited to,
24 all of the following:

25 (i) The number of juveniles participating in each county.

26 (ii) The number of victims receiving restitution.

27 (iii) The amount of funding provided to each county by community
28 sources.

29 (iv) The amount of funding provided to each county by this

1 state.

2 (v) The amount and percentage of restitution paid each year
3 during the program.

4 (vi) The number of community service hours performed.

5 (c) Recommendations to assist in implementing this program in
6 additional counties.

7 (6) To be eligible for funding under this section, the
8 counties selected to participate in this program must be able to
9 provide not less than 20% of the total funding from community
10 sources.

11 (7) The juvenile restitution for community service fund is
12 created within the state treasury. The state treasurer may receive
13 money or other assets from any source for deposit into the fund.
14 The state treasurer shall direct the investment of the fund. The
15 state treasurer shall credit to the fund interest and earnings from
16 fund investments. Money in the fund at the close of the fiscal year
17 must remain in the fund and must not lapse to the general fund. The
18 state court administrative office shall be the administrator of the
19 fund for auditing purposes. The state court administrative office
20 shall expend money from the fund, upon appropriation, only for the
21 purposes provided in this section.

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