

HOUSE BILL NO. 5843

June 25, 2024, Introduced by Reps. Witwer, Breen, Brenda Carter, Hope, Rheingans, Weiss, Koleszar, Glanville, Hill, Mentzer, Xiong, Conlin, Pohutsky, Fitzgerald, Byrnes, Rogers, McFall, Steckloff and Coffia and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 2, 13a, and 18k of chapter XIIA (MCL 712A.2, 712A.13a, and 712A.18k), section 2 as amended by 2019 PA 113, section 13a as amended by 2022 PA 200, and section 18k as amended by 2014 PA 458.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XIIA

2 Sec. 2. The court has the following authority and
3 jurisdiction:

1 (a) Exclusive original jurisdiction superior to and regardless
2 of the jurisdiction of another court in proceedings concerning a
3 juvenile **who is** under 18 years of age **and** who is found within the
4 county if 1 or more of the following apply:

5 (1) Except as otherwise provided in this sub-subdivision, the
6 juvenile has violated any municipal ordinance or law of ~~the~~**this**
7 state or of the United States. If the court enters into an
8 agreement under section 2e of this chapter, the court has
9 jurisdiction over a juvenile who committed a civil infraction as
10 provided in that section. The court has jurisdiction over a
11 juvenile 14 years of age or older who is charged with a specified
12 juvenile violation only if the prosecuting attorney files a
13 petition in the court instead of authorizing a complaint and
14 warrant. As used in this sub-subdivision, "specified juvenile
15 violation" means 1 or more of the following:

16 (A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,
17 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328,
18 MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,
19 750.349, 750.520b, 750.529, 750.529a, and 750.531.

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

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

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

29 (iii) An object that is likely to cause death or bodily injury

1 when used as a weapon and that is used as a weapon or carried or
2 possessed for use as a weapon.

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

6 (C) A violation of section 186a of the Michigan penal code,
7 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
8 from a juvenile facility, but only if the juvenile facility from
9 which the individual escaped or attempted to escape was 1 of the
10 following:

11 (i) A high-security or medium-security facility operated by the
12 department or a county juvenile agency.

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

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

17 (E) An attempt to commit a violation described in paragraphs
18 (A) to (D).

19 (F) Conspiracy to commit a violation described in paragraphs
20 (A) to (D).

21 (G) Solicitation to commit a violation described in paragraphs
22 (A) to (D).

23 (H) A lesser included offense of a violation described in
24 paragraphs (A) to (G) if the individual is charged with a violation
25 described in paragraphs (A) to (G).

26 (I) Another violation arising out of the same transaction as a
27 violation described in paragraphs (A) to (G) if the individual is
28 charged with a violation described in paragraphs (A) to (G).

29 (2) The juvenile has deserted ~~his or her~~ **the juvenile's** home

1 without sufficient cause, and the court finds on the record that
2 the juvenile has been placed or refused alternative placement or
3 the juvenile and the juvenile's parent, guardian, or custodian have
4 exhausted or refused family counseling.

5 (3) The juvenile is repeatedly disobedient to the reasonable
6 and lawful commands of ~~his or her~~ **the juvenile's** parents, guardian,
7 or custodian, and the court finds on the record by clear and
8 convincing evidence that court-accessed services are necessary.

9 (4) The juvenile willfully and repeatedly absents himself or
10 herself from school or other learning program intended to meet the
11 juvenile's educational needs, or repeatedly violates rules and
12 regulations of the school or other learning program, and the court
13 finds on the record that the juvenile, the juvenile's parent,
14 guardian, or custodian, and school officials or learning program
15 personnel have met on the juvenile's educational problems and
16 educational counseling and alternative agency help have been
17 sought. As used in this sub-subdivision only, "learning program"
18 means an organized educational program that is appropriate, given
19 the age, intelligence, ability, and psychological limitations of a
20 juvenile, in the subject areas of reading, spelling, mathematics,
21 science, history, civics, writing, and English grammar.

22 (b) Jurisdiction in proceedings concerning a juvenile under 18
23 years of age found within the county:

24 (1) Whose parent or other person legally responsible for the
25 care and maintenance of the juvenile, when able to do so, neglects
26 or refuses to provide proper or necessary support, education,
27 medical, surgical, or other care necessary for ~~his or her~~ **the**
28 **juvenile's** health or morals, who is subject to a substantial risk
29 of harm to ~~his or her~~ **the juvenile's** mental well-being, who is

1 abandoned by ~~his or her~~ **the juvenile's** parents, guardian, or other
 2 custodian, or who is without proper custody or guardianship. As
 3 used in this sub-subdivision:

4 (A) "Education" means learning based on an organized
 5 educational program that is appropriate, given the age,
 6 intelligence, ability, and psychological limitations of a juvenile,
 7 in the subject areas of reading, spelling, mathematics, science,
 8 history, civics, writing, and English grammar.

9 (B) "Neglect" means that term as defined in section 2 of the
 10 child abuse and neglect prevention act, 1982 PA 250, MCL 722.602.

11 (C) "Without proper custody or guardianship" does not mean a
 12 parent has placed the juvenile with another person who is legally
 13 responsible for the care and maintenance of the juvenile and who is
 14 able to and does provide the juvenile with proper care and
 15 maintenance.

16 (2) Whose home or environment, by reason of neglect, cruelty,
 17 drunkenness, criminality, or depravity on the part of a parent,
 18 guardian, nonparent adult, or other custodian, is an unfit place
 19 for the juvenile to live in. As used in this sub-subdivision,
 20 "neglect" means that term as defined in section 2 of the child
 21 abuse and neglect prevention act, 1982 PA 250, MCL 722.602.

22 (3) If the juvenile is dependent and is in danger of
 23 substantial physical or psychological harm. The juvenile may be
 24 found to be dependent when any of the following ~~occurs~~**occur**:

25 (A) The juvenile is homeless or not domiciled with a parent or
 26 other legally responsible person.

27 (B) The juvenile has repeatedly run away from home and is
 28 beyond the control of a parent or other legally responsible person.

29 (C) The juvenile is alleged to have committed a commercial

1 sexual activity as that term is defined in section 462a of the
2 Michigan penal code, 1931 PA 328, MCL 750.462a or a delinquent act
3 that is the result of force, fraud, coercion, or manipulation
4 exercised by a parent or other adult.

5 (D) The juvenile's custodial parent or legally responsible
6 person has died or has become permanently incapacitated and no
7 appropriate parent or legally responsible person is willing and
8 able to provide care for the juvenile.

9 (4) Whose parent has substantially failed, without good cause,
10 to comply with a limited guardianship placement plan described in
11 section 5205 of the estates and protected individuals code, 1998 PA
12 386, MCL 700.5205, regarding the juvenile.

13 (5) Whose parent has substantially failed, without good cause,
14 to comply with a court-structured plan described in section 5207 or
15 5209 of the estates and protected individuals code, 1998 PA 386,
16 MCL 700.5207 and 700.5209, regarding the juvenile.

17 (6) If the juvenile has a guardian under the estates and
18 protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206,
19 and the juvenile's parent meets both of the following criteria:

20 (A) The parent, having the ability to support or assist in
21 supporting the juvenile, has failed or neglected, without good
22 cause, to provide regular and substantial support for the juvenile
23 for 2 years or more before the filing of the petition or, if a
24 support order has been entered, has failed to substantially comply
25 with the order for 2 years or more before the filing of the
26 petition. As used in this sub-subdivision, "neglect" means that
27 term as defined in section 2 of the child abuse and neglect
28 prevention act, 1982 PA 250, MCL 722.602.

29 (B) The parent, having the ability to visit, contact, or

1 communicate with the juvenile, has regularly and substantially
2 failed or neglected, without good cause, to do so for 2 years or
3 more before the filing of the petition. As used in this sub-
4 subdivision, "neglect" means that term as defined in section 2 of
5 the child abuse and neglect prevention act, 1982 PA 250, MCL
6 722.602.

7 If a petition is filed in the court alleging that a juvenile
8 is within the provisions of this subdivision and the custody of
9 that juvenile is subject to the prior or continuing order of
10 another court of record of this state, the manner of notice to the
11 other court of record and the authority of the court to proceed is
12 governed by rule of the supreme court.

13 (c) Jurisdiction over juveniles under 18 years of age,
14 jurisdiction of whom has been waived to the family division of
15 circuit court by a circuit court under a provision in a temporary
16 order for custody of juveniles based upon a complaint for divorce
17 or upon a motion related to a complaint for divorce by the
18 prosecuting attorney, in a divorce judgment dissolving a marriage
19 between the juvenile's parents, or by an amended judgment relative
20 to the juvenile's custody in a divorce.

21 (d) If the court finds on the record that voluntary services
22 have been exhausted or refused, concurrent jurisdiction in
23 proceedings concerning a juvenile between ~~the ages of~~ 17 and 18
24 **years of age** found within the county who is 1 or more of the
25 following:

26 (1) Repeatedly addicted to the use of drugs or the intemperate
27 use of alcoholic liquors.

28 (2) Repeatedly associating with criminal, dissolute, or
29 disorderly persons.

1 (3) Found of ~~his or her~~ **the juvenile's** own free will and
2 knowledge in a house of prostitution, **in which commercial sexual**
3 **activity is committed, a house of** assignation, or ~~ill-fame~~ **a house**
4 **of ill fame.**

5 (4) Repeatedly associating with thieves, ~~prostitutes,~~ **persons**
6 **who provide or offer to provide commercial sexual activity,** pimps,
7 or procurers.

8 (5) Willfully disobedient to the reasonable and lawful
9 commands of ~~his or her~~ **the juvenile's** parents, guardian, or other
10 custodian and in danger of becoming morally depraved.

11 If a juvenile is brought before the court in a county other
12 than that in which the juvenile resides, before a hearing and with
13 the consent of the judge of the court in the county of residence,
14 the court may enter an order transferring jurisdiction of the
15 matter to the court of the county of residence. Consent to transfer
16 jurisdiction is not required if the county of residence is a county
17 juvenile agency and satisfactory proof of residence is furnished to
18 the court of the county of residence. The order does not constitute
19 a legal settlement in this state that is required for the purpose
20 of section 55 of the social welfare act, 1939 PA 280, MCL 400.55.
21 The order and a certified copy of the proceedings in the
22 transferring court must be delivered to the court of the county of
23 residence. A case designated as a case in which the juvenile must
24 be tried in the same manner as an adult under section 2d of this
25 chapter may be transferred for venue or for juvenile disposition,
26 but must not be transferred on grounds of residency. If the case is
27 not transferred, the court having jurisdiction of the offense shall
28 try the case.

29 (e) Authority to establish or assist in developing a program

1 or programs within the county to prevent delinquency and provide
2 services to act upon reports submitted to the court related to the
3 behavior of a juvenile who does not require formal court
4 jurisdiction but otherwise falls within subdivision (a). These
5 services must be used only if the juvenile and ~~his or her~~ **the**
6 **juvenile's** parents, guardian, or custodian voluntarily accepts
7 them.

8 (f) If the court operates a detention home for juveniles
9 within the court's jurisdiction under subdivision (a)(1), authority
10 to place a juvenile within that home pending trial if the juvenile
11 is within the circuit court's jurisdiction under section 606 of the
12 revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if
13 the circuit court orders the family division of circuit court in
14 the same county to place the juvenile in that home. The family
15 division of circuit court shall comply with that order.

16 (g) Authority to place a juvenile in a county jail under
17 section 27a of chapter IV of the code of criminal procedure, 1927
18 PA 175, MCL 764.27a, if the court designates the case under section
19 2d of this chapter as a case in which the juvenile is to be tried
20 in the same manner as an adult and the court determines there is
21 probable cause to believe that the offense was committed and
22 probable cause to believe the juvenile committed that offense.

23 (h) Jurisdiction over a proceeding under section 2950 or 2950a
24 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950
25 and 600.2950a, in which a minor less than 18 years of age is the
26 respondent, or a proceeding to enforce a valid foreign protection
27 order issued against a respondent who is a minor less than 18 years
28 of age. A personal protection order must not be issued against a
29 respondent who is a minor less than 10 years of age. Venue for an

1 initial action under section 2950 or 2950a of the revised
 2 judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, is
 3 proper in the county of residence of either the petitioner or
 4 respondent. If the respondent does not live in this state, venue
 5 for the initial action is proper in the petitioner's county of
 6 residence.

7 ~~(i) In a proceeding under this chapter concerning a juvenile's~~
 8 ~~care and supervision, the court may issue orders affecting a party~~
 9 ~~as necessary. This subdivision does not apply after May 1, 2018. As~~
 10 ~~used in this subdivision, "party" means 1 of the following:~~

11 ~~(i) In a delinquency proceeding, the petitioner and juvenile.~~

12 ~~(ii) In a child protective proceeding, the petitioner,~~
 13 ~~department, child, respondent, parent, guardian, or legal~~
 14 ~~custodian, and any licensed child caring institution or child~~
 15 ~~placing agency under contract with the department to provide for a~~
 16 ~~juvenile's care and supervision.~~

17 Sec. 13a. (1) As used in this section and sections 2, 6b, 13b,
 18 17c, 17d, 18f, 19, 19a, 19b, and 19c of this chapter:

19 (a) "Agency" means a public or private organization,
 20 institution, or facility that is performing the functions under
 21 part D of title IV of the social security act, 42 USC 651 to 669b,
 22 or that is responsible under court order or contractual arrangement
 23 for a juvenile's care and supervision.

24 (b) "Agency case file" means the current file from the agency
 25 providing direct services to the child, that may include the child
 26 protective services file if the child has not been removed from the
 27 home or the department or contract agency foster care file as
 28 provided under 1973 PA 116, MCL 722.111 to 722.128.

29 (c) "Attorney" means, if appointed to represent a child in a

1 proceeding under section 2(b) or (c) of this chapter, an attorney
2 serving as the child's legal advocate in a traditional attorney-
3 client relationship with the child, as governed by the Michigan
4 Rules of Professional Conduct. An attorney defined under this
5 subdivision owes the same duties of undivided loyalty,
6 confidentiality, and zealous representation of the child's
7 expressed wishes as the attorney would to an adult client. For the
8 purpose of a notice required under these sections, attorney
9 includes a child's lawyer-guardian ad litem.

10 (d) "Case service plan" means the plan developed by an agency
11 and prepared under section 18f of this chapter that includes
12 services to be provided by and responsibilities and obligations of
13 the agency and activities, responsibilities, and obligations of the
14 parent. The case service plan may be referred to using different
15 names than case service plan, including, but not limited to, a
16 parent/agency agreement or a parent/agency treatment plan and
17 service agreement.

18 (e) "Foster care" means care provided to a juvenile in a
19 foster family home, foster family group home, or child caring
20 institution licensed or approved under 1973 PA 116, MCL 722.111 to
21 722.128, or care provided to a juvenile in a relative's home under
22 a court order.

23 (f) "Guardian ad litem" means an individual whom the court
24 appoints to assist the court in determining the child's best
25 interests. A guardian ad litem does not need to be an attorney.

26 (g) "Lawyer-guardian ad litem" means an attorney appointed
27 under section 17c of this chapter. A lawyer-guardian ad litem
28 represents the child, and has the powers and duties, as set forth
29 in section 17d of this chapter. The provisions of section 17d of

1 this chapter also apply to a lawyer-guardian ad litem appointed
2 under each of the following:

3 (i) Section 5213 or 5219 of the estates and protected
4 individuals code, 1998 PA 386, MCL 700.5213 and 700.5219.

5 (ii) Section 4 of the child custody act of 1970, 1970 PA 91,
6 MCL 722.24.

7 (iii) Section 10 of the child protection law, 1975 PA 238, MCL
8 722.630.

9 (h) "Nonparent adult" means a person who is 18 years of age or
10 older and who, regardless of the person's domicile, meets all of
11 the following criteria in relation to a child over whom the court
12 takes jurisdiction under this chapter:

13 (i) Has substantial and regular contact with the child.

14 (ii) Has a close personal relationship with the child's parent
15 or with a person responsible for the child's health or welfare.

16 (iii) Is not the child's parent or a person otherwise related to
17 the child by blood or affinity to the third degree.

18 (i) "Permanent foster family agreement" means an agreement for
19 a child 14 years ~~old~~ **of age** or older to remain with a particular
20 foster family until the child is 18 years ~~old~~ **of age** under
21 standards and requirements established by the department, which
22 agreement is among all of the following:

23 (i) The child.

24 (ii) If the child is a temporary ward, the child's family.

25 (iii) The foster family.

26 (iv) The child placing agency responsible for the child's care
27 in foster care.

28 (j) "Relative" means an individual who is at least 18 years of
29 age and is either of the following:

1 (i) Related to the child within the fifth degree by blood,
2 marriage, or adoption, including the spouse of an individual
3 related to the child within the fifth degree, even after the
4 marriage has ended by death or divorce, the parent who shares
5 custody of a half-sibling, and the parent of a man whom the court
6 has found probable cause to believe is the putative father if there
7 is no man with legally established rights to the child.

8 (ii) Not related to a child within the fifth degree by blood,
9 marriage, or adoption but who has a strong positive emotional tie
10 or role in the child's life or the child's parent's life if the
11 child is an infant, as determined by the department or, if the
12 child is an Indian child, as determined solely by the Indian
13 child's tribe. As used in this section, "Indian child" and "Indian
14 child's tribe" mean those terms as defined in section 3 of chapter
15 XIIB.

16 (k) "Sex offenders registration act" means the sex offenders
17 registration act, 1994 PA 295, MCL 28.721 to 28.730.

18 (l) "Sibling" means a child who is related through birth or
19 adoption by at least 1 common parent. Sibling includes that term as
20 defined by an American Indian or Alaskan native child's tribal code
21 or custom.

22 (2) If a juvenile is alleged to be within the provisions of
23 section 2(b) of this chapter, the court may authorize a petition to
24 be filed at the conclusion of the preliminary hearing or inquiry.
25 The court may authorize the petition upon a showing of probable
26 cause that 1 or more of the allegations in the petition are true
27 and fall within the provisions of section 2(b) of this chapter. If
28 a petition is before the court because the department is required
29 to submit the petition under section 17 of the child protection

1 law, 1975 PA 238, MCL 722.637, the court shall hold a hearing on
2 the petition within 24 hours or on the next business day after the
3 petition is submitted, at which hearing the court shall consider at
4 least the matters governed by subsections (4) and (5).

5 (3) Except as provided in subsections (5) and (6), if a
6 petition under subsection (2) is authorized, the court may release
7 the juvenile in the custody of either of the juvenile's parents or
8 the juvenile's guardian or custodian under reasonable terms and
9 conditions necessary for either the juvenile's physical health or
10 mental well-being.

11 (4) The court may order a parent, guardian, custodian,
12 nonparent adult, or other person residing in a child's home to
13 leave the home and, except as the court orders, not to subsequently
14 return to the home if all of the following take place:

15 (a) A petition alleging abuse of the child by the parent,
16 guardian, custodian, nonparent adult, or other person is authorized
17 under subsection (2).

18 (b) The court after a hearing finds probable cause to believe
19 the parent, guardian, custodian, nonparent adult, or other person
20 committed the abuse.

21 (c) The court finds on the record that the presence in the
22 home of the person alleged to have committed the abuse presents a
23 substantial risk of harm to the child's life, physical health, or
24 mental well-being.

25 (5) If a petition alleges abuse by a person described in
26 subsection (4), regardless of whether the court orders the alleged
27 abuser to leave the child's home under subsection (4), the court
28 shall not leave the child in or return the child to the child's
29 home or place the child with a person not licensed under 1973 PA

1 116, MCL 722.111 to 722.128, unless the court finds that the
2 conditions of custody at the placement and with the individual with
3 whom the child is placed are adequate to safeguard the child from
4 the risk of harm to the child's life, physical health, or mental
5 well-being.

6 (6) If a court finds a parent is required by court order to
7 register under the sex offenders registration act, the department
8 may, but is not required to, make reasonable efforts to reunify the
9 child with the parent. The court may order reasonable efforts to be
10 made by the department.

11 (7) In determining whether to enter an order under subsection
12 (4), the court may consider whether the parent who is to remain in
13 the juvenile's home is married to the person to be removed or has a
14 legal right to retain possession of the home.

15 (8) An order entered under subsection (4) may also contain 1
16 or more of the following terms or conditions:

17 (a) The court may require the alleged abusive parent to pay
18 appropriate support to maintain a suitable home environment for the
19 juvenile during the duration of the order.

20 (b) The court may order the alleged abusive person, according
21 to terms the court may set, to surrender to a local law enforcement
22 agency any firearms or other potentially dangerous weapons the
23 alleged abusive person owns, possesses, or uses.

24 (c) The court may include any reasonable term or condition
25 necessary for the juvenile's physical or mental well-being or
26 necessary to protect the juvenile.

27 (9) The court may order placement of the child in foster care
28 if the court finds all of the following conditions:

29 (a) Custody of the child with the parent presents a

1 substantial risk of harm to the child's life, physical health, or
2 mental well-being.

3 (b) No provision of service or other arrangement except
4 removal of the child is reasonably available to adequately
5 safeguard the child from risk as described in subdivision (a).

6 (c) Continuing the child's residence in the home is contrary
7 to the child's welfare.

8 (d) Consistent with the circumstances, reasonable efforts were
9 made to prevent or eliminate the need for removal of the child.

10 (e) Conditions of child custody away from the parent are
11 adequate to safeguard the child's health and welfare.

12 (10) If the court orders placement of the juvenile outside the
13 juvenile's home, the court shall inform the parties of the
14 following:

15 (a) That the agency has the responsibility to prepare an
16 initial services plan within 30 days of the juvenile's placement.

17 (b) The general elements of an initial services plan as
18 required by the rules promulgated under 1973 PA 116, MCL 722.111 to
19 722.128.

20 (c) That participation in the initial services plan is
21 voluntary without a court order.

22 (11) Before or within 7 days after a child is placed in a
23 relative's home, the department shall perform a criminal record
24 check and central registry clearance. If the child is placed in the
25 home of a relative, the court shall order a home study to be
26 performed and a copy of the home study to be submitted to the court
27 not more than 30 days after the placement.

28 (12) In determining placement of a juvenile pending trial, the
29 court shall order the juvenile placed in the most family-like

1 setting available consistent with the juvenile's needs.

2 (13) If a juvenile is removed from the parent's custody at any
3 time, the court shall permit the juvenile's parent to have regular
4 and frequent parenting time with the juvenile. Parenting time
5 between the juvenile and ~~his or her~~ **the juvenile's** parent must not
6 be less than 1 time every 7 days unless the court determines either
7 that exigent circumstances require less frequent parenting time or
8 that parenting time, even if supervised, may be harmful to the
9 juvenile's life, physical health, or mental well-being. If the
10 court determines that parenting time, even if supervised, may be
11 harmful to the juvenile's life, physical health, or mental well-
12 being, the court may suspend parenting time until the risk of harm
13 no longer exists. The court may order the juvenile to have a
14 psychological evaluation or counseling, or both, to determine the
15 appropriateness and the conditions of parenting time.

16 (14) Reasonable efforts must be made to do the following:

17 (a) Place siblings removed from their home in the same foster
18 care, kinship guardianship, or adoptive placement, unless the
19 supervising agency documents that a joint placement would be
20 contrary to the safety or well-being of any of the siblings.

21 (b) In the case of siblings removed from their home who are
22 not jointly placed, provide for visitation, at least monthly, or
23 other ongoing interaction between the siblings, unless the
24 supervising agency documents that visitation, at least monthly, or
25 other ongoing interaction would be contrary to the safety or well-
26 being of any of the siblings.

27 (15) If the supervising agency documents that visitation or
28 other contact is contrary to the safety or well-being of any of the
29 siblings and temporarily suspends visitation or contact, the

1 supervising agency shall report its determination to the court for
2 consideration at the next review hearing.

3 (16) If the supervising agency temporarily suspends visitation
4 or contact, the court shall review the decision and determine
5 whether sibling visitation or contact will be beneficial to the
6 siblings. If so, the court shall order sibling visitation or
7 contact to the extent reasonable.

8 (17) Upon the motion of any party, the court shall review
9 custody and placement orders and initial services plans pending
10 trial and may modify those orders and plans as the court considers
11 under this section is in the juvenile's best interests.

12 (18) The court shall include in an order placing a child in
13 foster care an order directing the release of information
14 concerning the child in accordance with this subsection. If a child
15 is placed in foster care, within 10 days after receipt of a written
16 request, the agency shall provide the person who is providing the
17 foster care with copies of all initial, updated, and revised case
18 service plans and court orders relating to the child and all of the
19 child's medical, mental health, and education reports, including
20 reports compiled before the child was placed with that person.

21 (19) In an order placing a child in foster care, the court
22 shall include both of the following:

23 (a) An order that the child's parent, guardian, or custodian
24 provide the supervising agency with the name and address of each of
25 the child's medical providers.

26 (b) An order that each of the child's medical providers
27 release the child's medical records. The order may specify
28 providers by profession or type of institution.

29 (20) Nothing in this section is intended to supersede the

1 placement preferences for an Indian child under chapter XIIB.

2 (21) As used in this section, "abuse" means 1 or more of the
3 following:

4 (a) Harm or threatened harm by a person to a juvenile's health
5 or welfare that occurs through nonaccidental physical or mental
6 injury.

7 (b) Engaging in sexual contact or sexual penetration as those
8 terms are defined in section 520a of the Michigan penal code, 1931
9 PA 328, MCL 750.520a, with a juvenile.

10 (c) Sexual exploitation of a juvenile, which includes, but is
11 not limited to, allowing, permitting, or encouraging a juvenile to
12 engage in ~~prostitution~~ **a commercial sexual activity** or allowing,
13 permitting, encouraging, or engaging in photographing, filming, or
14 depicting a juvenile engaged in a listed sexual act as that term is
15 defined in section 145c of the Michigan penal code, 1931 PA 328,
16 MCL 750.145c.

17 (d) Maltreatment of a juvenile.

18 Sec. 18k. (1) An individual shall provide samples for chemical
19 testing for DNA identification profiling or a determination of the
20 sample's genetic markers and shall provide samples for chemical
21 testing for a determination of ~~his or her~~ **the individual's** secretor
22 status if any of the following apply:

23 (a) The individual is arrested for committing or attempting to
24 commit an offense that would be a felony if committed by an adult.

25 (b) The individual is convicted of, or found responsible for,
26 a felony or attempted felony, or any of the following misdemeanors,
27 or local ordinances that are substantially corresponding to the
28 following misdemeanors:

29 (i) A violation of section 167(1)(c), (f), or (i) of the

1 Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by
2 window peeping, engaging in indecent or obscene conduct in public,
3 or loitering in a house, ~~of ill fame or prostitution.~~**vehicle, or**
4 **other place in which commercial sexual activity is committed.**

5 (ii) A violation of section 335a(1) of the Michigan penal code,
6 1931 PA 328, MCL 750.335a, indecent exposure.

7 (iii) A violation punishable under section 451(1) or (2) of the
8 Michigan penal code, 1931 PA 328, MCL 750.451, ~~first and second~~
9 ~~prostitution~~**commercial sexual activity** violations.

10 (2) Notwithstanding subsection (1), if at the time the
11 individual is arrested for the offense the investigating law
12 enforcement agency or the department of state police already has a
13 sample from the individual that meets the requirements of the DNA
14 identification profiling system act, 1990 PA 250, MCL 28.171 to
15 28.176, the individual is not required to provide another sample or
16 pay the assessment required under subsection (4).

17 (3) The samples required to be collected under this section
18 ~~shall~~**must** be collected by the investigating law enforcement agency
19 and transmitted by the investigating law enforcement agency to the
20 department of state police in the manner prescribed under the DNA
21 identification profiling system act, 1990 PA 250, MCL 28.171 to
22 28.176, when a petition is filed or the court issues a summons.

23 (4) The court shall order each individual found responsible
24 for or convicted of 1 or more crimes listed in subsection (1) to
25 pay an assessment of \$60.00. The assessment required under this
26 subsection is in addition to any fine, costs, or other assessments
27 imposed by the court.

28 (5) An assessment required under subsection (4) ~~shall~~**must** be
29 ordered upon the record, and ~~shall~~**must** be listed separately in the

1 adjudication order, judgment of sentence, or order of probation.

2 (6) After reviewing a verified petition by an individual
3 against whom an assessment is imposed under subsection (4), the
4 court may suspend payment of all or part of the assessment if it
5 determines the individual is unable to pay the assessment.

6 (7) The court that imposes the assessment prescribed under
7 subsection (4) may retain 10% of all assessments or portions of
8 assessments collected for costs incurred under this section and
9 shall transmit that money to its funding unit. On the last day of
10 each month, the clerk of the court shall transmit the assessments
11 or portions of assessments collected under this section as follows:

12 (a) Twenty-five percent to the county sheriff or other
13 investigating law enforcement agency that collected the DNA sample
14 as designated by the court to defray the costs of collecting DNA
15 samples.

16 (b) Sixty-five percent to the state treasurer for deposit in
17 the justice system fund created in section 181 of the revised
18 judicature act of 1961, 1961 PA 236, MCL 600.181.

19 (8) The department ~~of human services~~ or a county juvenile
20 agency, investigating law enforcement agency, prosecuting agency,
21 or court that has in its possession a DNA identification profile
22 obtained from a sample of an individual arrested for an offense
23 described in subsection (1) shall forward the DNA identification
24 profile to the department of state police when a petition is filed
25 or the court issues a summons unless the department of state police
26 already has a DNA identification profile of the individual.

27 (9) As used in this section:

28 (a) "DNA identification profile" and "DNA identification
29 profiling" mean those terms as defined in section 2 of the DNA

1 identification profiling system act, 1990 PA 250, MCL 28.172.

2 (b) "Felony" means a violation of a penal law of this state
3 for which the offender may be punished by imprisonment for more
4 than 1 year or an offense expressly designated by law to be a
5 felony.

6 (c) "Investigating law enforcement agency" means the law
7 enforcement agency responsible for the investigation of the offense
8 for which the individual is arrested, convicted, or found
9 responsible. Investigating law enforcement agency does not include
10 a probation officer employed by the department of corrections.

11 (d) "Sample" means a portion of an individual's blood, saliva,
12 or tissue collected from the individual.

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

15 Enacting section 2. This amendatory act does not take effect
16 unless Senate Bill No.____ or House Bill No. 5841 (request no.
17 04081'23) of the 102nd Legislature is enacted into law.