

## THE JUVENILE FACILITIES ACT

### Act 73 of 1988

AN ACT to provide for certain responsibilities and duties of the family independence agency and county juvenile agencies and certain facilities, institutions, and agencies; and to provide for the preparation of certain reports pertaining to certain juveniles.

**History:** 1988, Act 73, Eff. Oct. 1, 1988 ;-- Am. 1998, Act 521, Imd. Eff. Jan. 12, 1999

**Compiler's Notes:** Sec. 8 of Act 73 of 1988 provides: "This act shall take effect June 1, 1988." This section was amended by Act 176 of 1988 to read as follows: "This act shall take effect October 1, 1988."

*The People of the State of Michigan enact:*

#### 803.221 Short title.

Sec. 1.

This act shall be known and may be cited as "the juvenile facilities act".

**History:** 1988, Act 73, Eff. Oct. 1, 1988

**Compiler's Notes:** Sec. 8 of Act 73 of 1988 provides: "This act shall take effect June 1, 1988." This section was amended by Act 176 of 1988 to read as follows: "This act shall take effect October 1, 1988."

#### 803.222 Definitions.

Sec. 2.

As used in this act:

- (a) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act.
- (b) "Department" means the family independence agency.
- (c) "Juvenile" means a person within the jurisdiction of the family division of the circuit court under section 2(a) of chapter XIIA of 1939 PA 288, MCL 712A.2, or within the jurisdiction of the circuit court under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606.
- (d) "Juvenile facility" means a county facility, an institution operated as an agency of the county or the family division of circuit court, or an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, to which a juvenile has been committed under section 18(1)(e) of chapter XIIA of 1939 PA 288, MCL 712A.18, or under section 27a of chapter IV or section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 764.27a and 769.1.

**History:** 1988, Act 73, Eff. Oct. 1, 1988 ;-- Am. 1996, Act 416, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 521, Imd. Eff. Jan. 12, 1999

**Compiler's Notes:** Sec. 8 of Act 73 of 1988 provides: "This act shall take effect June 1, 1988." This section was amended by Act 176 of 1988 to read as follows: "This act shall take effect October 1, 1988."

#### 803.223 Annual report.

Sec. 3.

If a juvenile is committed to a juvenile facility, the department or county juvenile agency, as applicable, shall prepare for the court that committed the juvenile an annual report stating the services being provided to the

juvenile, where the juvenile has been placed, and the juvenile's progress in that placement.

**History:** 1988, Act 73, Eff. Oct. 1, 1988 ;-- Am. 1998, Act 521, Imd. Eff. Jan. 12, 1999

**Compiler's Notes:** Sec. 8 of Act 73 of 1988 provides: "This act shall take effect June 1, 1988." This section was amended by Act 176 of 1988 to read as follows: "This act shall take effect October 1, 1988."

### **803.224 Inquiry; report.**

Sec. 4.

(1) If a juvenile within the jurisdiction of the circuit court under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, is committed to a juvenile facility pending trial, the department or county juvenile agency, as applicable, shall inquire into the juvenile's antecedents, character, and circumstances and shall report in writing to the court before the juvenile's sentencing.

(2) A report prepared under subsection (1) shall include all of the following:

(a) An evaluation of and a prognosis for the juvenile's adjustment in the community based on factual information contained in the report.

(b) A recommendation as to whether the juvenile is more likely to be rehabilitated by the services and facilities available in adult programs and procedures than in juvenile programs and procedures.

(c) A recommendation as to what disposition is in the best interests of the public welfare and the protection of the public security.

**History:** 1988, Act 73, Eff. Oct. 1, 1988 ;-- Am. 1996, Act 416, Eff. Jan. 1, 1998 ;-- Am. 1998, Act 521, Imd. Eff. Jan. 12, 1999

**Compiler's Notes:** Sec. 8 of Act 73 of 1988 provides: "This act shall take effect June 1, 1988." This section was amended by Act 176 of 1988 to read as follows: "This act shall take effect October 1, 1988."

### **803.225 Commitment report; petition to conduct review hearing; combining annual report with review hearing.**

Sec. 5.

(1) Before a juvenile hearing under section 18d of chapter XIIA of 1939 PA 288, MCL 712A.18d, or under section 1b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1b, the department or county juvenile agency, as applicable, shall prepare a commitment report for the court. A commitment report shall include all of the following:

(a) The services and programs currently being utilized by, or offered to, the juvenile and the juvenile's participation in those services and programs.

(b) Where the juvenile currently resides and the juvenile's behavior in his or her current placement.

(c) The juvenile's efforts toward rehabilitation.

(d) Recommendations for the juvenile's release or continued custody.

(2) If the department or county juvenile agency, as applicable, believes that the juvenile has been rehabilitated and does not present a serious risk to public safety, the department or county juvenile agency may petition the court to conduct a review hearing at any time before the juvenile becomes 19 years of age or, if the committing court has continued jurisdiction over the juvenile, at any time before the juvenile becomes 21 years of age.

(3) The annual report required by section 3 may be combined with a review hearing under this section.

**History:** 1988, Act 73, Eff. Oct. 1, 1988 ;-- Am. 1998, Act 521, Imd. Eff. Jan. 12, 1999

**Compiler's Notes:** Sec. 8 of Act 73 of 1988 provides: "This act shall take effect June 1, 1988." This section was amended by Act 176 of 1988 to read as follows: "This act shall take effect October 1, 1988."

### **803.225a Community placement and discharge from wardship; chemical testing for DNA identification**

**profiling; exception; providing samples; manner; consent; hearing or court order not required; disclosure; assessment; "felony" and "sample" defined.**

Sec. 5a.

(1) A juvenile who is under the supervision of the department or a county juvenile agency under section 18 of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, shall not be placed in a community placement of any kind and shall not be discharged from wardship until he or she has provided samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and has provided samples for a determination of his or her secretor status if any of the following apply:

(a) The juvenile has been found responsible for a violation of section 83, 91, 316, 317, or 321 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.91, 750.316, 750.317, and 750.321, or a violation or attempted violation of section 349, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.349, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or a violation of section 167(1)(c) or (f) or 335a of the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a, or a local ordinance substantially corresponding to section 167(1)(c) or (f) or 335a of the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a.

(b) The juvenile has been convicted of a felony or attempted felony, or any of the following misdemeanors, or local ordinances substantially corresponding to the following misdemeanors:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, enticing a child for immoral purposes.

(ii) A violation of section 167(1)(c), (f), or (i) of the Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of ill fame or prostitution.

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

(iv) A violation of section 451 of the Michigan penal code, 1931 PA 328, MCL 750.451, first and second prostitution violations.

(v) A violation of section 454 of the Michigan penal code, 1931 PA 328, MCL 750.454, leasing a house for purposes of prostitution.

(vi) A violation of section 462 of the Michigan penal code, 1931 PA 328, MCL 750.462, female under the age of 17 in a house of prostitution.

(2) Notwithstanding subsection (1), if at the time the juvenile is convicted of or found responsible for the violation the investigating law enforcement agency or the department of state police already has a sample from the juvenile that meets the requirements of the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the juvenile is not required to provide another sample or pay the fee required under subsection (6).

(3) The samples required to be collected under this section shall be collected by the department or county juvenile agency, as applicable, and transmitted by the department or county juvenile agency to the department of state police in the manner prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(4) The department or county juvenile agency may collect a sample under this section regardless of whether the juvenile consents to the collection. The department or county juvenile agency is not required to give the juvenile an opportunity for a hearing or obtain a court order before collecting the sample.

(5) The DNA profiles of DNA samples received under this section shall only be disclosed as follows:

(a) To a criminal justice agency for law enforcement identification purposes.

(b) In a judicial proceeding as authorized or required by a court.

(c) To a defendant in a criminal case if the DNA profile is used in conjunction with a charge against the defendant.

(d) For an academic, research, statistical analysis, or protocol developmental purpose only if personal identifications are removed.

(6) A juvenile found responsible for or convicted of 1 or more crimes listed in subsection (1) shall pay an assessment of \$60.00. The juvenile agency shall transmit the assessments or portions of assessments collected to the department of treasury for the department of state police forensic science division to defray the costs associated with the requirements of DNA profiling and DNA retention prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(7) As used in this section:

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

(b) "Sample" means a portion of a juvenile's blood, saliva, or tissue collected from the juvenile.

**History:** Add. 1996, Act 511, Imd. Eff. Jan. 9, 1997 ;-- Am. 1998, Act 521, Imd. Eff. Jan. 12, 1999 ;-- Am. 2001, Act 90, Eff. Jan. 1, 2002

### 803.226 Contracts.

#### Sec. 6.

The department and a county juvenile agency may enter into contracts necessary to carry out the duties and responsibilities of this act.

**History:** 1988, Act 73, Eff. Oct. 1, 1988 ;-- Am. 1998, Act 521, Imd. Eff. Jan. 12, 1999

**Compiler's Notes:** Sec. 8 of Act 73 of 1988 provides: "This act shall take effect June 1, 1988." This section was amended by Act 176 of 1988 to read as follows: "This act shall take effect October 1, 1988."

### 803.227 Conditional effective date.

#### Sec. 7.

This act shall not take effect unless all of the following bills of the 84th Legislature are enacted into law:

- (a) House Bill No. 4731.
- (b) House Bill No. 4733.
- (c) House Bill No. 4741.
- (d) House Bill No. 4748.
- (e) House Bill No. 4750.
- (f) House Bill No. 5203.
- (g) Senate Bill No. 137.
- (h) Senate Bill No. 604.
- (i) Senate Bill No. 605.
- (j) Senate Bill No. 607.
- (k) Senate Bill No. 608.
- (l) Senate Bill No. 609.

**History:** 1988, Act 73, Eff. Oct. 1, 1988

**Compiler's Notes:** Sec. 8 of Act 73 of 1988 provides: "This act shall take effect June 1, 1988." This section was amended by Act 176 of 1988 to read as follows: "This act shall take effect October 1, 1988." The following bills, referred to in this section, were enacted into law: House Bill No. 4731 was filed with the Secretary of State March 14, 1988, and became P.A. 1988, No. 51, Eff. Oct. 1, 1988. House Bill No. 4733 was filed with the Secretary of State March 14, 1988, and became P.A. 1988, No. 52, Eff. Oct. 1, 1988. House Bill No. 4741 was filed with the Secretary of State March 14, 1988, and became P.A. 1988, No. 53, Eff. Oct. 1, 1988. House Bill No. 4748 was filed with the Secretary of State March 25, 1988, and became P.A. 1988, No. 67, Eff. Oct. 1, 1988. House Bill No. 4750 was filed with the Secretary of State March 14, 1988, and became P.A. 1988, No. 54, Eff. Oct. 1, 1988. House Bill No. 5203 was filed with the Secretary of State June 21, 1988, and became P.A. 1988, No. 182, Eff. Oct. 1, 1988. Senate Bill No. 137 was filed with the Secretary of State March 24, 1988, and became P.A. 1988, No. 64, Eff. Oct. 1, 1988. Senate Bill No. 604 was filed with the Secretary of State March 28, 1988, and became P.A. 1988, No. 74, Eff. Oct. 1, 1988. Senate Bill No. 605 was filed with the Secretary of State March 28, 1988, and became P.A. 1988, No. 75, Eff. Oct. 1, 1988. Senate Bill No. 607 was filed with the Secretary of State March 28, 1988, and became P.A. 1988, No. 76, Eff. Oct. 1, 1988. Senate Bill No. 608 was filed with the Secretary of State March 28, 1988, and became P.A. 1988, No. 77, Eff. Oct. 1, 1988. Senate Bill No. 609 was filed with the Secretary of State March 28, 1988, and became P.A. 1988, No. 78, Eff. Oct. 1, 1988.

### 803.228 Effective date.

#### Sec. 8.

This act shall take effect October 1, 1988.

**History:** 1988, Act 73, Eff. Oct. 1, 1988 ;-- Am. 1988, Act 176, Imd. Eff. June 21, 1988

**Compiler's Notes:** Sec. 8 of Act 73 of 1988 provides: "This act shall take effect June 1, 1988." This section was amended by Act 176 of

1988 to read as follows: “This act shall take effect October 1, 1988.”