

Act No. 289
Public Acts of 2023
Approved by the Governor
December 12, 2023
Filed with the Secretary of State
December 13, 2023
EFFECTIVE DATE: October 1, 2024

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Reps. Brabec, Hope, Wilson, Tsernoglou, Paiz, Morse, Pohutsky, Miller, Byrnes, Young, Rheingans, Wegela, Dievendorf, Hood, Grant, O’Neal, Breen, Price, Brixie, Tyrone Carter, Hoskins, Morgan, MacDonell, Edwards, Brenda Carter, Glanville, McKinney, Scott, Conlin, Skaggs and Aiyash

ENROLLED HOUSE BILL No. 4628

AN ACT to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” by amending section 2f of chapter XIIA (MCL 712A.2f), as added by 2016 PA 185.

The People of the State of Michigan enact:

CHAPTER XIIA

Sec. 2f. (1) Subject to subsection (2), if the court determines that formal jurisdiction should not be acquired over a juvenile, the court may proceed in an informal manner referred to as a consent calendar. The court shall not consider restitution when determining if the case should be placed on the consent calendar under this section.

(2) A case must not be placed on the consent calendar unless all of the following apply:

(a) The juvenile and the parent, guardian, or legal custodian and the prosecutor agree to have the case placed on the consent calendar.

(b) The court considers the results of the risk screening tool and mental health screening tool conducted on the juvenile by a designated individual or agency that is trained in those screening tools.

(c) The court determines that the case should proceed on the consent calendar in compliance with section 11(1) of this chapter.

(3) A risk screening tool and a mental health screening tool under subsection (2) must meet both of the following requirements:

(a) Be research based and nationally validated for use with juveniles.

(b) Comply with the guidelines created under subsection (4).

(4) The state court administrative office, under the supervision and direction of the supreme court, shall create guidelines on the use of risk screening tools and mental health screening tools described in subsection (2).

(5) Subject to subsection (2), the court may transfer a case from the formal calendar to the consent calendar at any time before disposition. A case involving the alleged commission of an offense as that term is defined in section 31 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.781, must only be placed on the consent calendar upon compliance with the procedures set forth in section 36b of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.786b.

(6) After a case is placed on the consent calendar, the prosecutor shall provide the victim with notice as required by article 2 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.781 to 780.802.

(7) Consent calendar cases must be maintained in the following nonpublic manner:

(a) Access to consent calendar case records must be provided to the juvenile, the juvenile's parents, guardian, or legal custodian, the guardian ad litem, counsel for the juvenile, the department of health and human services if related to an investigation of neglect and abuse, law enforcement personnel, prosecutor, and other courts. However, consent calendar case records must not be disclosed to federal agencies or military recruiters. As used in this subdivision, "case records" includes the pleadings, motions, authorized petitions, notices, memoranda, briefs, exhibits, available transcripts, findings of the court, register of actions, consent calendar case plan, risk screening tool and mental health screening tool results, and court orders related to the case placed on the consent calendar.

(b) The contents of the confidential file must continue to be maintained confidentially. As used in this subdivision, "confidential file" means that term as defined in MCR 3.903.

(c) A risk screening tool and a mental health screening tool conducted as part of a proceeding under this section and any information obtained from a juvenile in the course of those screenings or provided by the juvenile in order to participate in a consent calendar case plan, including, but not limited to, any admission, confession, or incriminating evidence, are not admissible into evidence in any adjudicatory hearing in which the juvenile is accused and are not subject to subpoena or any other court process for use in any other proceeding or for any other purpose.

(8) The court shall conduct a consent calendar conference with the juvenile; the juvenile's attorney, if any; and the juvenile's parent, guardian, or legal custodian to discuss the allegations. The prosecuting attorney and victim may be, but are not required to be, present.

(9) If it appears to the court that the juvenile has engaged in conduct that would subject the juvenile to the jurisdiction of the court, the court shall issue a written consent calendar case plan. All of the following apply to a consent calendar case plan:

(a) The plan may include a provision requiring the juvenile, parent, guardian, or legal custodian to reimburse the court for the cost of the consent calendar services for the juvenile. The reimbursement amount must be reasonable, taking into account the juvenile's income and resources. The plan must also include a requirement that the juvenile pay restitution under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(b) A consent calendar case plan must not contain a provision removing the juvenile from the custody of the juvenile's parent, guardian, or legal custodian.

(c) The consent calendar case plan is not an order of the court, but must be included as a part of the case record.

(d) Violation of the terms of the consent calendar case plan may result in the court's returning the case to the formal calendar for further proceedings consistent with subsection (12).

(10) The court shall not enter an order of disposition in a case while it is on the consent calendar.

(11) Upon the juvenile's successful completion of the consent calendar case plan, the court shall close the case and shall destroy all records of the proceeding in accordance with the records management policies and procedures of the state court administrative office, established in accordance with supreme court rules.

(12) If it appears to the court at any time that proceeding on the consent calendar is not in the best interest of either the juvenile or the public, the court shall proceed as follows:

(a) If the court did not authorize the original petition, the court may, without hearing, transfer the case from the consent calendar to the formal calendar on the charges contained in the original petition to determine whether the petition should be authorized.

(b) If the court authorized the original petition, the court may transfer the case from the consent calendar to the formal calendar on the charges contained in the original petition only after a hearing. After transfer to the formal calendar, the court shall proceed with the case from where it left off before being placed on the consent calendar.

(13) Statements made by the juvenile during the proceeding on the consent calendar must not be used against the juvenile at a trial on the formal calendar on the same charge.

(14) Upon a judicial determination that the juvenile has completed the terms of the consent calendar case plan, the court shall report the successful completion of the consent calendar to the juvenile and the department of state police. The department of state police shall maintain a nonpublic record of the case. This record must be open to the courts of this state, another state, or the United States, the department of corrections, law enforcement personnel, and prosecutors for use only in the performance of their duties or to determine whether an employee of the court, department, law enforcement agency, or prosecutor's office has violated conditions of employment or whether an applicant meets criteria for employment with the court, department, law enforcement agency, or prosecutor's office.

Enacting section 1. This amendatory act takes effect October 1, 2024.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 418 of the 102nd Legislature is enacted into law.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor