

# HOUSE BILL No. 5648

March 16, 2004, Introduced by Rep. Howell and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled  
"Probate code of 1939,"  
by amending sections 18 and 18m of chapter XIIIA (MCL 712A.18 and  
712A.18m), section 18 as amended and section 18m as added by 2003  
PA 71.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 CHAPTER XIIIA

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  
4 shall enter an order dismissing the petition. Except as  
5 otherwise provided in subsection (10), if the court finds that a  
6 juvenile is within this chapter, the court may enter any of the  
7 following orders of disposition that are appropriate for the  
8 welfare of the juvenile and society in view of the facts proven  
9 and ascertained:

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

4 (b) Place the juvenile on probation, or under supervision in  
5 the juvenile's own home or in the home of an adult who is related  
6 to the juvenile. As used in this subdivision, "related" means  
7 being a parent, grandparent, brother, sister, stepparent,  
8 stepsister, stepbrother, uncle, or aunt by marriage, blood, or  
9 adoption. The court shall order the terms and conditions of  
10 probation or supervision, including reasonable rules for the  
11 conduct of the parents, guardian, or custodian, if any, as the  
12 court determines necessary for the physical, mental, or moral  
13 well-being and behavior of the juvenile. The court also shall  
14 order, as a condition of probation or supervision, that the  
15 juvenile shall pay the minimum state cost prescribed by section  
16 18m of this chapter.

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

24 (d) Except as otherwise provided in this subdivision, place  
25 the juvenile in or commit the juvenile to a private institution  
26 or agency approved or licensed by the department of consumer and  
27 industry services for the care of juveniles of similar age, sex,

1 and characteristics. If the juvenile is not a ward of the court,  
2 the court shall commit the juvenile to the family independence  
3 agency or, if the county is a county juvenile agency, to that  
4 county juvenile agency for placement in or commitment to such an  
5 institution or agency as the family independence agency or county  
6 juvenile agency determines is most appropriate, subject to any  
7 initial level of placement the court designates.

8 (e) Except as otherwise provided in this subdivision, commit  
9 the juvenile to a public institution, county facility,  
10 institution operated as an agency of the court or county, or  
11 agency authorized by law to receive juveniles of similar age,  
12 sex, and characteristics. If the juvenile is not a ward of the  
13 court, the court shall commit the juvenile to the family  
14 independence agency or, if the county is a county juvenile  
15 agency, to that county juvenile agency for placement in or  
16 commitment to such an institution or facility as the family  
17 independence agency or county juvenile agency determines is most  
18 appropriate, subject to any initial level of placement the court  
19 designates. If a child is not less than 17 years of age and is  
20 in violation of a personal protection order, the court may commit  
21 the child to a county jail within the adult prisoner population.  
22 In a placement under subdivision (d) or a commitment under this  
23 subdivision, except to a state institution or a county juvenile  
24 agency institution, the juvenile's religious affiliation shall be  
25 protected by placement or commitment to a private child-placing  
26 or child-caring agency or institution, if available. Except for  
27 commitment to the family independence agency or a county juvenile

1 agency, an order of commitment under this subdivision to a state  
2 institution or agency described in the youth rehabilitation  
3 services act, 1974 PA 150, MCL 803.301 to 803.309, or in 1935 PA  
4 220, MCL 400.201 to 400.214, the court shall name the  
5 superintendent of the institution to which the juvenile is  
6 committed as a special guardian to receive benefits due the  
7 juvenile from the government of the United States. An order of  
8 commitment under this subdivision to the family independence  
9 agency or a county juvenile agency shall name that agency as a  
10 special guardian to receive those benefits. The benefits  
11 received by the special guardian shall be used to the extent  
12 necessary to pay for the portions of the cost of care in the  
13 institution or facility that the parent or parents are found  
14 unable to pay.

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

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

26 (h) Appoint a guardian under section 5204 of the estates and  
27 protected individuals code, 1998 PA 386, MCL 700.5204, in

1 response to a petition filed with the court by a person  
2 interested in the juvenile's welfare. If the court appoints a  
3 guardian as authorized by this subdivision, it may dismiss the  
4 petition under this chapter.

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

6 (j) If the court finds that a juvenile has violated a  
7 municipal ordinance or a state or federal law, order the juvenile  
8 to pay a civil fine in the amount of the civil or penal fine  
9 provided by the ordinance or law. Money collected from fines  
10 levied under this subsection shall be distributed as provided in  
11 section 29 of this chapter.

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

16 (l) If a juvenile is within the court's jurisdiction under  
17 section 2(a)(1) of this chapter, place the juvenile in and order  
18 the juvenile to complete satisfactorily a program of training in  
19 a juvenile boot camp established by the family independence  
20 agency under the juvenile boot camp act, 1996 PA 263, MCL  
21 400.1301 to 400.1309, as provided in that act. If the county is  
22 a county juvenile agency, however, the court shall commit the  
23 juvenile to that county juvenile agency for placement in the  
24 program under that act. Upon receiving a report of satisfactory  
25 completion of the program from the family independence agency,  
26 the court shall authorize the juvenile's release from placement  
27 in the juvenile boot camp. Following satisfactory completion of

1 the juvenile boot camp program, the juvenile shall complete an  
2 additional period of not less than 120 days or more than 180 days  
3 of intensive supervised community reintegration in the juvenile's  
4 local community. To place or commit a juvenile under this  
5 subdivision, the court shall determine all of the following:

6 (i) Placement in a juvenile boot camp will benefit the  
7 juvenile.

8 (ii) The juvenile is physically able to participate in the  
9 program.

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

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

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

15 (vi) If the court must commit the juvenile to a county  
16 juvenile agency, the county juvenile agency is able to place the  
17 juvenile in a juvenile boot camp program.

18 (m) If the court entered a judgment of conviction under  
19 section 2d of this chapter, enter any disposition under this  
20 section or, if the court determines that the best interests of  
21 the public would be served, impose any sentence upon the juvenile  
22 that could be imposed upon an adult convicted of the offense for  
23 which the juvenile was convicted. If the juvenile is convicted  
24 of a violation or conspiracy to commit a violation of section  
25 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL  
26 333.7403, the court may impose the alternative sentence permitted  
27 under that section if the court determines that the best

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

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

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

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

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

11          (2) An order of disposition placing a juvenile in or  
12 committing a juvenile to care outside of the juvenile's own home  
13 and under state, county juvenile agency, or court supervision  
14 shall contain a provision for reimbursement by the juvenile,  
15 parent, guardian, or custodian to the court for the cost of care  
16 or service. The order shall be reasonable, taking into account  
17 both the income and resources of the juvenile, parent, guardian,  
18 or custodian. The amount may be based upon the guidelines and  
19 model schedule created under subsection (6). If the juvenile is  
20 receiving an adoption support subsidy under sections 115f to 115m  
21 of the social welfare act, 1939 PA 280, MCL 400.115f to 400.115m,  
22 the amount shall not exceed the amount of the support subsidy.  
23 The reimbursement provision applies during the entire period the  
24 juvenile remains in care outside of the juvenile's own home and  
25 under state, county juvenile agency, or court supervision, unless  
26 the juvenile is in the permanent custody of the court. The court  
27 shall provide for the collection of all amounts ordered to be



1 reimbursed and the money collected shall be accounted for and  
2 reported to the county board of commissioners. Collections to  
3 cover delinquent accounts or to pay the balance due on  
4 reimbursement orders may be made after a juvenile is released or  
5 discharged from care outside the juvenile's own home and under  
6 state, county juvenile agency, or court supervision. Twenty-five  
7 percent of all amounts collected under an order entered under  
8 this subsection shall be credited to the appropriate fund of the  
9 county to offset the administrative cost of collections. The  
10 balance of all amounts collected under an order entered under  
11 this subsection shall be divided in the same ratio in which the  
12 county, state, and federal government participate in the cost of  
13 care outside the juvenile's own home and under state, county  
14 juvenile agency, or court supervision. The court may also  
15 collect from the government of the United States benefits paid  
16 for the cost of care of a court ward. Money collected for  
17 juveniles placed by the court with or committed to the family  
18 independence agency or a county juvenile agency shall be  
19 accounted for and reported on an individual juvenile basis. In  
20 cases of delinquent accounts, the court may also enter an order  
21 to intercept state or federal tax refunds of a juvenile, parent,  
22 guardian, or custodian and initiate the necessary offset  
23 proceedings in order to recover the cost of care or service. The  
24 court shall send to the person who is the subject of the  
25 intercept order advance written notice of the proposed offset.  
26 The notice shall include notice of the opportunity to contest the  
27 offset on the grounds that the intercept is not proper because of

1 a mistake of fact concerning the amount of the delinquency or the  
2 identity of the person subject to the order. The court shall  
3 provide for the prompt reimbursement of an amount withheld in  
4 error or an amount found to exceed the delinquent amount.

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

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

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

23 (6) The office of the state court administrator, under the  
24 supervision and direction of the supreme court and in  
25 consultation with the family independence agency and the Michigan  
26 probate judges association, shall create guidelines and a model  
27 schedule the court may use in determining the ability of the

1 juvenile, parent, guardian, or custodian to pay for care and any  
2 costs of service ordered under subsection (2) or (3). The  
3 guidelines and model schedule shall take into account both the  
4 income and resources of the juvenile, parent, guardian, or  
5 custodian.

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

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

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

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

18 (9) If the court finds that the juvenile is in intentional  
19 default of the payment of restitution, a court may, as provided  
20 in section 31 of this chapter, revoke or alter the terms and  
21 conditions of probation for nonpayment of restitution. If a  
22 juvenile who is ordered to engage in community service  
23 intentionally refuses to perform the required community service,  
24 the court may revoke or alter the terms and conditions of  
25 probation.

26 (10) The court shall not enter an order of disposition for a  
27 juvenile offense as defined in section 1a of 1925 PA 289, MCL

1 28.241a, or a judgment of sentence for a conviction until the  
2 court has examined the court file and has determined that the  
3 juvenile's fingerprints have been taken and forwarded as required  
4 by section 3 of 1925 PA 289, MCL 28.243, and as required by the  
5 sex offenders registration act, 1994 PA 295, MCL 28.721 to  
6 28.732. If a juvenile has not had his or her fingerprints taken,  
7 the court shall do either of the following:

8 (a) Order the juvenile to submit himself or herself to the  
9 police agency that arrested or obtained the warrant for the  
10 juvenile's arrest so the juvenile's fingerprints can be taken and  
11 forwarded.

12 (b) Order the juvenile committed to the sheriff's custody for  
13 taking and forwarding the juvenile's fingerprints.

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

25 (12) If the court enters an order of disposition based on an  
26 act that is a juvenile offense as defined in section 1 of 1989 PA  
27 196, MCL 780.901, the court shall order the juvenile to pay the

1 assessment as provided in that act. If the court enters a  
2 judgment of conviction under section 2d of this chapter for an  
3 offense that is a felony, serious misdemeanor, or specified  
4 misdemeanor as defined in section 1 of 1989 PA 196, MCL 780.901,  
5 the court shall order the juvenile to pay the assessment as  
6 provided in that act.

7 (13) If the court has entered an order of disposition or a  
8 judgment of conviction for a listed offense as defined in section  
9 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722,  
10 the court, the family independence agency, or the county juvenile  
11 agency shall register the juvenile or accept the juvenile's  
12 registration as provided in the sex offenders registration act,  
13 1994 PA 295, MCL 28.721 to 28.732.

14 (14) If the court enters an order of disposition placing a  
15 juvenile in a juvenile boot camp program, or committing a  
16 juvenile to a county juvenile agency for placement in a juvenile  
17 boot camp program, and the court receives from the family  
18 independence agency a report that the juvenile has failed to  
19 perform satisfactorily in the program, that the juvenile does not  
20 meet the program's requirements or is medically unable to  
21 participate in the program for more than 25 days, that there is  
22 no opening in a juvenile boot camp program, or that the county  
23 juvenile agency is unable to place the juvenile in a juvenile  
24 boot camp program, the court shall release the juvenile from  
25 placement or commitment and enter an alternative order of  
26 disposition. A juvenile shall not be placed in a juvenile boot  
27 camp under an order of disposition more than once, except that a

1 juvenile returned to the court for a medical condition, because  
2 there was no opening in a juvenile boot camp program, or because  
3 the county juvenile agency was unable to place the juvenile in a  
4 juvenile boot camp program may be placed again in the juvenile  
5 boot camp program after the medical condition is corrected, an  
6 opening becomes available, or the county juvenile agency is able  
7 to place the juvenile.

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

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

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

4 (18) If a juvenile is within the court's jurisdiction under  
5 section 2(a)(1) of this chapter, the court shall order the  
6 juvenile to pay costs as provided in section 18m of this  
7 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. 18m. (1) If a juvenile is within the court's  
19 jurisdiction under section 2(a)(1) of this chapter, **and is**  
20 **ordered to pay any combination of fines, costs, restitution,**  
21 **assessments, or payments arising out of the same juvenile**  
22 **proceeding,** the court shall order the juvenile to pay costs of  
23 not less than the following amount, as applicable:

24 (a) \$60.00, if the juvenile is found to be within the court's  
25 jurisdiction for a felony.

26 (b) \$45.00, if the juvenile is found to be within the court's  
27 jurisdiction for a serious misdemeanor or a specified

1 misdemeanor.

2 (c) \$40.00, if the juvenile is found to be within the court's  
3 jurisdiction for a misdemeanor not described in subdivision (b)  
4 or of an ordinance violation.

5 (2) Of the costs ordered to be paid, the clerk of the court  
6 shall pay to the justice system fund created in section 181 of  
7 the revised judicature act of 1961, 1961 PA 236, MCL 600.181, the  
8 applicable amount specified as a minimum cost in subsection (1).

9 (3) If a juvenile who is ordered to pay a minimum state cost  
10 under this section is subject to any combination of fines, costs,  
11 restitution, assessments, or payments arising out of the same  
12 juvenile proceeding, money collected from that person for the  
13 payment of fines, costs, restitution, assessments, or other  
14 payments shall be allocated as provided in section 29 of this  
15 chapter. A fine imposed for a felony, misdemeanor, or ordinance  
16 violation shall not be waived unless costs, other than the  
17 minimum state cost, are waived.

18 (4) On the last day of each month, the clerk of the court  
19 shall transmit the minimum state cost or portions of minimum  
20 state cost collected under this section to the department of  
21 treasury for deposit in the justice system fund created in  
22 section 181 of the revised judicature act of 1961, 1961 PA 236,  
23 MCL 600.181.

24 (5) As used in this section:

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



1 felony.

2 (b) "Minimum state cost" means the applicable minimum cost to  
3 be ordered under subsection (1).

4 (c) "Ordinance violation" means that term as defined in  
5 section 1 of chapter I of the code of criminal procedure, 1927 PA  
6 175, MCL 761.1.

7 (d) "Serious misdemeanor" means that term as defined in  
8 section 61 of the crime victim's rights act, 1985 PA 87, MCL  
9 780.811.

10 (e) "Specified misdemeanor" means that term as defined in  
11 section 1 of 1989 PA 196, MCL 780.901.