

HOUSE BILL No. 6016

November 8, 2012, Introduced by Reps. Walsh and Haveman and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 18 of chapter XIIA (MCL 712A.18), as amended by 2011 PA 295.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

1
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 otherwise
5 provided in subsection (10), if the court finds that a juvenile is
6 within this chapter, the court may enter any of the following
7 orders of disposition that are appropriate for the welfare of the
8 juvenile 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

1 petition.

2 (b) Place the juvenile on probation, or under supervision in
3 the juvenile's own home or in the home of an adult who is related
4 to the juvenile. As used in this subdivision, "related" means an
5 individual who is not less than 18 years of age and related to the
6 child by blood, marriage, or adoption, as grandparent, great-
7 grandparent, great-great-grandparent, aunt or uncle, great-aunt or
8 great-uncle, great-great-aunt or great-great-uncle, sibling,
9 stepsibling, nephew or niece, first cousin or first cousin once
10 removed, and the spouse of any of the above, even after the
11 marriage has ended by death or divorce. A child may be placed with
12 the parent of a man whom the court has found probable cause to
13 believe is the putative father if there is no man with legally
14 established rights to the child. This placement of the child with
15 the parent of a man whom the court has found probable cause to
16 believe is the putative father is for the purposes of placement
17 only and is not to be construed as a finding of paternity or to
18 confer legal standing. The court shall order the terms and
19 conditions of probation or supervision, including reasonable rules
20 for the conduct of the parents, guardian, or custodian, if any, as
21 the court determines necessary for the physical, mental, or moral
22 well-being and behavior of the juvenile. The court may order that
23 the juvenile participate in a juvenile drug treatment court under
24 chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL
25 600.1060 to 600.1084. The court also shall order, as a condition of
26 probation or supervision, that the juvenile shall pay the minimum
27 state cost prescribed by section 18m of this chapter.

1 (c) If a juvenile is within the court's jurisdiction under
2 section 2(a) of this chapter, or under section 2(h) of this chapter
3 for a supplemental petition, place the juvenile in a suitable
4 foster care home subject to the court's supervision. If a juvenile
5 is within the court's jurisdiction under section 2(b) of this
6 chapter, the court shall not place a juvenile in a foster care home
7 subject to the court's supervision.

8 (d) Except as otherwise provided in this subdivision, place
9 the juvenile in or commit the juvenile to a private institution or
10 agency approved or licensed by the department of consumer and
11 industry services for the care of juveniles of similar age, sex,
12 and characteristics. If the juvenile is not a ward of the court,
13 the court shall commit the juvenile to the family independence
14 agency or, if the county is a county juvenile agency, to that
15 county juvenile agency for placement in or commitment to such an
16 institution or agency as the department of human services or county
17 juvenile agency determines is most appropriate, subject to any
18 initial level of placement the court designates.

19 (e) Except as otherwise provided in this subdivision, commit
20 the juvenile to a public institution, county facility, institution
21 operated as an agency of the court or county, or agency authorized
22 by law to receive juveniles of similar age, sex, and
23 characteristics. If the juvenile is not a ward of the court, the
24 court shall commit the juvenile to the department of human services
25 or, if the county is a county juvenile agency, to that county
26 juvenile agency for placement in or commitment to such an
27 institution or facility as the department of human services or

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

24 (f) Provide the juvenile with medical, dental, surgical, or
25 other health care, in a local hospital if available, or elsewhere,
26 maintaining as much as possible a local physician-patient
27 relationship, and with clothing and other incidental items the

1 court determines are necessary.

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

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

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

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

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

24 (l) If a juvenile is within the court's jurisdiction under
25 section 2(a)(1) of this chapter, place the juvenile in and order
26 the juvenile to complete satisfactorily a program of training in a
27 juvenile boot camp established by the department of human services

1 under the juvenile boot camp act, 1996 PA 263, MCL 400.1301 to
2 400.1309, as provided in that act. If the county is a county
3 juvenile agency, ~~however,~~ the court shall commit the juvenile to
4 that county juvenile agency for placement in the program under that
5 act. Upon receiving a report of satisfactory completion of the
6 program from the department of human services, the court shall
7 authorize the juvenile's release from placement in the juvenile
8 boot camp. Following satisfactory completion of the juvenile boot
9 camp program, the juvenile shall complete an additional period of
10 not less than 120 days or more than 180 days of intensive
11 supervised community reintegration in the juvenile's local
12 community. To place or commit a juvenile under this subdivision,
13 the court shall determine all of the following:

14 (i) Placement in a juvenile boot camp will benefit the
15 juvenile.

16 (ii) The juvenile is physically able to participate in the
17 program.

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

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

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

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

26 (m) If the court entered a judgment of conviction under
27 section 2d of this chapter, enter any disposition under this

1 section or, if the court determines that the best interests of the
2 public would be served, **EXCEPT AS OTHERWISE PROVIDED IN SECTION 1M**
3 **AND 1N OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA**
4 **175, MCL 769.1M AND 769.1N**, impose any sentence upon the juvenile
5 that could be imposed upon an adult convicted of the offense for
6 which the juvenile was convicted. If the juvenile is convicted of a
7 violation or conspiracy to commit a violation of section
8 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7403,
9 the court may impose the alternative sentence permitted under that
10 section if the court determines that the best interests of the
11 public would be served. The court may delay imposing a sentence of
12 imprisonment under this subdivision for a period not longer than
13 the period during which the court has jurisdiction over the
14 juvenile under this chapter by entering an order of disposition
15 delaying imposition of sentence and placing the juvenile on
16 probation upon the terms and conditions it considers appropriate,
17 including any disposition under this section. If the court delays
18 imposing sentence under this section, section 18i of this chapter
19 applies. If the court imposes sentence, it shall enter a judgment
20 of sentence. If the court imposes a sentence of imprisonment, the
21 juvenile shall receive credit against the sentence for time served
22 before sentencing. In determining whether to enter an order of
23 disposition or impose a sentence under this subdivision, the court
24 shall consider all of the following factors, giving greater weight
25 to the seriousness of the offense and the juvenile's prior record:
26 (i) The seriousness of the offense in terms of community
27 protection, including, but not limited to, the existence of any

1 aggravating factors recognized by the sentencing guidelines, the
2 use of a firearm or other dangerous weapon, and the impact on any
3 victim.

4 (ii) The juvenile's culpability in committing the offense,
5 including, but not limited to, the level of the juvenile's
6 participation in planning and carrying out the offense and the
7 existence of any aggravating or mitigating factors recognized by
8 the sentencing guidelines.

9 (iii) The juvenile's prior record of delinquency including, but
10 not limited to, any record of detention, any police record, any
11 school record, or any other evidence indicating prior delinquent
12 behavior.

13 (iv) The juvenile's programming history, including, but not
14 limited to, the juvenile's past willingness to participate
15 meaningfully in available programming.

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

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

19 (2) An order of disposition placing a juvenile in or
20 committing a juvenile to care outside of the juvenile's own home
21 and under state, county juvenile agency, or court supervision shall
22 contain a provision for reimbursement by the juvenile, parent,
23 guardian, or custodian to the court for the cost of care or
24 service. The order shall be reasonable, taking into account both
25 the income and resources of the juvenile, parent, guardian, or
26 custodian. The amount may be based upon the guidelines and model
27 schedule created under subsection (6). If the juvenile is receiving

1 an adoption support subsidy under sections 115f to 115m of the
2 social welfare act, 1939 PA 280, MCL 400.115f to 400.115m, the
3 amount shall not exceed the amount of the support subsidy. The
4 reimbursement provision applies during the entire period the
5 juvenile remains in care outside of the juvenile's own home and
6 under state, county juvenile agency, or court supervision, unless
7 the juvenile is in the permanent custody of the court. The court
8 shall provide for the collection of all amounts ordered to be
9 reimbursed and the money collected shall be accounted for and
10 reported to the county board of commissioners. Collections to cover
11 delinquent accounts or to pay the balance due on reimbursement
12 orders may be made after a juvenile is released or discharged from
13 care outside the juvenile's own home and under state, county
14 juvenile agency, or court supervision. Twenty-five percent of all
15 amounts collected under an order entered under this subsection
16 shall be credited to the appropriate fund of the county to offset
17 the administrative cost of collections. The balance of all amounts
18 collected under an order entered under this subsection shall be
19 divided in the same ratio in which the county, state, and federal
20 government participate in the cost of care outside the juvenile's
21 own home and under state, county juvenile agency, or court
22 supervision. The court may also collect from the government of the
23 United States benefits paid for the cost of care of a court ward.
24 Money collected for juveniles placed by the court with or committed
25 to the department of human services or a county juvenile agency
26 shall be accounted for and reported on an individual juvenile
27 basis. In cases of delinquent accounts, the court may also enter an

1 order to intercept state or federal tax refunds of a juvenile,
2 parent, guardian, or custodian and initiate the necessary offset
3 proceedings in order to recover the cost of care or service. The
4 court shall send to the person who is the subject of the intercept
5 order advance written notice of the proposed offset. The notice
6 shall include notice of the opportunity to contest the offset on
7 the grounds that the intercept is not proper because of a mistake
8 of fact concerning the amount of the delinquency or the identity of
9 the person subject to the order. The court shall provide for the
10 prompt reimbursement of an amount withheld in error or an amount
11 found to exceed the delinquent amount.

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

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

25 (5) If the court appoints an attorney to represent a juvenile,
26 parent, guardian, or custodian, the court may require in an order
27 entered under this section that the juvenile, parent, guardian, or

1 custodian reimburse the court for attorney fees.

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

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

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

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

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

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

1 the court may revoke or alter the terms and conditions of
2 probation.

3 (10) The court shall not enter an order of disposition for a
4 juvenile offense as defined in section 1a of 1925 PA 289, MCL
5 28.241a, or a judgment of sentence for a conviction until the court
6 has examined the court file and has determined that the juvenile's
7 fingerprints have been taken and forwarded as required by section 3
8 of 1925 PA 289, MCL 28.243, and as required by the sex offenders
9 registration act, 1994 PA 295, MCL 28.721 to 28.736. If a juvenile
10 has not had his or her fingerprints taken, the court shall do
11 either of the following:

12 (a) Order the juvenile to submit himself or herself to the
13 police agency that arrested or obtained the warrant for the
14 juvenile's arrest so the juvenile's fingerprints can be taken and
15 forwarded.

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

18 (11) Upon final disposition, conviction, acquittal, or
19 dismissal of an offense within the court's jurisdiction under
20 section 2(a)(1) of this chapter, using forms approved by the state
21 court administrator, the clerk of the court entering the final
22 disposition, conviction, acquittal, or dismissal shall immediately
23 advise the department of state police of that final disposition,
24 conviction, acquittal, or dismissal as required by section 3 of
25 1925 PA 289, MCL 28.243. The report to the department of state
26 police shall include information as to the finding of the judge or
27 jury and a summary of the disposition or sentence imposed.

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

8 (13) If the court has entered an order of disposition or a
9 judgment of conviction for a listed offense as defined in section 2
10 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the
11 court, department of human services, or the county juvenile agency
12 shall register the juvenile or accept the juvenile's registration
13 as provided in the sex offenders registration act, 1994 PA 295, MCL
14 28.721 to 28.736.

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

1 than once, except that a juvenile returned to the court for a
2 medical condition, because there was no opening in a juvenile boot
3 camp program, or because the county juvenile agency was unable to
4 place the juvenile in a juvenile boot camp program may be placed
5 again in the juvenile boot camp program after the medical condition
6 is corrected, an opening becomes available, or the county juvenile
7 agency is able 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 listed
10 offense as defined in section 2 of the sex offenders registration
11 act, 1994 PA 295, MCL 28.722, the court shall determine if the
12 offense is a violation of a law of this state or a local ordinance
13 of a municipality of this state that by its nature constitutes a
14 sexual offense against an individual who is less than 18 years of
15 age. If so, the order of disposition is for a listed offense as
16 defined in section 2 of the sex offenders registration act, 1994 PA
17 295, MCL 28.722, and the court shall include the basis for that
18 determination on the record and include the determination in the
19 order of disposition.

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

27 (17) In a proceeding under section 2(h) of this chapter, this

1 section only applies to a disposition for a violation of a personal
2 protection order and subsequent proceedings.

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

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