

HOUSE BILL No. 4957

October 7, 2015, Introduced by Reps. Heise, Chang, Santana, Kosowski, Webber, Byrd, Robinson, Geiss, Banks, Gay-Dagnogo, Greig, Yanez, Darany, Forlini, Lucido, Howrylak, LaVoy, Durhal, Rutledge, Irwin, Hovey-Wright, Plawecki, Moss, Love, Callton and Zemke and referred to the Committee on Criminal Justice.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 14, 15, 16, 18, 18i, and 18k of chapter XIIA (MCL 712A.14, 712A.15, 712A.16, 712A.18, 712A.18i, and 712A.18k), section 14 as amended by 2012 PA 163, section 15 as amended by 1998 PA 474, section 16 as amended by 1998 PA 478, section 18 as amended by 2011 PA 295, section 18i as added by 1996 PA 244, and section 18k as amended by 2014 PA 458.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

1
2 Sec. 14. (1) Any local police officer, sheriff or deputy
3 sheriff, state police officer, county agent or probation officer of
4 any court of record may, without the order of the court,
5 immediately take into custody any child who is found violating any

1 law or ordinance, or for whom there is reasonable cause to believe
2 is violating or has violated a personal protection order issued
3 under section 2(h) of this chapter by the court under section 2950
4 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL
5 600.2950 and 600.2950a, or for whom there is reasonable cause to
6 believe is violating or has violated a valid foreign protection
7 order. If the officer or county agent takes a child coming within
8 the provisions of this chapter into custody, he or she shall
9 immediately attempt to notify the parent or parents, guardian, or
10 custodian. While awaiting the arrival of the parent or parents,
11 guardian, or custodian, a child under the age of ~~17-18~~ years taken
12 into custody under the provisions of this chapter shall not be held
13 in **A JAIL OR** any **OTHER** detention facility ~~unless the child is~~
14 ~~completely isolated so as to prevent any verbal, visual, or~~
15 ~~physical contact with any adult prisoner.~~ **FOR ADULTS.** Unless the
16 child requires immediate detention as provided for in this act, the
17 officer shall accept the written promise of the parent or parents,
18 guardian, or custodian, to bring the child to the court at a fixed
19 time. The child shall then be released to the custody of the parent
20 or parents, guardian, or custodian.

21 (2) If a child is not released under subsection (1), the child
22 and his or her **PARENT OR** parents, guardian, or custodian, if they
23 can be located, shall immediately be brought before the court for a
24 preliminary hearing on the status of the child, and an order signed
25 by a judge or a referee authorizing the filing of a complaint shall
26 be entered or the child shall be released to his or her parent or
27 parents, guardian, or custodian.

1 (3) If a complaint is authorized under subsection (2), the
2 order shall state where the child is to be placed, pending
3 investigation and hearing, which placement may be in any of the
4 following:

5 (a) In the home of the child's parent, guardian, or custodian.

6 (b) If a child is within the court's jurisdiction under
7 section 2(a) of this chapter, in a suitable foster care home
8 subject to the court's supervision. Except as otherwise provided in
9 subsections (4) and (5), if a child is within the court's
10 jurisdiction under section 2(b) of this chapter, the court shall
11 not place a child in a foster care home subject to the court's
12 supervision.

13 (c) In a child care institution or child placing agency
14 licensed by the department ~~of human services~~ to receive for care
15 children within the jurisdiction of the court.

16 (d) In a suitable place of detention.

17 ~~—— (4) Except as otherwise provided in subsection (5), if a court~~
18 ~~is providing at the time of the enactment of this subsection foster~~
19 ~~care home services subject to the court's supervision to children~~
20 ~~within section 2(b) of this chapter, the court may continue to~~
21 ~~provide those services through December 31, 1989. Beginning January~~
22 ~~1, 1990, the court shall discontinue providing those services.~~

23 ~~—— (5) If a court located in a county with a population in excess~~
24 ~~of 650,000 is providing at the time of the enactment of this~~
25 ~~subsection foster care home services subject to the court's~~
26 ~~supervision to children within section 2(b) of this chapter, the~~
27 ~~court may continue to provide those services through December 31,~~

1 ~~1991. Beginning January 1, 1992, the court shall discontinue those~~
2 ~~services.~~

3 Sec. 15. (1) In the case of a child concerning whom a
4 complaint has been made or a petition has been filed ~~pursuant to~~
5 **UNDER** this chapter, the court may order the child, pending the
6 hearing, detained in a facility as the court ~~shall designate.~~

7 **DESIGNATES.** The court may release the child, pending the hearing,
8 in the custody of a parent, guardian, or custodian, to be brought
9 before the court at the time designated. As used in this
10 subsection, "petition" includes all of the following:

11 (a) Petition.

12 (b) Supplemental petition.

13 (c) Petition for revocation of probation.

14 (d) Supplemental petition alleging a violation of a personal
15 protection order.

16 (2) Custody, pending hearing, is limited to the following
17 children:

18 (a) Those whose home conditions make immediate removal
19 necessary.

20 (b) Those who have a record of unexcused failures to appear at
21 juvenile court proceedings.

22 (c) Those who have run away from home.

23 (d) Those who have failed to remain in a detention or
24 nonsecure facility or placement in violation of a court order.

25 (e) Those whose offenses are so serious that release would
26 endanger public safety.

27 (f) Those who have allegedly violated a personal protection

1 order and for whom it appears there is a substantial likelihood of
2 retaliation or continued violation.

3 (3) A child taken into custody ~~pursuant~~ **ACCORDING** to section
4 2(a)(2) to (4) of this chapter or subsection (2)(c) shall not be
5 detained in any secure facility designed to physically restrict the
6 movements and activities of alleged or adjudicated juvenile
7 offenders unless the court finds that the child willfully violated
8 a court order and the court finds, after a hearing and on the
9 record, that there is not a less restrictive alternative more
10 appropriate to the needs of the child. ~~This subsection does not~~
11 ~~apply to a child who is under the jurisdiction of the court~~
12 ~~pursuant to section 2(a)(1) of this chapter or a child who is not~~
13 ~~less than 17 years of age and who is under the jurisdiction of the~~
14 ~~court pursuant to a supplemental petition under section 2(h) of~~
15 ~~this chapter.~~

16 (4) A child taken into custody ~~pursuant to~~ **UNDER** section 2(b)
17 of this chapter or subsection (2)(a) shall not be detained in any
18 secure facility designed to physically restrict the movements and
19 activities of alleged or adjudicated juvenile offenders or in a
20 cell or other secure area of any secure facility designed to
21 incarcerate adults.

22 (5) A child taken into custody ~~pursuant to~~ **UNDER** section
23 2(a)(2) to (4) of this chapter or subsection (2)(c) shall not be
24 detained in a cell or other secure area of any secure facility
25 designed to incarcerate adults unless ~~either of the following~~
26 ~~applies:~~

27 ~~— (a) A child is under the jurisdiction of the court pursuant to~~

1 ~~section 2(a)(1) of this chapter for an offense which, if committed~~
2 ~~by an adult, would be a felony.~~

3 ~~—— (b) A **THE** child is not less than 17-18 years of age and is~~
4 ~~under the jurisdiction of the court pursuant **UNDER** to a~~
5 ~~supplemental petition under section 2(h) of this chapter.~~

6 Sec. 16. (1) If a juvenile under the age of 17-18 years is
7 taken into custody or detained, the juvenile shall not be confined
8 in any police station, prison, jail, lock-up, or reformatory or
9 transported with, or compelled or permitted to associate or mingle
10 with, criminal or dissolute persons. ~~However, except as otherwise~~
11 ~~provided in section 15(3), (4), and (5) of this chapter, the court~~
12 ~~may order a juvenile 15 years of age or older whose habits or~~
13 ~~conduct are considered a menace to other juveniles, or who may not~~
14 ~~otherwise be safely detained, placed in a jail or other place of~~
15 ~~detention for adults, but in a room or ward separate from adults~~
16 ~~and for not more than 30 days, unless longer detention is necessary~~
17 ~~for the service of process.~~

18 (2) The county board of commissioners in each county or of
19 counties contracting together may provide for the diagnosis,
20 treatment, care, training, and detention of juveniles in a child
21 care home or facility conducted as an agency of the county if the
22 home or facility meets licensing standards established under 1973
23 PA 116, MCL 722.111 to 722.128. The court or a court-approved
24 agency may arrange for the boarding of juveniles in ~~any~~ **EITHER** of
25 the following:

26 (a) If a juvenile is within the court's jurisdiction under
27 section 2(a) of this chapter, a suitable foster care home subject

1 to the court's supervision. If a juvenile is within the court's
2 jurisdiction under section 2(b) of this chapter, the court shall
3 not place a juvenile in a foster care home subject to the court's
4 supervision.

5 (b) A child caring institution or child placing agency
6 licensed by the department of ~~consumer and industry services~~
7 **LICENSING AND REGULATORY AFFAIRS** to receive for care juveniles
8 within the court's jurisdiction.

9 ~~—— (c) If in a room or ward separate and apart from adult~~
10 ~~eriminals, the county jail for juveniles over 17 years of age~~
11 ~~within the court's jurisdiction.~~

12 (3) If a detention home or facility is established as an
13 agency of the county, the judge may appoint a superintendent and
14 other necessary employees for the home or facility who shall
15 receive compensation as provided by the county board of
16 commissioners of the county. This section does not alter or
17 diminish the legal responsibility of the ~~family independence agency~~
18 **DEPARTMENT** or a county juvenile agency to receive juveniles
19 committed by the court.

20 (4) If the court under subsection (2) arranges for the board
21 of juveniles temporarily detained in private homes or in a child
22 caring institution or child placing agency, a reasonable sum fixed
23 by the court for their board shall be paid by the county treasurer
24 as provided in section 25 of this chapter.

25 (5) A court shall not provide foster care home services
26 subject to the court's supervision to juveniles within section 2(b)
27 of this chapter.

1 (6) A juvenile detention home described in subsection (3)
2 shall be operated under the direction of the county board of
3 commissioners or, in a county that has an elected county executive,
4 under the county executive's direction. ~~However, a~~ A different
5 method for directing the operation of a detention home may be
6 agreed to in any county by the chief judge of the circuit court in
7 that county and the county board of commissioners or, in a county
8 that has an elected county executive, the county executive.

9 Sec. 18. (1) If the court finds that a juvenile concerning
10 whom a petition is filed is not within this chapter, the court
11 shall enter an order dismissing the petition. Except as otherwise
12 provided in subsection (10), if the court finds that a juvenile is
13 within this chapter, the court may enter any of the following
14 orders of disposition that are appropriate for the welfare of the
15 juvenile and society in view of the facts proven and ascertained:

16 (a) Warn the juvenile or the juvenile's parents, guardian, or
17 custodian and, except as provided in subsection (7), dismiss the
18 petition.

19 (b) Place the juvenile on probation, or under supervision in
20 the juvenile's own home or in the home of an adult who is related
21 to the juvenile. As used in this subdivision, "related" means an
22 individual who is not less than 18 years of age and related to the
23 child by blood, marriage, or adoption, as grandparent, great-
24 grandparent, great-great-grandparent, aunt or uncle, great-aunt or
25 great-uncle, great-great-aunt or great-great-uncle, sibling,
26 stepsibling, nephew or niece, first cousin or first cousin once
27 removed, and the spouse of any of the above, even after the

1 marriage has ended by death or divorce. A child may be placed with
2 the parent of a man whom the court has found probable cause to
3 believe is the putative father if there is no man with legally
4 established rights to the child. This placement of the child with
5 the parent of a man whom the court has found probable cause to
6 believe is the putative father is for the purposes of placement
7 only and is not to be construed as a finding of paternity or to
8 confer legal standing. The court shall order the terms and
9 conditions of probation or supervision, including reasonable rules
10 for the conduct of the parents, guardian, or custodian, if any, as
11 the court determines necessary for the physical, mental, or moral
12 well-being and behavior of the juvenile. The court may order that
13 the juvenile participate in a juvenile drug treatment court under
14 chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL
15 600.1060 to 600.1084. The court also shall order, as a condition of
16 probation or supervision, that the juvenile shall pay the minimum
17 state cost prescribed by section 18m of this chapter.

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

25 (d) Except as otherwise provided in this subdivision, place
26 the juvenile in or commit the juvenile to a private institution or
27 agency approved or licensed by the department of ~~consumer and~~

1 ~~industry services~~ **LICENSING AND REGULATORY AFFAIRS** for the care of
2 juveniles of similar age, sex, and characteristics. If the juvenile
3 is not a ward of the court, the court shall commit the juvenile to
4 the ~~family independence agency~~ **DEPARTMENT** or, if the county is a
5 county juvenile agency, to that county juvenile agency for
6 placement in or commitment to ~~such an~~ institution or agency as the
7 department ~~of human services~~ or county juvenile agency determines
8 is most appropriate, subject to any initial level of placement the
9 court designates.

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

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

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

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

25 (h) Appoint a guardian under section 5204 of the estates and
26 protected individuals code, 1998 PA 386, MCL 700.5204, in response
27 to a petition filed with the court by a person interested in the

1 juvenile's welfare. If the court appoints a guardian as authorized
2 by this subdivision, it may dismiss the petition under this
3 chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (iii) The juvenile's prior record of delinquency including,
27 but not limited to, any record of detention, any police record, any

1 school record, or any other evidence indicating prior delinquent
2 behavior.

3 (iv) The juvenile's programming history, including, but not
4 limited to, the juvenile's past willingness to participate
5 meaningfully in available programming.

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

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

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

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

1 found to exceed the delinquent amount.

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

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

15 (5) If the court appoints an attorney to represent a juvenile,
16 parent, guardian, or custodian, the court may require in an order
17 entered under this section that the juvenile, parent, guardian, or
18 custodian reimburse the court for attorney fees.

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

26 (7) If the court finds that a juvenile comes under section 30
27 of this chapter, the court shall order the juvenile or the

1 juvenile's parent to pay restitution as provided in sections 30 and
2 31 of this chapter and in sections 44 and 45 of the crime victim's
3 rights act, 1985 PA 87, MCL 780.794 and 780.795.

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

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

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

11 (9) If the court finds that the juvenile is in intentional
12 default of the payment of restitution, a court may, as provided in
13 section 31 of this chapter, revoke or alter the terms and
14 conditions of probation for nonpayment of restitution. If a
15 juvenile who is ordered to engage in community service
16 intentionally refuses to perform the required community service,
17 the court may revoke or alter the terms and conditions of
18 probation.

19 (10) The court shall not enter an order of disposition for a
20 juvenile offense as defined in section 1a of 1925 PA 289, MCL
21 28.241a, or a judgment of sentence for a conviction until the court
22 has examined the court file and has determined that the juvenile's
23 fingerprints have been taken and forwarded as required by section 3
24 of 1925 PA 289, MCL 28.243, and as required by the sex offenders
25 registration act, 1994 PA 295, MCL 28.721 to 28.736. If a juvenile
26 has not had his or her fingerprints taken, the court shall do
27 either of the following:

1 (a) Order the juvenile to submit himself or herself to the
2 police agency that arrested or obtained the warrant for the
3 juvenile's arrest so the juvenile's fingerprints can be taken and
4 forwarded.

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

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

17 (12) If the court enters an order of disposition based on an
18 act that is a juvenile offense as defined in section 1 of 1989 PA
19 196, MCL 780.901, the court shall order the juvenile to pay the
20 assessment as provided in that act. If the court enters a judgment
21 of conviction under section 2d of this chapter for an offense that
22 is a felony, misdemeanor, or ordinance violation, the court shall
23 order the juvenile to pay the assessment as provided in that act.

24 (13) If the court has entered an order of disposition or a
25 judgment of conviction for a listed offense as defined in section 2
26 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the
27 court, **THE** department, ~~of human services,~~ or the county juvenile

1 agency shall register the juvenile or accept the juvenile's
2 registration as provided in the sex offenders registration act,
3 1994 PA 295, MCL 28.721 to 28.736.

4 (14) If the court enters an order of disposition placing a
5 juvenile in a juvenile boot camp program, or committing a juvenile
6 to a county juvenile agency for placement in a juvenile boot camp
7 program, and the court receives from the department ~~of human~~
8 ~~services~~ a report that the juvenile has failed to perform
9 satisfactorily in the program, that the juvenile does not meet the
10 program's requirements or is medically unable to participate in the
11 program for more than 25 days, that there is no opening in a
12 juvenile boot camp program, or that the county juvenile agency is
13 unable to place the juvenile in a juvenile boot camp program, the
14 court shall release the juvenile from placement or commitment and
15 enter an alternative order of disposition. A juvenile shall not be
16 placed in a juvenile boot camp under an order of disposition more
17 than once, except that a juvenile returned to the court for a
18 medical condition, because there was no opening in a juvenile boot
19 camp program, or because the county juvenile agency was unable to
20 place the juvenile in a juvenile boot camp program may be placed
21 again in the juvenile boot camp program after the medical condition
22 is corrected, an opening becomes available, or the county juvenile
23 agency is able to place the juvenile.

24 (15) If the juvenile is within the court's jurisdiction under
25 section 2(a)(1) of this chapter for an offense other than a listed
26 offense as defined in section 2 of the sex offenders registration
27 act, 1994 PA 295, MCL 28.722, the court shall determine if the

1 offense is a violation of a law of this state or a local ordinance
2 of a municipality of this state that by its nature constitutes a
3 sexual offense against an individual who is less than 18 years of
4 age. If so, the order of disposition is for a listed offense as
5 defined in section 2 of the sex offenders registration act, 1994 PA
6 295, MCL 28.722, and the court shall include the basis for that
7 determination on the record and include the determination in the
8 order of disposition.

9 (16) The court shall not impose a sentence of imprisonment in
10 the county jail under subsection (1)(m) unless the present county
11 jail facility for the juvenile's imprisonment would meet all
12 requirements under federal law and regulations for housing
13 juveniles. The court shall not impose the sentence until it
14 consults with the sheriff to determine when the sentence will begin
15 to ensure that space will be available for the juvenile.

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

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

22 (19) A juvenile who has been ordered to pay the minimum state
23 cost as provided in section 18m of this chapter as a condition of
24 probation or supervision and who is not in willful default of the
25 payment of the minimum state cost may petition the court at any
26 time for a remission of the payment of any unpaid portion of the
27 minimum state cost. If the court determines that payment of the

1 amount due will impose a manifest hardship on the juvenile or his
2 or her immediate family, the court may remit all or part of the
3 amount of the minimum state cost due or modify the method of
4 payment.

5 Sec. 18i. (1) A delay in sentencing does not deprive the court
6 of jurisdiction to sentence the juvenile under section 18(1)(n) of
7 this chapter any time during the delay.

8 (2) If the court has entered an order of disposition under
9 section 18(1)(n) of this chapter delaying imposition of sentence,
10 the court shall conduct an annual review of the probation,
11 including but not limited to the services being provided to the
12 juvenile, the juvenile's placement, and the juvenile's progress in
13 that placement. In conducting this review, the court shall examine
14 any annual report prepared under section 3 of the juvenile
15 facilities act, ~~Act No. 73 of the Public Acts of 1988, being~~
16 ~~section 803.223 of the Michigan Compiled Laws, 1988 PA 73, MCL~~
17 **803.223**, and any report prepared upon the court's order by the
18 officer or agency supervising probation. The court may order
19 changes in the juvenile's probation based on the review including
20 but not limited to imposition of sentence.

21 (3) If the court entered an order of disposition under section
22 18(1)(n) of this chapter delaying imposition of sentence, the court
23 shall conduct a review hearing to determine whether the juvenile
24 has been rehabilitated and whether the juvenile presents a serious
25 risk to public safety. If the court determines that the juvenile
26 has not been rehabilitated or that the juvenile presents a serious
27 risk to public safety, jurisdiction over the juvenile shall be

1 continued or the court may impose sentence. In making this
2 determination, the court shall consider the following:

3 (a) The extent and nature of the juvenile's participation in
4 education, counseling, or work programs.

5 (b) The juvenile's willingness to accept responsibility for
6 prior behavior.

7 (c) The juvenile's behavior in his or her current placement.

8 (d) The prior record and character of the juvenile and his or
9 her physical and mental maturity.

10 (e) The juvenile's potential for violent conduct as
11 demonstrated by prior behavior.

12 (f) The recommendations of any institution or agency charged
13 with the juvenile's care for the juvenile's release or continued
14 custody.

15 (g) Other information the prosecuting attorney or juvenile may
16 submit.

17 (4) A review hearing shall be scheduled and held unless
18 adjourned for good cause as near as possible to, but before, the
19 juvenile's nineteenth birthday. If an institution or agency to
20 which the juvenile was committed believes that the juvenile has
21 been rehabilitated and that the juvenile does not present a serious
22 risk to public safety, the institution or agency may petition the
23 court to conduct a review hearing any time before the juvenile
24 becomes 19 years of age or, if the court has continued
25 jurisdiction, any time before the juvenile becomes 21 years of age.

26 (5) Not less than 14 days before a review hearing is to be
27 conducted, the prosecuting attorney, juvenile, and, if addresses

1 are known, the juvenile's parent or guardian shall be notified. The
2 notice shall state that the court may extend jurisdiction over the
3 juvenile or impose sentence and shall advise the juvenile and the
4 juvenile's parent or guardian of the right to legal counsel. If
5 legal counsel has not been retained or appointed to represent the
6 juvenile, the court shall appoint legal counsel and may assess the
7 cost of providing counsel as costs against the juvenile or those
8 responsible for the juvenile's support, or both, if the persons to
9 be assessed are financially able to comply.

10 (6) A commitment report prepared as provided in section 5 of
11 the juvenile facilities act, ~~Act No. 73 of the Public Acts of 1988,~~
12 ~~being section 803.225 of the Michigan Compiled Laws, 1988 PA 73,~~
13 **MCL 803.225**, and any report prepared upon the court's order by the
14 officer or agency supervising probation may be used by the court at
15 a review hearing held under this section.

16 (7) The court shall conduct a final review of the juvenile's
17 probation not less than 3 months before the end of the probation
18 period. If the court determines at this review that the best
19 interests of the public would be served by imposing any other
20 sentence provided by law for an adult offender, the court may
21 impose the sentence. In making its determination, the court shall
22 consider the criteria specified in subsection (3) and all of the
23 following criteria:

24 (a) The effect of treatment on the juvenile's rehabilitation.

25 (b) Whether the juvenile is likely to be dangerous to the
26 public if released.

27 (c) The best interests of the public welfare and the

1 protection of public security.

2 (8) Not less than 14 days before a final review hearing under
3 subsection (7) is to be conducted, the prosecuting attorney,
4 juvenile, and, if addresses are known, the juvenile's parent or
5 guardian shall be notified. The notice shall state that the court
6 may impose a sentence upon the juvenile and shall advise the
7 juvenile and the juvenile's parent or guardian of the right to
8 legal counsel. If legal counsel has not been retained or appointed
9 to represent the juvenile, the court shall appoint legal counsel
10 and may assess the cost of providing counsel as costs against the
11 juvenile or those responsible for the juvenile's support, or both,
12 if the persons to be assessed are financially able to comply.

13 (9) If a juvenile placed on probation under an order of
14 disposition delaying imposition of sentence is found by the court
15 to have violated probation by being convicted of a felony or a
16 misdemeanor punishable by imprisonment for more than 1 year, or
17 adjudicated as responsible for an offense that if committed by an
18 adult would be a felony or a misdemeanor punishable by imprisonment
19 for more than 1 year, the court shall revoke probation and sentence
20 the juvenile to imprisonment for a term that does not exceed the
21 penalty that could have been imposed for the offense for which the
22 juvenile was originally convicted and placed on probation.

23 (10) If a juvenile placed on probation under an order of
24 disposition delaying imposition of sentence is found by the court
25 to have violated probation other than as provided in subsection
26 (9), the court may impose sentence or may order any of the
27 following for the juvenile:

- 1 (a) A change of placement.
2 (b) Community service.
3 (c) Substance ~~abuse~~ **USE DISORDER** counseling.
4 (d) Mental health counseling.
5 (e) Participation in a vocational-technical education program.
6 ~~(f) Incarceration in a county jail for not more than 30 days~~
7 ~~as provided in this chapter. If a juvenile is under 17 years of~~
8 ~~age, the juvenile shall be placed in a room or ward out of sight~~
9 ~~and sound from adult prisoners.~~

10 (F) ~~(g)~~ Other participation or performance as the court
11 considers necessary.

12 (11) If a sentence of imprisonment is imposed under this
13 section, the juvenile shall receive credit for the period of time
14 served on probation.

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

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

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

26 (i) A violation of section 167(1)(c), (f), or (i) of the
27 Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by

1 window peeping, engaging in indecent or obscene conduct in public,
2 or loitering in a house of ill fame or prostitution.

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

5 (iii) A violation punishable under section 451(1) or (2) of
6 the Michigan penal code, 1931 PA 328, MCL 750.451, first and second
7 prostitution violations.

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

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

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

26 (5) An assessment required under subsection (4) shall be
27 ordered upon the record, and shall 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:

1 (a) "DNA identification profile" and "DNA identification
2 profiling" mean those terms as defined in section 2 of the DNA
3 identification profiling system act, 1990 PA 250, MCL 28.172.

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

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

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

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

17 Enacting section 2. This amendatory act does not take effect
18 unless all of the following bills of the 98th Legislature are
19 enacted into law:

20 (a) Senate Bill No. ____ or House Bill No. 4959 (request no.
21 02552'15).

22 (b) Senate Bill No. ____ or House Bill No. 4958 (request no.
23 03364'15).