

HOUSE BILL NO. 5943

March 22, 2022, Introduced by Reps. Kahle, Neeley, Brenda Carter, Brixie, Cavanagh, Anthony, Aiyash, Sowerby, Hood, Tyrone Carter, Morse, Rogers, Kuppa, O'Neal, Whitsett, Jones and Yancey and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 18 (MCL 712A.18), as amended by 2020 PA 389.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 18. (1) If the court finds that a juvenile concerning
2 whom a petition is filed is not within this chapter, the court
3 shall enter an order dismissing the petition. Except as otherwise
4 provided in subsection (10), if the court finds that a juvenile is
5 within this chapter, the court shall order the juvenile returned to

1 his or her parent if the return of the juvenile to his or her
2 parent would not cause a substantial risk of harm to the juvenile
3 or society. The court may also enter any of the following orders of
4 disposition that are appropriate for the welfare of the juvenile
5 and society in view of the facts proven and ascertained:

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

9 (b) Place the juvenile on probation, or under supervision in
10 the juvenile's own home or in the home of an adult who is related
11 to the juvenile. As used in this subdivision, "related" means an
12 individual who is not less than 18 years of age and related to the
13 child by blood, marriage, or adoption, as grandparent, great-
14 grandparent, great-great-grandparent, aunt or uncle, great-aunt or
15 great-uncle, great-great-aunt or great-great-uncle, sibling,
16 stepsibling, nephew or niece, first cousin or first cousin once
17 removed, and the spouse of any of the above, even after the
18 marriage has ended by death or divorce. A child may be placed with
19 the parent of a man whom the court has found probable cause to
20 believe is the putative father if there is no man with legally
21 established rights to the child. This placement of the child with
22 the parent of a man whom the court has found probable cause to
23 believe is the putative father is for the purpose of placement
24 only, is not a finding of paternity, and does not confer legal
25 standing. The court shall order the terms and conditions of
26 probation or supervision, including reasonable rules for the
27 conduct of the parents, guardian, or custodian, if any, as the
28 court determines necessary for the physical, mental, or moral well-
29 being and behavior of the juvenile. The court may order that the

1 juvenile participate in a juvenile drug treatment court under
2 chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL
3 600.1060 to 600.1088. The court also shall order, as a condition of
4 probation or supervision, that the juvenile shall pay the minimum
5 state cost prescribed by section 18m of this chapter.

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

13 (d) Except as otherwise provided in this subdivision, place
14 the juvenile in or commit the juvenile to a private institution or
15 agency approved or licensed by the department's division of child
16 welfare licensing for the care of juveniles of similar age, sex,
17 and characteristics. If the juvenile is not a ward of the court,
18 the court shall commit the juvenile to the department or, if the
19 county is a county juvenile agency, to that county juvenile agency
20 for placement in or commitment to an institution or agency as the
21 department or county juvenile agency determines is most
22 appropriate, subject to any initial level of placement the court
23 designates.

24 (e) Except as otherwise provided in this subdivision, commit
25 the juvenile to a public institution, county facility, institution
26 operated as an agency of the court or county, or agency authorized
27 by law to receive juveniles of similar age, sex, and
28 characteristics. If the juvenile is not a ward of the court, the
29 court shall commit the juvenile to the department or, if the county

1 is a county juvenile agency, to that county juvenile agency for
2 placement in or commitment to an institution or facility as the
3 department or county juvenile agency determines is most
4 appropriate, subject to any initial level of placement the court
5 designates. In a placement under subdivision (d) or a commitment
6 under this subdivision, except to a state institution or a county
7 juvenile agency, the juvenile's religious affiliation must be
8 protected by placement or commitment to a private child placing or
9 child caring agency or institution, if available. Except for
10 commitment to the department or a county juvenile agency, an order
11 of commitment under this subdivision to a state institution or
12 agency described in the youth rehabilitation services act, 1974 PA
13 150, MCL 803.301 to 803.309, or in 1935 PA 220, MCL 400.201 to
14 400.214, the court shall name the superintendent of the institution
15 where the juvenile is committed as a special guardian to receive
16 benefits due the juvenile from the government of the United States.
17 An order of commitment under this subdivision to the department or
18 a county juvenile agency must name that agency as a special
19 guardian to receive those benefits. The benefits received by the
20 special guardian must be used to the extent necessary to pay for
21 the portions of the cost of care in the institution or facility
22 that the parent or parents are found unable to pay.

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

28 (g) Order the parents, guardian, custodian, or any other
29 person to refrain from continuing conduct that the court determines

1 has caused or tended to cause the juvenile to come within or to
2 remain under this chapter or that obstructs placement or commitment
3 of the juvenile by an order under this section.

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

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

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

17 (k) If the court finds that the juvenile has violated a court
18 order under section 2(a)(2) to (4) of this chapter, order the
19 juvenile to be placed in a secure facility. A court order under
20 this subdivision must state all of the following:

21 (i) The court order the juvenile violated.

22 (ii) The factual basis for determining that there was
23 reasonable cause to believe that the juvenile violated the court
24 order.

25 (iii) The court's finding of fact to support a determination
26 that there is no appropriate less restrictive alternative placement
27 available considering the best interests of the juvenile.

28 (iv) The length of time, not to exceed 7 days, that the
29 juvenile may remain in the secure facility and the plan for the

1 juvenile's release from the facility.

2 (v) That the order may not be renewed or extended.

3 (l) For a second or subsequent violation of a court order under
4 section 2(a)(2) to (4) of this chapter, issue a second or
5 subsequent order under subdivision (k), but only if the court finds
6 both of the following:

7 (i) The juvenile violated a court order after the date that the
8 court issued the first order under subdivision (k).

9 (ii) The court has procedures in place to ensure that a
10 juvenile held in a secure facility by a court order is not in
11 custody more than 7 days or the length of time authorized by the
12 court, whichever is shorter.

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

17 (n) If a juvenile is within the court's jurisdiction under
18 section 2(a)(1) of this chapter, place the juvenile in and order
19 the juvenile to complete satisfactorily a program of training in a
20 juvenile boot camp established by the department under the juvenile
21 boot camp act, 1996 PA 263, MCL 400.1301 to 400.1309, as provided
22 in that act. If the county is a county juvenile agency, the court
23 shall commit the juvenile to that county juvenile agency for
24 placement in the program under that act. Upon receiving a report of
25 satisfactory completion of the program from the department, the
26 court shall authorize the juvenile's release from placement in the
27 juvenile boot camp. Following satisfactory completion of the
28 juvenile boot camp program, the juvenile shall complete an
29 additional period of not less than 120 days or more than 180 days

1 of intensive supervised community reintegration in the juvenile's
2 local community. To place or commit a juvenile under this
3 subdivision, the court shall determine all of the following:

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

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

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

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

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

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

16 (o) If the court entered a judgment of conviction under
17 section 2d of this chapter, enter any disposition under this
18 section or, if the court determines that the best interests of the
19 public would be served, impose any sentence upon the juvenile that
20 could be imposed upon an adult convicted of the offense for which
21 the juvenile was convicted, **other than imprisonment for life**
22 **without parole eligibility**. If the juvenile is convicted of a
23 violation or conspiracy to commit a violation of section
24 7403(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7403,
25 the court may impose the alternative sentence permitted under that
26 section if the court determines that the best interests of the
27 public would be served. The court may delay imposing a sentence of
28 imprisonment under this subdivision for a period not longer than
29 the period during which the court has jurisdiction over the

1 juvenile under this chapter by entering an order of disposition
2 delaying imposition of sentence and placing the juvenile on
3 probation upon the terms and conditions it considers appropriate,
4 including any disposition under this section. If the court delays
5 imposing sentence under this section, section 18i of this chapter
6 applies. If the court imposes sentence, it shall enter a judgment
7 of sentence. If the court imposes a sentence of imprisonment, the
8 juvenile shall receive credit against the sentence for time served
9 before sentencing. In determining whether to enter an order of
10 disposition or impose a sentence under this subdivision, the court
11 shall consider all of the following factors, giving greater weight
12 to the seriousness of the offense and the juvenile's prior record:

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

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

23 (iii) The juvenile's prior record of delinquency including, but
24 not limited to, any record of detention, any police record, any
25 school record, or any other evidence indicating prior delinquent
26 behavior.

27 (iv) The juvenile's programming history, including, but not
28 limited to, the juvenile's past willingness to participate
29 meaningfully in available programming.

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

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

4 (p) In a proceeding under section 2(b) or (c) of this chapter,
5 if a juvenile is removed from the parent's custody at any time, the
6 court shall permit the juvenile's parent to have regular and
7 frequent parenting time with the juvenile. Parenting time between
8 the juvenile and his or her parent shall not be less than 1 time
9 every 7 days unless the court determines either that exigent
10 circumstances require less frequent parenting time or that
11 parenting time, even if supervised, may be harmful to the
12 juvenile's life, physical health, or mental well-being. If the
13 court determines that parenting time, even if supervised, may be
14 harmful to the juvenile's life, physical health, or mental well-
15 being, the court may suspend parenting time until the risk of harm
16 no longer exists. The court may order the juvenile to have a
17 psychological evaluation or counseling, or both, to determine the
18 appropriateness and the conditions of parenting time.

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 must
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
28 an adoption assistance under sections 115f to 115m or 115t of the
29 social welfare act, 1939 PA 280, MCL 400.115f to 400.115m and

1 400.115t, the amount must not exceed the amount of the support
2 subsidy. The reimbursement provision applies during the entire
3 period the juvenile remains in care outside of the juvenile's own
4 home and under state, county juvenile agency, or court supervision,
5 unless the juvenile is in the permanent custody of the court. The
6 court shall provide for the collection of all amounts ordered to be
7 reimbursed and the money collected must be accounted for and
8 reported to the county board of commissioners. Collections to cover
9 delinquent accounts or to pay the balance due on reimbursement
10 orders may be made after a juvenile is released or discharged from
11 care outside the juvenile's own home and under state, county
12 juvenile agency, or court supervision. Twenty-five percent of all
13 amounts collected under an order entered under this subsection must
14 be credited to the appropriate fund of the county to offset the
15 administrative cost of collections. The balance of all amounts
16 collected under an order entered under this subsection must be
17 divided in the same ratio in which the county, state, and federal
18 government participate in the cost of care outside the juvenile's
19 own home and under state, county juvenile agency, or court
20 supervision. The court may also collect from the government of the
21 United States benefits paid for the cost of care of a court ward.
22 Money collected for juveniles placed by the court with or committed
23 to the department or a county juvenile agency must be accounted for
24 and reported on an individual juvenile basis. In cases of
25 delinquent accounts, the court may also enter an order to intercept
26 state or federal tax refunds of a juvenile, parent, guardian, or
27 custodian and initiate the necessary offset proceedings in order to
28 recover the cost of care or service. The court shall send to the
29 person who is the subject of the intercept order advance written

1 notice of the proposed offset. The notice must include notice of
2 the opportunity to contest the offset on the grounds that the
3 intercept is not proper because of a mistake of fact concerning the
4 amount of the delinquency or the identity of the person subject to
5 the order. The court shall provide for the prompt reimbursement of
6 an amount withheld in error or an amount found to exceed the
7 delinquent amount.

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

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

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

25 (6) The office of the state court administrator, under the
26 supervision and direction of the supreme court, shall create
27 guidelines that the court may use in determining the ability of the
28 juvenile, parent, guardian, or custodian to pay for care and any
29 costs of service ordered under subsection (2) or (3). The

1 guidelines must take into account both the income and resources of
2 the juvenile, parent, guardian, or custodian.

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

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

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

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

16 (9) If the court finds that the juvenile is in intentional
17 default of the payment of restitution, a court may, as provided in
18 section 30 of this chapter, revoke or alter the terms and
19 conditions of probation for nonpayment of restitution. If a
20 juvenile who is ordered to engage in community service
21 intentionally refuses to perform the required community service,
22 the court may revoke or alter the terms and conditions of
23 probation.

24 (10) The court shall not enter an order of disposition for a
25 juvenile offense as defined in section 1a of 1925 PA 289, MCL
26 28.241a, or a judgment of sentence for a conviction until the court
27 has examined the court file and has determined that the juvenile's
28 biometric data have been collected and forwarded as required by
29 section 3 of 1925 PA 289, MCL 28.243, and the juvenile's

1 fingerprints have been taken and forwarded as required by the sex
2 offenders registration act, 1994 PA 295, MCL 28.721 to ~~28.736~~.
3 **28.730**. If a juvenile's biometric data have not been collected or a
4 juvenile has not had his or her fingerprints taken, the court shall
5 do either of the following:

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

11 (b) Order the juvenile committed to the sheriff's custody for
12 collecting and forwarding the juvenile's biometric data and taking
13 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 state
17 court administrator, the clerk of the court entering the final
18 disposition, conviction, acquittal, or dismissal shall immediately
19 advise the department of state police of that final disposition,
20 conviction, acquittal, or dismissal as required by section 3 of
21 1925 PA 289, MCL 28.243. The report to the department of state
22 police must include information as to the finding of the judge or
23 jury and a summary of the disposition or sentence imposed.

24 (12) If the court enters an order of disposition based on an
25 act that is a juvenile offense as defined in section 1 of 1989 PA
26 196, MCL 780.901, the court shall order the juvenile to pay the
27 assessment as provided in that act. If the court enters a judgment
28 of conviction under section 2d of this chapter for an offense that
29 is a felony, misdemeanor, or ordinance violation, the court shall

1 order the juvenile to pay the assessment as provided in ~~that~~
2 ~~act.~~ **1989 PA 196, MCL 780.901 to 780.911.**

3 (13) If the court has entered an order of disposition or a
4 judgment of conviction for a listed offense as defined in section 2
5 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the
6 court, the department, or the county juvenile agency shall register
7 the juvenile or accept the juvenile's registration as provided in
8 the sex offenders registration act, 1994 PA 295, MCL 28.721 to
9 ~~28.736.~~ **28.730.**

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

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

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

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

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

26 (19) A juvenile who has been ordered to pay the minimum state
27 cost as provided in section 18m of this chapter as a condition of
28 probation or supervision and who is not in willful default of the
29 payment of the minimum state cost may petition the court at any

1 time for a remission of the payment of any unpaid portion of the
2 minimum state cost. If the court determines that payment of the
3 amount due will impose a manifest hardship on the juvenile or his
4 or her immediate family, the court may remit all or part of the
5 amount of the minimum state cost due or modify the method of
6 payment.

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

9 Enacting section 2. This amendatory act does not take effect
10 unless all of the following bills of the 101st Legislature are
11 enacted into law:

12 (a) Senate Bill No. ____ or House Bill No. 5941 (request no.
13 01563'21).

14 (b) Senate Bill No. ____ or House Bill No. 5944 (request no.
15 01563'21 b).

16 (c) Senate Bill No. ____ or House Bill No. 5942 (request no.
17 01563'21 c).