

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 419**

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 2, 18, 19, 19a, and 19b of chapter XIIA (MCL
712A.2, 712A.18, 712A.19, 712A.19a, and 712A.19b), section 2 as
amended by 2014 PA 519, section 18 as amended by 2016 PA 191,
section 19 as amended by 2008 PA 202, section 19a as amended by
2016 PA 497, and section 19b as amended by 2017 PA 193.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XIIA

2

Sec. 2. The court has the following authority and

3

jurisdiction:

4

(a) Exclusive original jurisdiction superior to and regardless

5

of the jurisdiction of another court in proceedings concerning a

1 juvenile under 17 years of age who is found within the county if 1
2 or more of the following ~~applies~~: **APPLY:**

3 (1) Except as otherwise provided in this sub-subdivision, the
4 juvenile has violated any municipal ordinance or law of the state
5 or of the United States. If the court enters into an agreement
6 under section 2e of this chapter, the court has jurisdiction over a
7 juvenile who committed a civil infraction as provided in that
8 section. The court has jurisdiction over a juvenile 14 years of age
9 or older who is charged with a specified juvenile violation only if
10 the prosecuting attorney files a petition in the court instead of
11 authorizing a complaint and warrant. As used in this sub-
12 subdivision, "specified juvenile violation" means 1 or more of the
13 following:

14 (A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,
15 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328,
16 MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,
17 750.349, 750.520b, 750.529, 750.529a, and 750.531.

18 (B) A violation of section 84 or 110a(2) of the Michigan penal
19 code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is
20 armed with a dangerous weapon. As used in this paragraph,
21 "dangerous weapon" means 1 or more of the following:

22 (i) A loaded or unloaded firearm, whether operable or
23 inoperable.

24 (ii) A knife, stabbing instrument, brass knuckles, blackjack,
25 club, or other object specifically designed or customarily carried
26 or possessed for use as a weapon.

27 (iii) An object that is likely to cause death or bodily injury

1 when used as a weapon and that is used as a weapon or carried or
2 possessed for use as a weapon.

3 (iv) An object or device that is used or fashioned in a manner
4 to lead a person to believe the object or device is an object or
5 device described in subparagraphs (i) to (iii).

6 (C) A violation of section 186a of the Michigan penal code,
7 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
8 from a juvenile facility, but only if the juvenile facility from
9 which the individual escaped or attempted to escape was 1 of the
10 following:

11 (i) A high-security or medium-security facility operated by
12 the department ~~of human services~~ or a county juvenile agency.

13 (ii) A high-security facility operated by a private agency
14 under contract with the department ~~of human services~~ or a county
15 juvenile agency.

16 (D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of
17 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

18 (E) An attempt to commit a violation described in paragraphs
19 (A) to (D).

20 (F) Conspiracy to commit a violation described in paragraphs
21 (A) to (D).

22 (G) Solicitation to commit a violation described in paragraphs
23 (A) to (D).

24 (H) A lesser included offense of a violation described in
25 paragraphs (A) to (G) if the individual is charged with a violation
26 described in paragraphs (A) to (G).

27 (I) Another violation arising out of the same transaction as a

1 violation described in paragraphs (A) to (G) if the individual is
2 charged with a violation described in paragraphs (A) to (G).

3 (2) The juvenile has deserted his or her home without
4 sufficient cause, and the court finds on the record that the
5 juvenile has been placed or refused alternative placement or the
6 juvenile and the juvenile's parent, guardian, or custodian have
7 exhausted or refused family counseling.

8 (3) The juvenile is repeatedly disobedient to the reasonable
9 and lawful commands of his or her parents, guardian, or custodian,
10 and the court finds on the record by clear and convincing evidence
11 that court-accessed services are necessary.

12 (4) The juvenile willfully and repeatedly absents himself or
13 herself from school or other learning program intended to meet the
14 juvenile's educational needs, or repeatedly violates rules and
15 regulations of the school or other learning program, and the court
16 finds on the record that the juvenile, the juvenile's parent,
17 guardian, or custodian, and school officials or learning program
18 personnel have met on the juvenile's educational problems and
19 educational counseling and alternative agency help have been
20 sought. As used in this sub-subdivision only, "learning program"
21 means an organized educational program that is appropriate, given
22 the age, intelligence, ability, and psychological limitations of a
23 juvenile, in the subject areas of reading, spelling, mathematics,
24 science, history, civics, writing, and English grammar.

25 (b) Jurisdiction in proceedings concerning a juvenile under 18
26 years of age found within the county:

27 (1) Whose parent or other person legally responsible for the

1 care and maintenance of the juvenile, when able to do so, neglects
2 or refuses to provide proper or necessary support, education,
3 medical, surgical, or other care necessary for his or her health or
4 morals, who is subject to a substantial risk of harm to his or her
5 mental well-being, who is abandoned by his or her parents,
6 guardian, or other custodian, or who is without proper custody or
7 guardianship. As used in this sub-subdivision:

8 (A) "Education" means learning based on an organized
9 educational program that is appropriate, given the age,
10 intelligence, ability, and psychological limitations of a juvenile,
11 in the subject areas of reading, spelling, mathematics, science,
12 history, civics, writing, and English grammar.

13 (B) **"NEGLECT" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE**
14 **CHILD ABUSE AND NEGLECT PREVENTION ACT, 1982 PA 250, MCL 722.602.**

15 (C) ~~(B)~~—"Without proper custody or guardianship" does not mean
16 a parent has placed the juvenile with another person who is legally
17 responsible for the care and maintenance of the juvenile and who is
18 able to and does provide the juvenile with proper care and
19 maintenance.

20 (2) Whose home or environment, by reason of neglect, cruelty,
21 drunkenness, criminality, or depravity on the part of a parent,
22 guardian, nonparent adult, or other custodian, is an unfit place
23 for the juvenile to live in. **AS USED IN THIS SUB-SUBDIVISION,**
24 **"NEGLECT" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE CHILD**
25 **ABUSE AND NEGLECT PREVENTION ACT, 1982 PA 250, MCL 722.602.**

26 (3) If the juvenile is dependent and is in danger of
27 substantial physical or psychological harm. The juvenile may be

1 found to be dependent when any of the following occurs:

2 (A) The juvenile is homeless or not domiciled with a parent or
3 other legally responsible person.

4 (B) The juvenile has repeatedly run away from home and is
5 beyond the control of a parent or other legally responsible person.

6 (C) The juvenile is alleged to have committed a commercial
7 sexual activity as that term is defined in section 462a of the
8 Michigan penal code, 1931 PA 328, MCL 750.462a or a delinquent act
9 that is the result of force, fraud, coercion, or manipulation
10 exercised by a parent or other adult.

11 (D) The juvenile's custodial parent or legally responsible
12 person has died or has become permanently incapacitated and no
13 appropriate parent or legally responsible person is willing and
14 able to provide care for the juvenile.

15 (4) Whose parent has substantially failed, without good cause,
16 to comply with a limited guardianship placement plan described in
17 section 5205 of the estates and protected individuals code, 1998 PA
18 386, MCL 700.5205, regarding the juvenile.

19 (5) Whose parent has substantially failed, without good cause,
20 to comply with a court-structured plan described in section 5207 or
21 5209 of the estates and protected individuals code, 1998 PA 386,
22 MCL 700.5207 and 700.5209, regarding the juvenile.

23 (6) If the juvenile has a guardian under the estates and
24 protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206,
25 and the juvenile's parent meets both of the following criteria:

26 (A) The parent, having the ability to support or assist in
27 supporting the juvenile, has failed or neglected, without good

1 cause, to provide regular and substantial support for the juvenile
2 for 2 years or more before the filing of the petition or, if a
3 support order has been entered, has failed to substantially comply
4 with the order for 2 years or more before the filing of the
5 petition. **AS USED IN THIS SUB-SUBDIVISION, "NEGLECT" MEANS THAT**
6 **TERM AS DEFINED IN SECTION 2 OF THE CHILD ABUSE AND NEGLECT**
7 **PREVENTION ACT, 1982 PA 250, MCL 722.602.**

8 (B) The parent, having the ability to visit, contact, or
9 communicate with the juvenile, has regularly and substantially
10 failed or neglected, without good cause, to do so for 2 years or
11 more before the filing of the petition. **AS USED IN THIS SUB-**
12 **SUBDIVISION, "NEGLECT" MEANS THAT TERM AS DEFINED IN SECTION 2 OF**
13 **THE CHILD ABUSE AND NEGLECT PREVENTION ACT, 1982 PA 250, MCL**
14 **722.602.**

15 If a petition is filed in the court alleging that a juvenile
16 is within the provisions of subdivision (b)(1), (2), (3), (4), (5),
17 or (6) and the custody of that juvenile is subject to the prior or
18 continuing order of another court of record of this state, the
19 manner of notice to the other court of record and the authority of
20 the court to proceed is governed by rule of the supreme court.

21 (c) Jurisdiction over juveniles under 18 years of age,
22 jurisdiction of whom has been waived to the family division of
23 circuit court by a circuit court under a provision in a temporary
24 order for custody of juveniles based upon a complaint for divorce
25 or upon a motion related to a complaint for divorce by the
26 prosecuting attorney, in a divorce judgment dissolving a marriage
27 between the juvenile's parents, or by an amended judgment relative

1 to the juvenile's custody in a divorce.

2 (d) If the court finds on the record that voluntary services
3 have been exhausted or refused, concurrent jurisdiction in
4 proceedings concerning a juvenile between the ages of 17 and 18
5 found within the county who is 1 or more of the following:

6 (1) Repeatedly addicted to the use of drugs or the intemperate
7 use of alcoholic liquors.

8 (2) Repeatedly associating with criminal, dissolute, or
9 disorderly persons.

10 (3) Found of his or her own free will and knowledge in a house
11 of prostitution, assignation, or ill-fame.

12 (4) Repeatedly associating with thieves, prostitutes, pimps,
13 or procurers.

14 (5) Willfully disobedient to the reasonable and lawful
15 commands of his or her parents, guardian, or other custodian and in
16 danger of becoming morally depraved.

17 If a juvenile is brought before the court in a county other
18 than that in which the juvenile resides, before a hearing and with
19 the consent of the judge of the court in the county of residence,
20 the court may enter an order transferring jurisdiction of the
21 matter to the court of the county of residence. Consent to transfer
22 jurisdiction is not required if the county of residence is a county
23 juvenile agency and satisfactory proof of residence is furnished to
24 the court of the county of residence. The order does not constitute
25 a legal settlement in this state that is required for the purpose
26 of section 55 of the social welfare act, 1939 PA 280, MCL 400.55.
27 The order and a certified copy of the proceedings in the

1 transferring court shall be delivered to the court of the county of
2 residence. A case designated as a case in which the juvenile shall
3 be tried in the same manner as an adult under section 2d of this
4 chapter may be transferred for venue or for juvenile disposition,
5 but shall not be transferred on grounds of residency. If the case
6 is not transferred, the court having jurisdiction of the offense
7 shall try the case.

8 (e) Authority to establish or assist in developing a program
9 or programs within the county to prevent delinquency and provide
10 services to act upon reports submitted to the court related to the
11 behavior of a juvenile who does not require formal court
12 jurisdiction but otherwise falls within subdivision (a). These
13 services shall be used only if the juvenile and his or her parents,
14 guardian, or custodian voluntarily accepts them.

15 (f) If the court operates a detention home for juveniles
16 within the court's jurisdiction under subdivision (a)(1), authority
17 to place a juvenile within that home pending trial if the juvenile
18 is within the circuit court's jurisdiction under section 606 of the
19 revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if
20 the circuit court orders the family division of circuit court in
21 the same county to place the juvenile in that home. The family
22 division of circuit court shall comply with that order.

23 (g) Authority to place a juvenile in a county jail under
24 section 27a of chapter IV of the code of criminal procedure, 1927
25 PA 175, MCL 764.27a, if the court designates the case under section
26 2d of this chapter as a case in which the juvenile is to be tried
27 in the same manner as an adult and the court determines there is

1 probable cause to believe that the offense was committed and
2 probable cause to believe the juvenile committed that offense.

3 (h) Jurisdiction over a proceeding under section 2950 or 2950a
4 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950
5 and 600.2950a, in which a minor less than 18 years of age is the
6 respondent, or a proceeding to enforce a valid foreign protection
7 order issued against a respondent who is a minor less than 18 years
8 of age. A personal protection order shall not be issued against a
9 respondent who is a minor less than 10 years of age. Venue for an
10 initial action under section 2950 or 2950a of the revised
11 judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, is
12 proper in the county of residence of either the petitioner or
13 respondent. If the respondent does not live in this state, venue
14 for the initial action is proper in the petitioner's county of
15 residence.

16 (i) In a proceeding under this chapter concerning a juvenile's
17 care and supervision, the court may issue orders affecting a party
18 as necessary. This subdivision does not apply after May 1, 2018. As
19 used in this subdivision, "party" means 1 of the following:

20 (i) In a delinquency proceeding, the petitioner and juvenile.

21 (ii) In a child protective proceeding, the petitioner,
22 department, ~~of human services,~~ child, respondent, parent, guardian,
23 or legal custodian, and any licensed child caring institution or
24 child placing agency under contract with the department ~~of human~~
25 ~~services~~ to provide for a juvenile's care and supervision.

26 Sec. 18. (1) If the court finds that a juvenile concerning
27 whom a petition is filed is not within this chapter, the court

1 shall enter an order dismissing the petition. Except as otherwise
2 provided in subsection (10), if the court finds that a juvenile is
3 within this chapter, the court **SHALL ORDER THE JUVENILE RETURNED TO**
4 **HIS OR HER PARENT IF THE RETURN OF THE JUVENILE TO HIS OR HER**
5 **PARENT WOULD NOT CAUSE A SUBSTANTIAL RISK OF HARM TO THE JUVENILE**
6 **OR SOCIETY. THE COURT** may **ALSO** enter any of the following orders of
7 disposition that are appropriate for the welfare of the juvenile
8 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
11 petition.

12 (b) Place the juvenile on probation, or under supervision in
13 the juvenile's own home or in the home of an adult who is related
14 to the juvenile. As used in this subdivision, "related" means an
15 individual who is not less than 18 years of age and related to the
16 child by blood, marriage, or adoption, as grandparent, great-
17 grandparent, great-great-grandparent, aunt or uncle, great-aunt or
18 great-uncle, great-great-aunt or great-great-uncle, sibling,
19 stepsibling, nephew or niece, first cousin or first cousin once
20 removed, and the spouse of any of the above, even after the
21 marriage has ended by death or divorce. A child may be placed with
22 the parent of a man whom the court has found probable cause to
23 believe is the putative father if there is no man with legally
24 established rights to the child. This placement of the child with
25 the parent of a man whom the court has found probable cause to
26 believe is the putative father is for the purposes of placement
27 only and is not to be construed as a finding of paternity or to

1 confer legal standing. The court shall order the terms and
2 conditions of probation or supervision, including reasonable rules
3 for the conduct of the parents, guardian, or custodian, if any, as
4 the court determines necessary for the physical, mental, or moral
5 well-being and behavior of the juvenile. The court may order that
6 the juvenile participate in a juvenile drug treatment court under
7 chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL
8 600.1060 to ~~600.1084.~~ **600.1088.** The court also shall order, as a
9 condition of probation or supervision, that the juvenile shall pay
10 the minimum state cost prescribed by section 18m of this chapter.

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

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

1 designates.

2 (e) Except as otherwise provided in this subdivision, commit
3 the juvenile to a public institution, county facility, institution
4 operated as an agency of the court or county, or agency authorized
5 by law to receive juveniles of similar age, sex, and
6 characteristics. If the juvenile is not a ward of the court, the
7 court shall commit the juvenile to the department or, if the county
8 is a county juvenile agency, to that county juvenile agency for
9 placement in or commitment to an institution or facility as the
10 department or county juvenile agency determines is most
11 appropriate, subject to any initial level of placement the court
12 designates. If a child is not less than 17 years of age and is in
13 violation of a personal protection order, the court may commit the
14 child to a county jail within the adult prisoner population. In a
15 placement under subdivision (d) or a commitment under this
16 subdivision, except to a state institution or a county juvenile
17 agency institution, the juvenile's religious affiliation shall be
18 protected by placement or commitment to a private child-placing or
19 child-caring agency or institution, if available. Except for
20 commitment to the department or a county juvenile agency, an order
21 of commitment under this subdivision to a state institution or
22 agency described in the youth rehabilitation services act, 1974 PA
23 150, MCL 803.301 to 803.309, or in 1935 PA 220, MCL 400.201 to
24 400.214, the court shall name the superintendent of the institution
25 to which the juvenile is committed as a special guardian to receive
26 benefits due the juvenile from the government of the United States.
27 An order of commitment under this subdivision to the department or

1 a county juvenile agency shall name that agency as a special
2 guardian to receive those benefits. The benefits received by the
3 special guardian shall be used to the extent necessary to pay for
4 the portions of the cost of care in the institution or facility
5 that the parent or parents are found unable to pay.

6 (f) Provide the juvenile with medical, dental, surgical, or
7 other health care, in a local hospital if available, or elsewhere,
8 maintaining as much as possible a local physician-patient
9 relationship, and with clothing and other incidental items the
10 court determines are necessary.

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

16 (h) Appoint a guardian under section 5204 of the estates and
17 protected individuals code, 1998 PA 386, MCL 700.5204, in response
18 to a petition filed with the court by a person interested in the
19 juvenile's welfare. If the court appoints a guardian as authorized
20 by this subdivision, it may dismiss the petition under this
21 chapter.

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

23 (j) If the court finds that a juvenile has violated a
24 municipal ordinance or a state or federal law, order the juvenile
25 to pay a civil fine in the amount of the civil or penal fine
26 provided by the ordinance or law. Money collected from fines levied
27 under this subsection shall be distributed as provided in section

1 29 of this chapter.

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

6 (l) If a juvenile is within the court's jurisdiction under
7 section 2(a)(1) of this chapter, place the juvenile in and order
8 the juvenile to complete satisfactorily a program of training in a
9 juvenile boot camp established by the department under the juvenile
10 boot camp act, 1996 PA 263, MCL 400.1301 to 400.1309, as provided
11 in that act. If the county is a county juvenile agency, the court
12 shall commit the juvenile to that county juvenile agency for
13 placement in the program under that act. Upon receiving a report of
14 satisfactory completion of the program from the department, the
15 court shall authorize the juvenile's release from placement in the
16 juvenile boot camp. Following satisfactory completion of the
17 juvenile boot camp program, the juvenile shall complete an
18 additional period of not less than 120 days or more than 180 days
19 of intensive supervised community reintegration in the juvenile's
20 local community. To place or commit a juvenile under this
21 subdivision, the court shall determine all of the following:

22 (i) Placement in a juvenile boot camp will benefit the
23 juvenile.

24 (ii) The juvenile is physically able to participate in the
25 program.

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

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

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

4 (vi) If the court must commit the juvenile to a county
5 juvenile agency, the county juvenile agency is able to place the
6 juvenile in a juvenile boot camp program.

7 (m) If the court entered a judgment of conviction under
8 section 2d of this chapter, enter any disposition under this
9 section or, if the court determines that the best interests of the
10 public would be served, impose any sentence upon the juvenile that
11 could be imposed upon an adult convicted of the offense for which
12 the juvenile was convicted. If the juvenile is convicted of a
13 violation or conspiracy to commit a violation of section
14 7403(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7403,
15 the court may impose the alternative sentence permitted under that
16 section if the court determines that the best interests of the
17 public would be served. The court may delay imposing a sentence of
18 imprisonment under this subdivision for a period not longer than
19 the period during which the court has jurisdiction over the
20 juvenile under this chapter by entering an order of disposition
21 delaying imposition of sentence and placing the juvenile on
22 probation upon the terms and conditions it considers appropriate,
23 including any disposition under this section. If the court delays
24 imposing sentence under this section, section 18i of this chapter
25 applies. If the court imposes sentence, it shall enter a judgment
26 of sentence. If the court imposes a sentence of imprisonment, the
27 juvenile shall receive credit against the sentence for time served

1 before sentencing. In determining whether to enter an order of
2 disposition or impose a sentence under this subdivision, the court
3 shall consider all of the following factors, giving greater weight
4 to the seriousness of the offense and the juvenile's prior record:

5 (i) The seriousness of the offense in terms of community
6 protection, including, but not limited to, the existence of any
7 aggravating factors recognized by the sentencing guidelines, the
8 use of a firearm or other dangerous weapon, and the impact on any
9 victim.

10 (ii) The juvenile's culpability in committing the offense,
11 including, but not limited to, the level of the juvenile's
12 participation in planning and carrying out the offense and the
13 existence of any aggravating or mitigating factors recognized by
14 the sentencing guidelines.

15 (iii) The juvenile's prior record of delinquency including,
16 but not limited to, any record of detention, any police record, any
17 school record, or any other evidence indicating prior delinquent
18 behavior.

19 (iv) The juvenile's programming history, including, but not
20 limited to, the juvenile's past willingness to participate
21 meaningfully in available programming.

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

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

25 (n) In a proceeding under section 2(b) or (c) of this chapter,
26 if a juvenile is removed from the parent's custody at any time, the
27 court shall permit the juvenile's parent to have regular and

1 frequent parenting time with the juvenile. Parenting time between
2 the juvenile and his or her parent shall not be less than 1 time
3 every 7 days unless the court determines either that exigent
4 circumstances require less frequent parenting time or that
5 parenting time, even if supervised, may be harmful to the
6 juvenile's life, physical health, or mental well-being. If the
7 court determines that parenting time, even if supervised, may be
8 harmful to the juvenile's life, physical health, or mental well-
9 being, the court may suspend parenting time until the risk of harm
10 no longer exists. The court may order the juvenile to have a
11 psychological evaluation or counseling, or both, to determine the
12 appropriateness and the conditions of parenting time.

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

1 court supervision, unless the juvenile is in the permanent custody
2 of the court. The court shall provide for the collection of all
3 amounts ordered to be reimbursed and the money collected shall be
4 accounted for and reported to the county board of commissioners.
5 Collections to cover delinquent accounts or to pay the balance due
6 on reimbursement orders may be made after a juvenile is released or
7 discharged from care outside the juvenile's own home and under
8 state, county juvenile agency, or court supervision. Twenty-five
9 percent of all amounts collected under an order entered under this
10 subsection shall be credited to the appropriate fund of the county
11 to offset the administrative cost of collections. The balance of
12 all amounts collected under an order entered under this subsection
13 shall be divided in the same ratio in which the county, state, and
14 federal government participate in the cost of care outside the
15 juvenile's own home and under state, county juvenile agency, or
16 court supervision. The court may also collect from the government
17 of the United States benefits paid for the cost of care of a court
18 ward. Money collected for juveniles placed by the court with or
19 committed to the department or a county juvenile agency shall be
20 accounted for and reported on an individual juvenile basis. In
21 cases of delinquent accounts, the court may also enter an order to
22 intercept state or federal tax refunds of a juvenile, parent,
23 guardian, or custodian and initiate the necessary offset
24 proceedings in order to recover the cost of care or service. The
25 court shall send to the person who is the subject of the intercept
26 order advance written notice of the proposed offset. The notice
27 shall include notice of the opportunity to contest the offset on

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

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

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

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

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

1 guidelines shall 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 31 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

1 ~~fingerprints~~ **BIOMETRIC DATA** have been ~~taken~~ **COLLECTED** and forwarded
2 as required by section 3 of 1925 PA 289, MCL 28.243, and **THE**
3 **JUVENILE'S FINGERPRINTS HAVE BEEN TAKEN AND FORWARDED** as required
4 by the sex offenders registration act, 1994 PA 295, MCL 28.721 to
5 28.736. If a **JUVENILE'S BIOMETRIC DATA HAVE NOT BEEN COLLECTED OR A**
6 juvenile has not had his or her fingerprints taken, the court shall
7 do either of the following:

8 (a) Order the juvenile to submit himself or herself to the
9 police agency that arrested or obtained the warrant for the
10 juvenile's arrest so the juvenile's **BIOMETRIC DATA CAN BE COLLECTED**
11 **AND FORWARDED AND HIS OR HER** fingerprints can be taken and
12 forwarded.

13 (b) Order the juvenile committed to the sheriff's custody for
14 **COLLECTING AND FORWARDING THE JUVENILE'S BIOMETRIC DATA AND** taking
15 and forwarding the juvenile's fingerprints.

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

26 (12) If the court enters an order of disposition based on an
27 act that is a juvenile offense as defined in section 1 of 1989 PA

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

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

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

1 the county juvenile agency was unable to place the juvenile in a
2 juvenile boot camp program may be placed again in the juvenile boot
3 camp program after the medical condition is corrected, an opening
4 becomes available, or the county juvenile agency is able to place
5 the juvenile.

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

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

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

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

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

14 Sec. 19. (1) Subject to section 20 of this chapter, if a child
15 remains under the court's jurisdiction, a cause may be terminated
16 or an order may be amended or supplemented, within the authority
17 granted to the court in section 18 of this chapter, at any time as
18 the court considers necessary and proper. An amended or
19 supplemented order shall be referred to as a "supplemental order of
20 disposition". If the agency becomes aware of additional abuse or
21 neglect of a child who is under the court's jurisdiction and if
22 that abuse or neglect is substantiated as provided in the child
23 protection law, 1975 PA 238, MCL 722.621 to 722.638, the agency
24 shall file a supplemental petition with the court.

25 (2) Except as provided in subsections (3) and (4), if a child
26 subject to the court's jurisdiction remains in his or her home, a
27 review hearing shall be held not more than 182 days from the date a

1 petition is filed to give the court jurisdiction over the child and
2 no later than every 91 days after that for the first year that the
3 child is subject to the court's jurisdiction. After the first year
4 that the child is subject to the court's jurisdiction, a review
5 hearing shall be held no later than 182 days from the immediately
6 preceding review hearing before the end of that first year and no
7 later than every 182 days from each preceding review hearing
8 ~~thereafter~~ **AFTER THAT** until the case is dismissed. A review hearing
9 under this subsection shall not be canceled or delayed beyond the
10 number of days required in this subsection, regardless of whether a
11 petition to terminate parental rights or another matter is pending.
12 Upon motion by any party or in the court's discretion, a review
13 hearing may be accelerated to review any element of the case
14 service plan prepared according to section 18f of this chapter.

15 (3) Except as otherwise provided in subsection (4), if, in a
16 proceeding under section 2(b) of this chapter, a child is subject
17 to the court's jurisdiction and removed from his or her home, a
18 review hearing shall be held not more than 182 days after the
19 child's removal from his or her home and no later than every 91
20 days after that for the first year that the child is subject to the
21 court's jurisdiction. After the first year that the child has been
22 removed from his or her home and is subject to the court's
23 jurisdiction, a review hearing shall be held not more than 182 days
24 from the immediately preceding review hearing before the end of
25 that first year and no later than every 182 days from each
26 preceding review hearing ~~thereafter~~ **AFTER THAT** until the case is
27 dismissed. A review hearing under this subsection shall not be

1 canceled or delayed beyond the number of days required in this
2 subsection, regardless of whether a petition to terminate parental
3 rights or another matter is pending. Upon motion by any party or in
4 the court's discretion, a review hearing may be accelerated to
5 review any element of the case service plan prepared according to
6 section 18f of this chapter.

7 (4) If a child is under the care and supervision of the agency
8 and is either placed with a relative and the placement is intended
9 to be permanent or is in a permanent foster family agreement, the
10 court shall hold a review hearing not more than 182 days after the
11 child has been removed from his or her home and no later than every
12 182 days after that so long as the child is subject to the
13 jurisdiction of the court, the Michigan children's institute, or
14 other agency. A review hearing under this subsection shall not be
15 canceled or delayed beyond the number of days required in this
16 subsection, regardless of whether a petition to terminate parental
17 rights or another matter is pending. Upon the motion of any party
18 or at the court's discretion, a review hearing may be accelerated
19 to review any element of the case service plan.

20 (5) Written notice of a review hearing under subsection (2),
21 (3), or (4) shall be served upon all of the following:

22 (a) The agency. The agency shall advise the child of the
23 hearing if the child is 11 years of age or older.

24 (b) The child's foster parent or custodian.

25 (c) If the parental rights to the child have not been
26 terminated, the child's parents.

27 (d) If the child has a guardian, the guardian for the child.

1 (e) If the child has a guardian ad litem, the guardian ad
2 litem for the child.

3 (f) A nonparent adult if the nonparent adult is required to
4 comply with the case service plan.

5 (g) If tribal affiliation has been determined, the elected
6 leader of the Indian tribe.

7 (h) The attorney for the child, the attorneys for each party,
8 and the prosecuting attorney if the prosecuting attorney has
9 appeared in the case.

10 (i) If the child is 11 years of age or older, the child.

11 (j) Other persons as the court may direct.

12 (6) At a review hearing under subsection (2), (3), or (4), the
13 court shall review on the record all of the following:

14 (a) Compliance with the case service plan with respect to
15 services provided or offered to the child and the child's parent,
16 guardian, custodian, or nonparent adult if the nonparent adult is
17 required to comply with the case service plan and whether the
18 parent, guardian, custodian, or nonparent adult if the nonparent
19 adult is required to comply with the case service plan has complied
20 with and benefited from those services.

21 (b) Compliance with the case service plan with respect to
22 parenting time with the child. If parenting time did not occur or
23 was infrequent, the court shall determine why parenting time did
24 not occur or was infrequent.

25 (c) The extent to which the parent complied with each
26 provision of the case service plan, prior court orders, and an
27 agreement between the parent and the agency.

1 (d) Likely harm to the child if the child continues to be
2 separated from the child's parent, guardian, or custodian.

3 (e) Likely harm to the child if the child is returned to the
4 child's parent, guardian, or custodian.

5 (7) After review of the case service plan, the court shall
6 determine the extent of progress made toward alleviating or
7 mitigating the conditions that caused the child to be placed in
8 foster care or that caused the child to remain in foster care. The
9 court may modify any part of the case service plan including, but
10 not limited to, the following:

11 (a) Prescribing additional services that are necessary to
12 rectify the conditions that caused the child to be placed in foster
13 care or to remain in foster care.

14 (b) Prescribing additional actions to be taken by the parent,
15 guardian, nonparent adult, or custodian, to rectify the conditions
16 that caused the child to be placed in foster care or to remain in
17 foster care.

18 (8) At a review hearing under subsection (2), (3), or (4), the
19 court shall determine the continuing necessity and appropriateness
20 of the child's placement and shall order the return of the child to
21 the custody of the parent **AS PROVIDED IN THIS SUBSECTION**, continue
22 the dispositional order, modify the dispositional order, or enter a
23 new dispositional order. **THE COURT SHALL ORDER THE CHILD RETURNED**
24 **TO THE CUSTODY OF HIS OR HER PARENT IF THE RETURN OF THE CHILD TO**
25 **HIS OR HER PARENT WOULD NOT CAUSE A SUBSTANTIAL RISK OF HARM TO THE**
26 **CHILD.**

27 (9) If in a proceeding under section 2(b) of this chapter a

1 child is placed in foster care, the court shall determine at the
2 dispositional hearing and each review hearing whether the cause
3 should be reviewed before the next review hearing required by
4 subsection (2), (3), or (4). In making this determination, the
5 court shall consider at least all of the following:

6 (a) The parent's ability and motivation to make necessary
7 changes to provide a suitable environment for the child.

8 (b) Whether there is a reasonable likelihood that the child
9 may be returned to his or her home prior to the next review hearing
10 required by subsection (2), (3), or (4).

11 (10) Unless waived, if not less than 7 days' notice is given
12 to all parties prior to the return of a child to the child's home,
13 and no party requests a hearing within the 7 days, the court may
14 issue an order without a hearing permitting the agency to return
15 the child to the child's home.

16 (11) An agency report filed with the court shall be accessible
17 to all parties to the action and shall be offered into evidence.
18 The court shall consider any written or oral information concerning
19 the child from the child's parent, guardian, custodian, foster
20 parent, child caring institution, relative with whom a child is
21 placed, attorney, lawyer-guardian ad litem, or guardian ad litem,
22 in addition to any other evidence, including the appropriateness of
23 parenting time, offered at the hearing.

24 (12) Reasonable efforts to finalize an alternate permanency
25 plan may be made concurrently with reasonable efforts to reunify
26 the child with the family.

27 (13) Reasonable efforts to place a child for adoption or with

1 a legal guardian, including identifying appropriate in-state or
2 out-of-state options, may be made concurrently with reasonable
3 efforts to reunify the child and family.

4 Sec. 19a. (1) Subject to subsection (2), if a child remains in
5 foster care and parental rights to the child have not been
6 terminated, the court shall conduct a permanency planning hearing
7 within 12 months after the child was removed from his or her home.
8 Subsequent permanency planning hearings shall be held no later than
9 every 12 months after each preceding permanency planning hearing
10 during the continuation of foster care. If proper notice for a
11 permanency planning hearing is provided, a permanency planning
12 hearing may be combined with a review hearing held under section
13 19(2) to (4) of this chapter, but no later than 12 months from the
14 removal of the child from his or her home, from the preceding
15 permanency planning hearing, or from the number of days required
16 under subsection (2). A permanency planning hearing shall not be
17 canceled or delayed beyond the number of months required by this
18 subsection or days as required under subsection (2), regardless of
19 whether there is a petition for termination of parental rights
20 pending.

21 (2) The court shall conduct a permanency planning hearing
22 within 30 days after there is a judicial determination that
23 reasonable efforts to reunite the child and family are not
24 required. Reasonable efforts to reunify the child and family must
25 be made in all cases except if any of the following apply:

26 (a) There is a judicial determination that the parent has
27 subjected the child to aggravated circumstances as provided in

1 section 18(1) and (2) of the child protection law, 1975 PA 238, MCL
2 722.638.

3 (b) The parent has been convicted of 1 or more of the
4 following:

5 (i) Murder of another child of the parent.

6 (ii) Voluntary manslaughter of another child of the parent.

7 (iii) Aiding or abetting in the murder of another child of the
8 parent or voluntary manslaughter of another child of the parent,
9 the attempted murder of the child or another child of the parent,
10 or the conspiracy or solicitation to commit the murder of the child
11 or another child of the parent.

12 (iv) A felony assault that results in serious bodily injury to
13 the child or another child of the parent.

14 (c) The parent has had rights to the child's siblings
15 involuntarily terminated **AND THE PARENT HAS FAILED TO RECTIFY THE**
16 **CONDITIONS THAT LED TO THAT TERMINATION OF PARENTAL RIGHTS.**

17 (d) The parent is required by court order to register under
18 the sex offenders registration act.

19 (3) A permanency planning hearing shall be conducted to review
20 the status of the child and the progress being made toward the
21 child's return home or to show why the child should not be placed
22 in the permanent custody of the court. The court shall obtain the
23 child's views regarding the permanency plan in a manner that is
24 appropriate to the child's age. In the case of a child who will not
25 be returned home, the court shall consider in-state and out-of-
26 state placement options. In the case of a child placed out-of-
27 state, the court shall determine whether the out-of-state placement

1 continues to be appropriate and in the child's best interests. The
2 court shall ensure that the agency is providing appropriate
3 services to assist a child who will transition from foster care to
4 independent living.

5 (4) At or before each permanency planning hearing, the court
6 shall determine whether the agency has made reasonable efforts to
7 finalize the permanency plan. At the hearing, the court shall
8 determine whether and, if applicable, when the following must
9 occur:

10 (a) The child may be returned to the parent, guardian, or
11 legal custodian.

12 (b) A petition to terminate parental rights should be filed.

13 (c) The child may be placed in a legal guardianship.

14 (d) The child may be permanently placed with a fit and willing
15 relative.

16 (e) The child may be placed in another planned permanent
17 living arrangement, but only in those cases where the agency has
18 documented to the court a compelling reason for determining that it
19 would not be in the best interest of the child to follow 1 of the
20 options listed in subdivisions (a) to (d).

21 (5) The court shall determine whether or not the agency,
22 foster home, or institutional placement has followed the reasonable
23 and prudent parenting standard that the child has had regular
24 opportunities to engage in age or developmentally appropriate
25 activities.

26 (6) Not less than 14 days before a permanency planning
27 hearing, written notice of the hearing and a statement of the

1 purposes of the hearing, including a notice that the hearing may
2 result in further proceedings to terminate parental rights, shall
3 be served upon all of the following:

4 (a) The agency. The agency shall advise the child of the
5 hearing if the child is 11 years of age or older.

6 (b) The foster parent or custodian of the child.

7 (c) If the parental rights to the child have not been
8 terminated, the child's parents.

9 (d) If the child has a guardian, the guardian for the child.

10 (e) If the child has a guardian ad litem, the guardian ad
11 litem for the child.

12 (f) If tribal affiliation has been determined, the elected
13 leader of the Indian tribe.

14 (g) The attorney for the child, the attorneys for each party,
15 and the prosecuting attorney if the prosecuting attorney has
16 appeared in the case.

17 (h) If the child is 11 years of age or older, the child.

18 (i) Other persons as the court may direct.

19 (7) If parental rights to the child have not been terminated
20 and the court determines at a permanency planning hearing that the
21 return of the child to his or her parent would not cause a
22 substantial risk of harm to the child's life, physical health, or
23 mental well-being, the court shall order the child returned to his
24 or her parent. In determining whether the return of the child would
25 cause a substantial risk of harm to the child, the court shall view
26 the failure of the parent to substantially comply with the terms
27 and conditions of the case service plan prepared under section 18f

1 of this chapter as evidence that return of the child to his or her
2 parent would cause a substantial risk of harm to the child's life,
3 physical health, or mental well-being. In addition to considering
4 conduct of the parent as evidence of substantial risk of harm, the
5 court shall consider any condition or circumstance of the child
6 that may be evidence that a return to the parent would cause a
7 substantial risk of harm to the child's life, physical health, or
8 mental well-being.

9 (8) If the court determines at a permanency planning hearing
10 that a child should not be returned to his or her parent, the court
11 may order the agency to initiate proceedings to terminate parental
12 rights. Except as otherwise provided in this subsection, if the
13 child has been in foster care under the responsibility of the state
14 for 15 of the most recent 22 months, the court shall order the
15 agency to initiate proceedings to terminate parental rights. The
16 court is not required to order the agency to initiate proceedings
17 to terminate parental rights if 1 or more of the following apply:

18 (a) The child is being cared for by relatives.

19 (b) The case service plan documents a compelling reason for
20 determining that filing a petition to terminate parental rights
21 would not be in the best interest of the child. Compelling reasons
22 for not filing a petition to terminate parental rights include, but
23 are not limited to, all of the following:

24 (i) Adoption is not the appropriate permanency goal for the
25 child.

26 (ii) No grounds to file a petition to terminate parental
27 rights exist.

1 (iii) The child is an unaccompanied refugee minor as defined
2 in 45 CFR 400.11.

3 (iv) There are international legal obligations or compelling
4 foreign policy reasons that preclude terminating parental rights.

5 (c) The state has not provided the child's family, consistent
6 with the time period in the case service plan, with the services
7 the state considers necessary for the child's safe return to his or
8 her home, if reasonable efforts are required.

9 (9) If the agency demonstrates under subsection (8) that
10 initiating the termination of parental rights to the child is
11 clearly not in the child's best interests, or the court does not
12 order the agency to initiate termination of parental rights to the
13 child under subsection (8), then the court shall order 1 or more of
14 the following alternative placement plans:

15 (a) If the court determines that other permanent placement is
16 not possible, the child's placement in foster care shall continue
17 for a limited period to be stated by the court.

18 (b) If the court determines that it is in the child's best
19 interests based upon compelling reasons, the child's placement in
20 foster care may continue on a long-term basis.

21 (c) Subject to subsection (11), if the court determines that
22 it is in the child's best interests, appoint a guardian for the
23 child, which guardianship may continue until the child is
24 emancipated.

25 (10) A guardian appointed under subsection (9)(c) has all of
26 the powers and duties set forth under section 15 of the estates and
27 protected individuals code, 1998 PA 386, MCL 700.5215.

1 (11) If a child is placed in a guardian's or a proposed
2 guardian's home under subsection (9)(c), the court shall order the
3 department to perform an investigation and file a written report of
4 the investigation for a review under subsection (12) and the court
5 shall order the department to do all of the following:

6 (a) Perform a criminal record check within 7 days.

7 (b) Perform a central registry clearance within 7 days.

8 (c) Perform a home study and file a copy of the home study
9 with the court within 30 days unless a home study has been
10 performed within the immediately preceding 365 days, under section
11 13a(11) of this chapter. If a home study has been performed within
12 the immediately preceding 365 days, a copy of that home study shall
13 be submitted to the court.

14 (12) The court's jurisdiction over a juvenile under section
15 2(b) of this chapter shall be terminated after the court appoints a
16 guardian under this section and conducts a review hearing under
17 section 19 of this chapter, unless the juvenile is released sooner
18 by the court.

19 (13) The court's jurisdiction over a guardianship created
20 under this section shall continue until released by court order.
21 The court shall review a guardianship created under this section
22 annually and may conduct additional reviews as the court considers
23 necessary. The court may order the department or a court employee
24 to conduct an investigation and file a written report of the
25 investigation.

26 (14) In making the determinations under this section, the
27 court shall consider any written or oral information concerning the

1 child from the child's parent, guardian, custodian, foster parent,
2 child caring institution, relative with whom the child is placed,
3 or guardian ad litem in addition to any other evidence, including
4 the appropriateness of parenting time, offered at the hearing.

5 (15) The court may, on its own motion or upon petition from
6 the department or the child's lawyer guardian ad litem, hold a
7 hearing to determine whether a guardianship appointed under this
8 section shall be revoked.

9 (16) A guardian may petition the court for permission to
10 terminate the guardianship. A petition may include a request for
11 appointment of a successor guardian.

12 (17) After notice and hearing on a petition for revocation or
13 permission to terminate the guardianship, if the court finds by a
14 preponderance of evidence that continuation of the guardianship is
15 not in the child's best interests, the court shall revoke or
16 terminate the guardianship and appoint a successor guardian or
17 restore temporary legal custody to the department.

18 Sec. 19b. (1) Except as provided in subsection (4), if a child
19 remains in foster care in the temporary custody of the court
20 following a review hearing under section 19(3) of this chapter or a
21 permanency planning hearing under section 19a of this chapter or if
22 a child remains in the custody of a guardian or limited guardian,
23 upon petition of the prosecuting attorney, whether or not the
24 prosecuting attorney is representing or acting as legal consultant
25 to the agency or any other party, or petition of the child,
26 guardian, custodian, concerned person, agency, or children's
27 ombudsman as authorized in section 7 of the children's ombudsman

1 act, 1994 PA 204, MCL 722.927, the court shall hold a hearing to
2 determine if the parental rights to a child should be terminated
3 and, if all parental rights to the child are terminated, the child
4 placed in permanent custody of the court. The court shall state on
5 the record or in writing its findings of fact and conclusions of
6 law with respect to whether or not parental rights should be
7 terminated. The court shall issue an opinion or order regarding a
8 petition for termination of parental rights within 70 days after
9 the commencement of the initial hearing on the petition. The
10 court's failure to issue an opinion within 70 days does not dismiss
11 the petition.

12 (2) Not less than 14 days before a hearing to determine if the
13 parental rights to a child should be terminated, written notice of
14 the hearing shall be served upon all of the following:

15 (a) The agency. The agency shall advise the child of the
16 hearing if the child is 11 years of age or older.

17 (b) The child's foster parent or custodian.

18 (c) The child's parents.

19 (d) If the child has a guardian, the child's guardian.

20 (e) If the child has a guardian ad litem, the child's guardian
21 ad litem.

22 (f) If tribal affiliation has been determined, the Indian
23 tribe's elected leader.

24 (g) The child's attorney and each party's attorney.

25 (h) If the child is 11 years of age or older, the child.

26 (i) The prosecutor.

27 (3) The court may terminate a parent's parental rights to a

1 child if the court finds, by clear and convincing evidence, 1 or
2 more of the following:

3 (a) The child has been deserted under either of the following
4 circumstances:

5 (i) The child's parent is unidentifiable, has deserted the
6 child for 28 or more days, and has not sought custody of the child
7 during that period. For the purposes of this section, a parent is
8 unidentifiable if the parent's identity cannot be ascertained after
9 reasonable efforts have been made to locate and identify the
10 parent.

11 (ii) The child's parent has deserted the child for 91 or more
12 days and has not sought custody of the child during that period.

13 (b) The child or a sibling of the child has suffered physical
14 injury or physical or sexual abuse under 1 or more of the following
15 circumstances:

16 (i) The parent's act caused the physical injury or physical or
17 sexual abuse and the court finds that there is a reasonable
18 likelihood that the child will suffer from injury or abuse in the
19 foreseeable future if placed in the parent's home.

20 (ii) The parent who had the opportunity to prevent the
21 physical injury or physical or sexual abuse failed to do so and the
22 court finds that there is a reasonable likelihood that the child
23 will suffer injury or abuse in the foreseeable future if placed in
24 the parent's home.

25 (iii) A nonparent adult's act caused the physical injury or
26 physical or sexual abuse and the court finds that there is a
27 reasonable likelihood that the child will suffer from injury or

1 abuse by the nonparent adult in the foreseeable future if placed in
2 the parent's home.

3 (c) The parent was a respondent in a proceeding brought under
4 this chapter, 182 or more days have elapsed since the issuance of
5 an initial dispositional order, and the court, by clear and
6 convincing evidence, finds either of the following:

7 (i) The conditions that led to the adjudication continue to
8 exist and there is no reasonable likelihood that the conditions
9 will be rectified within a reasonable time considering the child's
10 age.

11 (ii) Other conditions exist that cause the child to come
12 within the court's jurisdiction, the parent has received
13 recommendations to rectify those conditions, the conditions have
14 not been rectified by the parent after the parent has received
15 notice and a hearing and has been given a reasonable opportunity to
16 rectify the conditions, and there is no reasonable likelihood that
17 the conditions will be rectified within a reasonable time
18 considering the child's age.

19 (d) The child's parent has placed the child in a limited
20 guardianship under section 5205 of the estates and protected
21 individuals code, 1998 PA 386, MCL 700.5205, and has substantially
22 failed, without good cause, to comply with a limited guardianship
23 placement plan described in section 5205 of the estates and
24 protected individuals code, 1998 PA 386, MCL 700.5205, regarding
25 the child to the extent that the noncompliance has resulted in a
26 disruption of the parent-child relationship.

27 (e) The child has a guardian under the estates and protected

1 individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and the
2 parent has substantially failed, without good cause, to comply with
3 a court-structured plan described in section 5207 or 5209 of the
4 estates and protected individuals code, 1998 PA 386, MCL 700.5207
5 and 700.5209, regarding the child to the extent that the
6 noncompliance has resulted in a disruption of the parent-child
7 relationship.

8 (f) The child has a guardian under the estates and protected
9 individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and both
10 of the following have occurred:

11 (i) The parent, having the ability to support or assist in
12 supporting the minor, has failed or neglected, without good cause,
13 to provide regular and substantial support for the minor for a
14 period of 2 years or more before the filing of the petition or, if
15 a support order has been entered, has failed to substantially
16 comply with the order for a period of 2 years or more before the
17 filing of the petition.

18 (ii) The parent, having the ability to visit, contact, or
19 communicate with the minor, has regularly and substantially failed
20 or neglected, without good cause, to do so for a period of 2 years
21 or more before the filing of the petition.

22 (g) The parent, ~~without regard to intent,~~ **ALTHOUGH, IN THE**
23 **COURT'S DISCRETION, FINANCIALLY ABLE TO DO SO,** fails to provide
24 proper care or custody for the child and there is no reasonable
25 expectation that the parent will be able to provide proper care and
26 custody within a reasonable time considering the child's age.

27 (h) The parent is imprisoned for such a period that the child

1 will be deprived of a normal home for a period exceeding 2 years,
2 and the parent has not provided for the child's proper care and
3 custody, and there is no reasonable expectation that the parent
4 will be able to provide proper care and custody within a reasonable
5 time considering the child's age.

6 (i) Parental rights to 1 or more siblings of the child have
7 been terminated due to serious and chronic neglect or physical or
8 sexual abuse, and ~~prior attempts to rehabilitate the parents have~~
9 ~~been unsuccessful.~~ **THE PARENT HAS FAILED TO RECTIFY THE CONDITIONS**
10 **THAT LED TO THE PRIOR TERMINATION OF PARENTAL RIGHTS.**

11 (j) There is a reasonable likelihood, based on the conduct or
12 capacity of the child's parent, that the child will be harmed if he
13 or she is returned to the home of the parent.

14 (k) The parent abused the child or a sibling of the child, and
15 the abuse included 1 or more of the following, **AND THERE IS A**
16 **REASONABLE LIKELIHOOD THAT THE CHILD WILL BE HARMED IF RETURNED TO**
17 **THE CARE OF THE PARENT:**

18 (i) Abandonment of a young child.

19 (ii) Criminal sexual conduct involving penetration, attempted
20 penetration, or assault with intent to penetrate.

21 (iii) Battering, torture, or other severe physical abuse.

22 (iv) Loss or serious impairment of an organ or limb.

23 (v) Life-threatening injury.

24 (vi) Murder or attempted murder.

25 (vii) Voluntary manslaughter.

26 (viii) Aiding and abetting, attempting to commit, conspiring
27 to commit, or soliciting murder or voluntary manslaughter.

(ix) Sexual abuse as that term is defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

~~(l) The parent's rights to another child were terminated as a result of proceedings under section 2(b) of this chapter or a similar law of another state.~~

(l) ~~(m)~~ The parent's rights to another child were voluntarily terminated following the initiation of proceedings under section 2(b) of this chapter or a similar law of another state and the proceeding involved abuse that included 1 or more of the following,

AND THE PARENT HAS FAILED TO RECTIFY THE CONDITIONS THAT LED TO THE PRIOR TERMINATION OF PARENTAL RIGHTS:

(i) Abandonment of a young child.

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

(iii) Battering, torture, or other severe physical abuse.

(iv) Loss or serious impairment of an organ or limb.

(v) Life-threatening injury.

(vi) Murder or attempted murder.

(vii) Voluntary manslaughter.

(viii) Aiding and abetting, attempting to commit, conspiring to commit, or soliciting murder or voluntary manslaughter.

(ix) Sexual abuse as that term is defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(M) ~~(n)~~ The parent is convicted of 1 or more of the following, and the court determines that termination is in the child's best interests because continuing the parent-child relationship with the parent would be harmful to the child:

1 (i) A violation of section 136, 136a, 316, 317, 520b, 520c,
2 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL
3 750.136, 750.136a, 750.316, 750.317, 750.520b, 750.520c, 750.520d,
4 750.520e, and 750.520g.

5 (ii) A violation of a criminal statute that includes as an
6 element the use of force or the threat of force and that subjects
7 the parent to sentencing under section 10, 11, or 12 of chapter IX
8 of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11,
9 and 769.12.

10 (iii) A federal law or law of another state with provisions
11 substantially similar to a crime or procedure listed or described
12 in subparagraph (i) or (ii).

13 (4) If a petition to terminate the parental rights to a child
14 is filed, the court may enter an order terminating parental rights
15 under subsection (3) at the initial dispositional hearing. If a
16 petition to terminate parental rights to a child is filed, the
17 court may suspend parenting time for a parent who is a subject of
18 the petition.

19 (5) If the court finds that there are grounds for termination
20 of parental rights and that termination of parental rights is in
21 the child's best interests, the court shall order termination of
22 parental rights and order that additional efforts for reunification
23 of the child with the parent not be made.

24 (6) As used in this section, "concerned person" means a foster
25 parent with whom the child is living or has lived who has specific
26 knowledge of behavior by the parent constituting grounds for
27 termination under subsection (3) (b) or (g) and who has contacted

1 the department, the prosecuting attorney, the child's attorney, and
2 the child's guardian ad litem, if any, and is satisfied that none
3 of these persons intend to file a petition under this section.

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