

**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 2012 PA 386.

**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

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of the jurisdiction of another court in proceedings concerning a

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juvenile under 17 years of age who is found within the county if 1

1 or more of the following ~~applies~~**APPLY:**

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

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

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

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

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

26 (iii) An object that is likely to cause death or bodily injury  
27 when used as a weapon and that is used as a weapon or carried or

1 possessed for use as a weapon.

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

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

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

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

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

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

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

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

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

26 (I) Another violation arising out of the same transaction as a  
27 violation described in paragraphs (A) to (G) if the individual is

1 charged with a violation described in paragraphs (A) to (G).

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

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

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

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

26 (1) Whose parent or other person legally responsible for the  
27 care and maintenance of the juvenile, when able to do so, neglects

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

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

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

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

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

25 (3) If the juvenile is dependent and is in danger of  
26 substantial physical or psychological harm. The juvenile may be  
27 found to be dependent when any of the following occurs:

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

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

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

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

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

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

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

25 (A) The parent, having the ability to support or assist in  
26 supporting the juvenile, has failed or neglected, without good  
27 cause, to provide regular and substantial support for the juvenile

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

1 probable cause to believe the juvenile committed that offense.

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

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

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

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

25 Sec. 18. (1) If the court finds that a juvenile concerning  
26 whom a petition is filed is not within this chapter, the court  
27 shall enter an order dismissing the petition. Except as otherwise

1 provided in subsection (10), if the court finds that a juvenile is  
2 within this chapter, the court **SHALL ORDER THE JUVENILE RETURNED TO**  
3 **HIS OR HER PARENT IF THE RETURN OF THE JUVENILE TO HIS OR HER**  
4 **PARENT WOULD NOT CAUSE A SUBSTANTIAL RISK OF HARM TO THE JUVENILE**  
5 **OR SOCIETY. THE COURT** may **ALSO** enter any of the following orders of  
6 disposition that are appropriate for the welfare of the juvenile  
7 and society in view of the facts proven and ascertained:

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

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

1 conditions of probation or supervision, including reasonable rules  
2 for the conduct of the parents, guardian, or custodian, if any, as  
3 the court determines necessary for the physical, mental, or moral  
4 well-being and behavior of the juvenile. The court may order that  
5 the juvenile participate in a juvenile drug treatment court under  
6 chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL  
7 600.1060 to ~~600.1084~~ **600.1086**. The court also shall order, as a  
8 condition of probation or supervision, that the juvenile shall pay  
9 the minimum state cost prescribed by section 18m of this chapter.

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

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

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

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

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

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

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

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

22 (j) If the court finds that a juvenile has violated a  
23 municipal ordinance or a state or federal law, order the juvenile  
24 to pay a civil fine in the amount of the civil or penal fine  
25 provided by the ordinance or law. Money collected from fines levied  
26 under this subsection shall be distributed as provided in section  
27 29 of this chapter.

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

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

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

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

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

27           (iv) The juvenile will not be a danger to other juveniles in

1 the boot camp.

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

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

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



1 disposition or impose a sentence under this subdivision, the court  
2 shall consider all of the following factors, giving greater weight  
3 to the seriousness of the offense and the juvenile's prior record:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the juvenile, parent, guardian, or custodian.

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

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

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

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

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

23 (10) The court shall not enter an order of disposition for a  
24 juvenile offense as defined in section 1a of 1925 PA 289, MCL  
25 28.241a, or a judgment of sentence for a conviction until the court  
26 has examined the court file and has determined that the juvenile's  
27 ~~fingerprints~~**BIOMETRIC DATA** have been ~~taken~~**COLLECTED** and forwarded

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

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

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

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

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

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

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

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

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

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

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

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

27 (18) If a juvenile is within the court's jurisdiction under



1 section 2(a)(1) of this chapter, the court shall order the juvenile  
2 to pay costs as provided in section 18m of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

27 (e) If the child has a guardian ad litem, the guardian ad

1 litem for the child.

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

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

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

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

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

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

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

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

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

27 (d) Likely harm to the child if the child continues to be

1 separated from the child's parent, guardian, or custodian.

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

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

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

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

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

26 (9) If in a proceeding under section 2(b) of this chapter a  
27 child is placed in foster care, the court shall determine at the

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

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

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

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

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

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

26 (13) Reasonable efforts to place a child for adoption or with  
27 a legal guardian, including identifying appropriate in-state or

1 out-of-state options, may be made concurrently with reasonable  
2 efforts to reunify the child and family.

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

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

25       (a) There is a judicial determination that the parent has  
26 subjected the child to aggravated circumstances as provided in  
27 section 18(1) and (2) of the child protection law, 1975 PA 238, MCL

1 722.638.

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

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

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

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

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

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

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

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



1 court shall ensure that the agency is providing appropriate  
2 services to assist a child who will transition from foster care to  
3 independent living.

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

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

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

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

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

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

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

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

1 result in further proceedings to terminate parental rights, shall  
2 be served upon all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (iii) The child is an unaccompanied refugee minor as defined

1 in 45 CFR 400.11.

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

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

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

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

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

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

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

27 (11) If a child is placed in a guardian's or a proposed

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

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

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

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

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

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

25 (14) In making the determinations under this section, the  
26 court shall consider any written or oral information concerning the  
27 child from the child's parent, guardian, custodian, foster parent,

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

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

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

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

17 Sec. 19b. (1) Except as provided in subsection (4), if a child  
18 remains in foster care in the temporary custody of the court  
19 following a review hearing under section 19(3) of this chapter or a  
20 permanency planning hearing under section 19a of this chapter or if  
21 a child remains in the custody of a guardian or limited guardian,  
22 upon petition of the prosecuting attorney, whether or not the  
23 prosecuting attorney is representing or acting as legal consultant  
24 to the agency or any other party, or petition of the child,  
25 guardian, custodian, concerned person, agency, or children's  
26 ombudsman as authorized in section 7 of the children's ombudsman  
27 act, 1994 PA 204, MCL 722.927, the court shall hold a hearing to

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

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

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

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

17 (c) The child's parents.

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

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

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

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

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

25 (i) The prosecutor.

26 (3) The court may terminate a parent's parental rights to a  
27 child if the court finds, by clear and convincing evidence, 1 or

1 more of the following:

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

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

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

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

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

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

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



1 the parent's home.

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

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

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

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

26 (e) The child has a guardian under the estates and protected  
27 individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, and the

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

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

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

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

21 (g) The parent, ~~without regard to intent,~~ **ALTHOUGH<<, IN THE**  
**COURT'S DISCRETION,>> FINANCIALLY**

22 **AND OTHERWISE ABLE TO DO SO,** fails to provide proper care or  
23 custody for the child and there is no reasonable expectation that  
24 the parent will be able to provide proper care and custody within a  
25 reasonable time considering the child's age.

26 (h) The parent is imprisoned for such a period that the child  
27 will be deprived of a normal home for a period exceeding 2 years,

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

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

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

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

17 (i) Abandonment of a young child.

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

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

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

22 (v) Life-threatening injury.

23 (vi) Murder or attempted murder.

24 (vii) Voluntary manslaughter.

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

27 (ix) Sexual abuse as that term is defined in section 2 of the

1 child protection law, 1975 PA 238, MCL 722.622.

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

5 (l) ~~(m)~~ The parent's rights to another child were voluntarily  
6 terminated following the initiation of proceedings under section  
7 2(b) of this chapter or a similar law of another state, ~~and the~~  
8 proceeding involved abuse that included 1 or more of the following,  
9 **AND THE PARENT HAS FAILED TO RECTIFY THE CONDITIONS THAT LED TO THE**  
10 **PRIOR TERMINATION OF PARENTAL RIGHTS:**

11 (i) Abandonment of a young child.

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

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

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

16 (v) Life-threatening injury.

17 (vi) Murder or attempted murder.

18 (vii) Voluntary manslaughter.

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

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

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

27 (i) A violation of section 316, 317, 520b, 520c, 520d, 520e,

1 or 520g of the Michigan penal code, 1931 PA 328, MCL 750.316,  
2 750.317, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

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

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

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

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

22 (6) As used in this section, "concerned person" means a foster  
23 parent with whom the child is living or has lived who has specific  
24 knowledge of behavior by the parent constituting grounds for  
25 termination under subsection (3)(b) or (g) and who has contacted  
26 the department, the prosecuting attorney, the child's attorney, and  
27 the child's guardian ad litem, if any, and is satisfied that none

1 of these persons intend to file a petition under this section.

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