



SENATE BILL No. 469

March 9, 1993, Introduced by Senators VAN REGENMORTER, DINGELL, CISKY, DE GROW, DUNASKISS, FAUST and KELLY and referred to the Committee on Judiciary.

A bill to amend section 18 of chapter XIIIA of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

as amended by Act No. 314 of the Public Acts of 1990, being section 712A.18 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 18 of chapter XIIIA of Act No. 288 of the
2 Public Acts of 1939, as amended by Act No. 314 of the Public Acts
3 of 1990, being section 712A.18 of the Michigan Compiled Laws, is
4 amended to read as follows:

5 CHAPTER XIIIA

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

14 (a) Warn the child or the child's parents, guardian, or cus-
15 todian and dismiss the petition.

16 (b) Place the child on probation, or under supervision in
17 the child's own home or in the home of an adult who is related to
18 the child. As used in this subdivision, "related" means any of
19 the following relationships ~~—~~ by marriage, blood, or adoption:
20 parent, grandparent, brother, sister, stepparent, stepsister,
21 stepbrother, uncle, or aunt. The COURT SHALL ORDER THE TERMS AND
22 CONDITIONS OF probation or supervision, ~~shall be upon such terms~~
23 ~~and conditions,~~ including reasonable rules for the conduct of
24 the parents, guardian, or custodian, if any, AS THE COURT
25 DETERMINES necessary for the physical, mental, or moral

1 well-being and behavior of the child. ~~as the court~~
2 ~~determines.~~

3 (c) If a child is within the court's jurisdiction under sec-
4 tion 2(a) of this chapter, place the child in a suitable foster
5 care home subject to the court's supervision. Except as other-
6 wise provided in subsections (17) and (18), if a child is within
7 the court's jurisdiction under section 2(b) of this chapter, the
8 court shall not place a child in a foster care home subject to
9 the court's supervision.

10 (d) Place the child in or commit the child to a private
11 institution or agency approved or licensed by the state depart-
12 ment of social services for the care of children of similar age,
13 sex, and characteristics.

14 (e) Commit the child to a public institution, county facili-
15 ty, institution operated as an agency of the court or county, or
16 agency authorized by law to receive children of similar age, sex,
17 and characteristics. In a placement under subdivision (d) or a
18 commitment under this subdivision, except to a state institution,
19 the religious affiliation of the child shall be protected by
20 placement or commitment to a private child-placing or
21 child-caring agency or institution, if available. ~~The court,~~
22 ~~in~~ IN every order of commitment under this subdivision to a
23 state institution or agency described in the youth rehabilitation
24 services act, Act No. 150 of the Public Acts of 1974, as amended,
25 being sections 803.301 to 803.309 of the Michigan Compiled Laws
26 or in Act No. 220 of the Public Acts of 1935, as amended, being
27 sections 400.201 to 400.214 of the Michigan Compiled Laws, THE

1 COURT shall name the superintendent of the institution to which
2 the child is committed as a special guardian to receive benefits
3 due the child from the government of the United States, and the
4 benefits shall be used to the extent necessary to pay for the
5 portions of the cost of care in the institution ~~which~~ THAT the
6 parent or parents are found unable to pay.

7 (f) Provide the child with medical, dental, surgical, or
8 other health care, in a local hospital if available, or else-
9 where, maintaining as much as possible a local physician-patient
10 relationship, and with clothing and other incidental items as the
11 court considers necessary.

12 (g) Order the parents, guardian, custodian, or any other
13 person to refrain from continuing conduct ~~which~~ THAT, in the
14 opinion of the court, has caused or tended to cause the child to
15 come within or to remain under this chapter, or ~~which~~ THAT
16 obstructs placement or commitment of the child pursuant to an
17 order under this section.

18 (h) Appoint a guardian under section 424 of the revised pro-
19 bate code, Act No. 642 of the Public Acts of 1978, being section
20 700.424 of the Michigan Compiled Laws, pursuant to a petition
21 filed with the court by a person interested in the welfare of the
22 child. If the court appoints a guardian pursuant to this subdi-
23 vision, it may enter an order dismissing the petition under this
24 chapter.

25 (2) An order of disposition placing a child in or committing
26 a child to care outside of the child's own home and under state
27 or court supervision shall contain a provision for ~~the~~

1 reimbursement by the child, parent, guardian, or custodian to the
2 court for the cost of care or service. The order shall be rea-
3 sonable, taking into account both the income and resources of the
4 child, parent, guardian, or custodian. The amount may be based
5 upon the guidelines and model schedule created under subsection
6 (6) The reimbursement provision ~~shall apply~~ APPLIES during
7 the entire period the child remains in care outside of the
8 child's own home and under state or court supervision, unless the
9 child is in the permanent custody of the court. The court shall
10 provide for the collection of all amounts ordered to be reim-
11 bursed, and the money collected shall be accounted for and
12 reported to the county board of commissioners. Collections to
13 cover delinquent accounts or to pay the balance due on reimburse-
14 ment orders may be made after a child is released or discharged
15 from care outside the child's own home and under state or court
16 supervision. Twenty-five percent of all amounts collected pursu-
17 ant to an order entered under this subsection shall be credited
18 to the appropriate fund of the county to offset the administra-
19 tive cost of collections. The balance of all amounts collected
20 pursuant to an order entered under this subsection shall be
21 divided in the same ratio in which the county, state, and federal
22 government participate in the cost of care outside the child's
23 own home and under state or court supervision. The court may
24 also collect benefits paid for the cost of care of a court ward
25 from the government of the United States. Money collected for
26 children placed with or committed to the state department of
27 social services shall be accounted for and reported on an

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

14 (3) An order of disposition placing a child in the child's
15 own home under subsection (1)(b) may contain a provision for
16 ~~the~~ reimbursement by the child, parent, guardian, or custodian
17 to the court for the cost of service. If an order is entered
18 under this subsection, ~~amounts~~ AN AMOUNT due shall be deter-
19 mined and treated in the same manner provided for an order
20 entered under subsection (2).

21 (4) An order directed to a parent or a person other than the
22 child ~~shall~~ IS not ~~be~~ effectual and binding on the parent or
23 other person unless opportunity for hearing ~~has been~~ IS given
24 pursuant to issuance of summons or notice as provided in sections
25 12 and 13 of this chapter, and until a copy of the order, bearing
26 the seal of the court, is served on the parent or other person,
27 personally or by first class mail, to the parent's or other

1 person's last known address ~~—~~ as provided in section 13 of this
2 chapter.

3 (5) If the court appoints an attorney to represent a child,
4 parent, guardian, or custodian, THE COURT MAY REQUIRE IN an order
5 entered under this section ~~may require~~ THAT the child, parent,
6 guardian, or custodian ~~to~~ reimburse the court for attorney
7 fees.

8 (6) The office of the state court administrator, under the
9 supervision and direction of the supreme court and in consulta-
10 tion with the state department of social services and the
11 Michigan probate ~~and juvenile court~~ judges association, shall
12 create guidelines and a model schedule ~~which~~ THAT may be used
13 by the court in determining the ability of the child, parent,
14 guardian, or custodian to pay for care and any costs of service
15 ordered under subsection (2) or (3). The guidelines and model
16 schedule shall take into account both the income and resources of
17 the child, parent, guardian, or custodian.

18 (7) If the court finds that a child has violated ~~any~~ A
19 municipal ordinance or state or federal law, and ~~the court~~ has
20 placed the child on probation, the court may ~~—, as a condition of~~
21 ~~probation,~~ require the child to do either of the following AS A
22 CONDITION OF PROBATION:

23 (a) Both of the following:

24 (i) Pay restitution to the victim, IF THERE IS A VICTIM.

25 (ii) Engage in community service or, with the victim's
26 consent, perform services for the victim.

1 (b) Seek and maintain paid part-time or full-time employment
2 and pay restitution to the victim from the earnings of that paid
3 part-time or full-time employment.

4 (8) If the court imposes restitution as part of a sentence
5 of probation, the following ~~shall~~ apply:

6 (a) The court shall not require a child to pay restitution
7 unless the child is or will be able to pay all or part of the
8 restitution during the term of his or her probation. In deter-
9 mining the amount and method of payment of restitution, the court
10 shall take into account the financial resources of the child and
11 the burden that the payment of restitution will impose, with due
12 regard to any other moral or legal financial obligations that the
13 child may have.

14 ~~(b) The amount of restitution a court orders a child to pay~~
15 ~~under subsection (7)(b) shall not exceed 30% of the net income~~
16 ~~per pay period from the child's paid part time or full time~~
17 ~~employment.~~

18 (B) ~~(c)~~ A child who is required to pay restitution and who
19 is not in intentional default of the payment of restitution may
20 petition the court, or an adult acting on the child's behalf may
21 petition the court, for a modification of the amount of restitu-
22 tion owed or for a cancellation of any unpaid portion of the
23 restitution.

24 (C) ~~(d)~~ The court shall cancel all or part of the amount
25 of restitution due if it appears to the satisfaction of the court
26 that payment of the amount due will impose a manifest hardship on
27 the child.

1 (D) ~~(e)~~ If the court cancels all or a part of the amount
2 of restitution, the court may modify the terms and conditions of
3 probation to require the child to engage in community service.

4 (9) If a child is required to pay restitution as part of the
5 sentence of probation, the court shall provide for payment to be
6 made in specified installments and within a specified period of
7 time.

8 (10) If the court finds that the child is in intentional
9 default of the payment of restitution, a court may revoke or
10 alter the terms and conditions of probation for nonpayment of
11 restitution.

12 (11) If a child who is ordered to engage in community serv-
13 ice intentionally refuses to perform the required community serv-
14 ice, the court may revoke or alter the terms and conditions of
15 probation.

16 (12) If the child is unable to pay all of the restitution
17 ordered, after notice to the child's custodial parent and an
18 opportunity for the parent to be heard, the court may order the
19 custodial parent to pay all or part of the unpaid portion of the
20 restitution ordered. ~~The amount of restitution the parent is~~
21 ~~ordered to pay under this subsection shall not exceed \$2,500.00.~~

22 (13) If the court orders the custodial parent to pay resti-
23 tution under subsection (12), the court shall take into account
24 the financial resources of the parent and the burden that the
25 payment of restitution will impose, with due regard to any other
26 moral or legal financial obligations that the parent may have.
27 If a parent is required to pay restitution under subsection (12),

1 the court shall provide for payment to be made in specified
2 installments and within a specified period of time.

3 (14) A parent who has been ordered to pay restitution under
4 subsection (12) may petition the court for a modification of the
5 amount of restitution owed or for a cancellation of any unpaid
6 portion of the restitution. The court shall cancel all or part
7 of the amount of restitution due, if it appears to the satisfac-
8 tion of the court that payment of the amount due will impose a
9 manifest hardship on the parent.

10 (15) ~~The court shall not enter an order of disposition for~~
11 ~~a juvenile offense~~ FOR THE PURPOSES OF THIS SUBSECTION AND
12 SUBSECTION (16), "JUVENILE OFFENSE" MEANS THAT TERM as defined in
13 section 1a of Act No. 289 of the Public Acts of 1925, being sec-
14 tion 28.241a of the Michigan Compiled Laws. — THE COURT SHALL
15 NOT ENTER AN ORDER OF DISPOSITION FOR A JUVENILE OFFENSE until
16 the court has examined the court file and has determined that the
17 child's fingerprints have been taken as required by section 3 of
18 Act No. 289 of the Public Acts of 1925, being section 28.243 of
19 the Michigan Compiled Laws. If a child has not had his or her
20 fingerprints taken, the court shall do either of the following:

21 (a) Order the child to submit himself or herself to the
22 police agency that arrested or obtained the warrant for the
23 arrest of the child so the child's fingerprints can be taken.

24 (b) Order the child committed to the custody of the sheriff
25 for the taking of the child's fingerprints.

26 (16) Upon disposition or dismissal of a juvenile offense,
27 the clerk of the court entering the disposition or dismissal

1 shall immediately advise the department of state police of the
2 disposition or dismissal on forms approved by the state court
3 administrator. The report to the department of state police
4 shall include information as to the finding of the judge or jury
5 and a summary of the disposition imposed.

6 (17) Except as otherwise provided in subsection (18), if, ON
7 APRIL 1, 1989, a court ~~is~~ WAS providing ~~at the time of the~~
8 ~~enactment of this subsection~~ foster care home services subject
9 to the court's supervision to children within section 2(b) of
10 this chapter, the court may continue to provide those services
11 through December 31, 1989. Beginning January 1, 1990, the court
12 shall discontinue providing those services.

13 (18) If, ON APRIL 1, 1989, a court located in a county with
14 a population in excess of 650,000 ~~is~~ WAS providing ~~at the time~~
15 ~~of the enactment of this subsection~~ foster care home services
16 subject to the court's supervision to children within section
17 2(b) of this chapter, the court may continue to provide those
18 services through December 31, 1991. Beginning January 1, 1992,
19 the court shall discontinue those services.

20 (19) FOR THE PURPOSES OF THIS SUBSECTION, "JUVENILE OFFENSE"
21 MEANS THAT TERM AS DEFINED IN SECTION 1 OF ACT NO. 196 OF THE
22 PUBLIC ACTS OF 1989, BEING SECTION 780.901 OF THE MICHIGAN
23 COMPILED LAWS. IF THE COURT ENTERS AN ORDER OF DISPOSITION BASED
24 UPON A JUVENILE OFFENSE, THE COURT SHALL ORDER THE CHILD TO PAY
25 THE ASSESSMENT PROVIDED IN ACT NO. 196 OF THE PUBLIC ACTS OF
26 1989, BEING SECTIONS 780.901 TO 780.911 OF THE MICHIGAN COMPILED
27 LAWS.

1 Section 2. This amendatory act shall not take effect unless
2 Senate Bill No. 470
3 of the 87th Legislature is enacted into law.