

Act No. 243
Public Acts of 1996
Approved by the Governor
June 11, 1996
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**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senators Rogers, Bennett, Stille, Steil, McManus and Shugars

ENROLLED SENATE BILL No. 696

AN ACT to amend section 18 of chapter XIIA 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. 355 of the Public Acts of 1994, being section 712A.18 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 18 of chapter XIIA of Act No. 288 of the Public Acts of 1939, as amended by Act No. 355 of the Public Acts of 1994, being section 712A.18 of the Michigan Compiled Laws, is amended to read as follows:

CHAPTER XIIA

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

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

(b) Place the juvenile on probation, or under supervision in the juvenile's own home or in the home of an adult who is related to the juvenile. As used in this subdivision, "related" means being a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, or aunt by marriage, blood, or adoption. The court shall order the terms and conditions of probation or supervision, including reasonable rules for the conduct of the parents, guardian, or custodian, if any, as the court determines necessary for the physical, mental, or moral well-being and behavior of the juvenile.

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

(d) Place the juvenile in or commit the juvenile to a private institution or agency approved or licensed by the family independence agency for the care of juveniles of similar age, sex, and characteristics.

(e) Commit the juvenile to a public institution, county facility, institution operated as an agency of the court or county, or agency authorized by law to receive juveniles of similar age, sex, and characteristics. In a placement under subdivision (d) or a commitment under this subdivision, except to a state institution, the religious affiliation of the juvenile shall be protected by placement or commitment to a private child-placing or child-caring agency or institution, if available. In every order of commitment under this subdivision to a state institution or agency described in the youth rehabilitation services act, Act No. 150 of the Public Acts of 1974, being sections 803.301 to 803.309 of the Michigan Compiled Laws, or in Act No. 220 of the Public Acts of 1935, being sections 400.201 to 400.214 of the Michigan Compiled Laws, the court shall name the superintendent of the institution to which the juvenile is committed as a special guardian to receive benefits due the juvenile from the government of the United States, and the benefits shall be used to the extent necessary to pay for the portions of the cost of care in the institution that the parent or parents are found unable to pay.

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

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

(h) Appoint a guardian under section 424 of the revised probate code, Act No. 642 of the Public Acts of 1978, being section 700.424 of the Michigan Compiled Laws, pursuant to a petition filed with the court by a person interested in the welfare of the juvenile. If the court appoints a guardian pursuant to this subdivision, it may enter an order dismissing the petition under this chapter.

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

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

(k) Order the juvenile to pay court costs. Money collected from costs ordered under this subsection shall be distributed as provided in section 29 of this chapter.

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

(m) If a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter, place the juvenile in and order the juvenile to complete satisfactorily a program of training in a juvenile boot camp established by the family independence agency under the juvenile boot camp act as provided in that act. Upon receiving a report of satisfactory completion of the program from the family independence agency, the court shall authorize the juvenile's release from placement in the juvenile boot camp. Following satisfactory completion of the juvenile boot camp program, the juvenile shall complete an additional period of not less than 120 days or more than 180 days of intensive supervised community reintegration in the juvenile's local community. To place a juvenile in a juvenile boot camp program, the court shall determine all of the following:

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

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

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

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

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

(2) An order of disposition placing a juvenile in or committing a juvenile to care outside of the juvenile's own home and under state or court supervision shall contain a provision for reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of care or service. The order shall be reasonable, taking into account both the income and resources of the juvenile, parent, guardian, or custodian. The amount may be based upon the guidelines and model schedule created under subsection (6). If the juvenile is receiving an adoption support subsidy pursuant to section 115j(4) of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.115j of the Michigan Compiled Laws, the amount shall not exceed the amount of the support subsidy. The reimbursement provision applies during the entire period the juvenile remains in care outside of the juvenile's own home and under state or court supervision, unless the juvenile is in the permanent custody of the court. The court shall provide for the collection of all amounts ordered to be reimbursed, and the money collected shall be accounted for and reported to the county board of commissioners. Collections to cover delinquent accounts or to pay the balance due on reimbursement orders may be made after a juvenile is released or discharged from care outside the juvenile's own home and under state or court supervision. Twenty-five percent of all amounts collected pursuant to an order entered under this subsection shall be

credited to the appropriate fund of the county to offset the administrative cost of collections. The balance of all amounts collected pursuant to an order entered under this subsection shall be divided in the same ratio in which the county, state, and federal government participate in the cost of care outside the juvenile's own home and under state or court supervision. The court may also collect benefits paid for the cost of care of a court ward from the government of the United States. Money collected for juveniles placed with or committed to the family independence agency shall be accounted for and reported on an individual juvenile basis. In cases of delinquent accounts, the court may also enter an order to intercept state or federal tax refunds of a juvenile, parent, guardian, or custodian and initiate the necessary offset proceedings in order to recover the cost of care or service. The court shall send to the person who is the subject of the intercept order advance written notice of the proposed offset. The notice shall include notice of the opportunity to contest the offset on the grounds that the intercept is not proper because of a mistake of fact concerning the amount of the delinquency or the identity of the person subject to the order. The court shall provide for the prompt reimbursement of an amount withheld in error or an amount found to exceed the delinquent amount.

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

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

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

(6) The office of the state court administrator, under the supervision and direction of the supreme court and in consultation with the family independence agency and the Michigan probate judges association, shall create guidelines and a model schedule that may be used by the court in determining the ability of the juvenile, parent, guardian, or custodian to pay for care and any costs of service ordered under subsection (2) or (3). The guidelines and model schedule shall take into account both the income and resources of the juvenile, parent, guardian, or custodian.

(7) If the court finds that a juvenile comes under section 30 of this chapter, the court shall order the juvenile or the juvenile's parent to pay restitution as provided in sections 30 and 31 of this chapter and in sections 44 and 45 of the crime victim's rights act, Act No. 87 of the Public Acts of 1985, being sections 780.794 and 780.795 of the Michigan Compiled Laws.

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

- (a) Engage in community service or, with the victim's consent, perform services for the victim.
- (b) Seek and maintain paid employment and pay restitution to the victim from the earnings of that employment.

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

(10) For the purposes of this subsection and subsection (11), "juvenile offense" means that term as defined in section 1a of Act No. 289 of the Public Acts of 1925, being section 28.241a of the Michigan Compiled Laws. The court shall not enter an order of disposition for a juvenile offense until the court has examined the court file and has determined that the juvenile's fingerprints have been taken as required by section 3 of Act No. 289 of the Public Acts of 1925, being section 28.243 of the Michigan Compiled Laws. If a juvenile has not had his or her fingerprints taken, the court shall do either of the following:

- (a) Order the juvenile to submit himself or herself to the police agency that arrested or obtained the warrant for the arrest of the juvenile so the juvenile's fingerprints can be taken.
- (b) Order the juvenile committed to the custody of the sheriff for the taking of the juvenile's fingerprints.

(11) Upon disposition or dismissal of a juvenile offense, the clerk of the court entering the disposition or dismissal shall immediately advise the department of state police of the disposition or dismissal on forms approved by the state court administrator. The report to the department of state police shall include information as to the finding of the judge or jury and a summary of the disposition imposed.

(12) If the court enters an order of disposition based on an act that is a juvenile offense as defined in section 1 of Act No. 196 of the Public Acts of 1989, being section 780.901 of the Michigan Compiled Laws, the court shall order the juvenile to pay the assessment provided in that act.

(13) If the court has entered an order of disposition for a listed offense as defined in section 2 of the sex offenders registration act, Act No. 295 of the Public Acts of 1994, being section 28.722 of the Michigan Compiled Laws, the court or the family independence agency shall register the juvenile or accept the juvenile's registration as provided in the sex offenders registration act, Act No. 295 of the Public Acts of 1994, being sections 28.721 to 28.732 of the Michigan Compiled Laws.

(14) If the court enters an order of disposition placing a juvenile in a juvenile boot camp program and the court receives from the family independence agency a report that the juvenile has failed to perform satisfactorily in the program or a report that the juvenile does not meet the program's requirements or is medically unable to participate in the program for more than 25 days or a report that there is not an opening in a juvenile boot camp program, the court shall release the juvenile from placement in the juvenile boot camp and enter an alternative order of disposition. A juvenile shall not be placed in a juvenile boot camp pursuant to an order of disposition more than once, except that a juvenile returned to the court for a medical condition or because there was not an opening in a juvenile boot camp program may be placed again in the juvenile boot camp program after the medical condition is corrected or an opening becomes available in a juvenile boot camp program.

Section 2. This amendatory act shall take effect August 1, 1996.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 88th Legislature are enacted into law:

- (a) Senate Bill No. 681.
- (b) House Bill No. 4723.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.