



# HOUSE BILL No. 5792

April 23, 1996, Introduced by Reps. Fitzgerald, Bankes, Hill, Ryan, Bullard, Pitoniak, Bush and Perricone and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 1, 2, 11, 13a, 14, 17c, 18, 18f, 19a, and 19b 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,"

sections 1 and 14 as amended by Act No. 224 of the Public Acts of 1988, section 2 as amended by Act No. 192 of the Public Acts of

1       Section 1. Sections 1, 2, 11, 13a, 14, 17c, 18, 18f, 19a,  
2 and 19b of chapter XIIA of Act No. 288 of the Public Acts of  
3 1939, sections 1 and 14 as amended by Act No. 224 of the Public  
4 Acts of 1988, section 2 as amended by Act No. 192 of the Public  
5 Acts of 1994, section 11 as amended by Act No. 92 of the Public  
6 Acts of 1988, section 13a as amended by Act No. 114 of the Public  
7 Acts of 1993, sections 17c, 18f, 19a, and 19b as amended by Act  
8 No. 264 of the Public Acts of 1994, and section 18 as amended by  
9 Act No. 355 of the Public Acts of 1994, being sections 712A.1,  
10 712A.2, 712A.11, 712A.13a, 712A.14, 712A.17c, 712A.18, 712A.18f,  
11 712A.19a, and 712A.19b of the Michigan Compiled Laws, are amended  
12 and sections 1a, 1b, 1c, 13b, 14a, and 18g are added to read as  
13 follows:

15       Sec. 1. (1) While proceeding under this chapter, the pro-  
16       bate court shall be termed the juvenile division of the probate  
17       court. Proceedings under this chapter ~~shall~~ ARE not ~~be~~  
18       ~~considered to be~~ criminal proceedings.

1 (2) This chapter shall be liberally construed to the end  
2 that each child coming within the jurisdiction of the court  
3 ~~shall receive~~ RECEIVES the care, guidance, and control ~~, pref-~~  
4 ~~erably in his or her own home, as will be~~ THAT IS conducive to  
5 the child's BEST INTERESTS AND welfare, and TO the best interest  
6 of the state. If a child is removed from the control of his or  
7 her parents, the child shall be placed in care as nearly as pos-  
8 sible equivalent to the care ~~which~~ THAT should have been given  
9 to the child by his or her parents.

10 SEC. 1A. AS USED IN THIS CHAPTER:

11 (A) "ABUSE" MEANS ANY OF THE FOLLOWING:

12 (i) HARM OR THREATENED HARM BY A PERSON TO A CHILD'S HEALTH  
13 OR WELFARE THAT OCCURS THROUGH NONACCIDENTAL PHYSICAL OR MENTAL  
14 INJURY.

15 (ii) ENGAGING IN SEXUAL CONTACT OR PENETRATION WITH A CHILD  
16 AS DEFINED IN SECTION 520A OF THE MICHIGAN PENAL CODE, ACT  
17 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.520A OF THE  
18 MICHIGAN COMPILED LAWS.

19 (iii) SEXUAL EXPLOITATION OF A CHILD, WHICH INCLUDES, BUT IS  
20 NOT LIMITED TO, ALLOWING, PERMITTING, OR ENCOURAGING A CHILD TO  
21 ENGAGE IN PROSTITUTION, OR ALLOWING, PERMITTING, ENCOURAGING, OR  
22 ENGAGING IN THE PHOTOGRAPHING, FILMING, OR DEPICTING OF A CHILD  
23 ENGAGED IN A LISTED SEXUAL ACT AS DEFINED IN SECTION 145C OF ACT  
24 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.145C OF THE  
25 MICHIGAN COMPILED LAWS.

26 (iv) MALTREATMENT OF A CHILD.

1 (B) "AGENCY" MEANS A PUBLIC OR PRIVATE ORGANIZATION,  
2 INSTITUTION, OR FACILITY RESPONSIBLE UNDER A COURT ORDER OR  
3 CONTRACTUAL ARRANGEMENT FOR THE CARE AND SUPERVISION OF A CHILD.

4 (C) "BEST INTERESTS OF THE CHILD" OR "CHILD'S BEST  
5 INTERESTS" MEANS THE SUM TOTAL OF THE FOLLOWING FACTORS TO BE  
6 CONSIDERED, EVALUATED, AND DETERMINED BY THE COURT:

7 (i) THE ABILITY, CAPACITY, FITNESS, READINESS, AND WILLING-  
8 NESS OF THE PARENT OR GUARDIAN TO PROVIDE THE CHILD WITH NUTRI-  
9 TION, HYGIENE, SAFETY, MEDICAL CARE OR OTHER REMEDIAL CARE RECOG-  
10 NIZED AND PERMITTED UNDER THE LAWS OF THIS STATE IN PLACE OF MED-  
11 ICAL CARE, PERSONAL CARE, SUPERVISION, AND GUIDANCE.

12 (ii) THE ABILITY, CAPACITY, FITNESS, READINESS, AND WILLING-  
13 NESS OF THE PARENT OR GUARDIAN TO PROVIDE THE CHILD WITH LOVE,  
14 AFFECTION, AND PERMANENCE OF THE FAMILY UNIT.

15 (iii) THE HOME, SCHOOL, AND COMMUNITY RECORD OF THE CHILD.

16 (iv) THE REASONABLE PREFERENCE OF THE CHILD IF THE COURT  
17 CONSIDERS THE CHILD TO BE OF SUFFICIENT AGE AND CAPACITY TO  
18 EXPRESS A PREFERENCE.

19 (v) PRIOR CONTACT OF THE CHILD WITH A LAW ENFORCEMENT OFFI-  
20 CER, PROBATION OFFICER, OR COURT, THE FAMILY INDEPENDENCE AGENCY,  
21 OR A COMPARABLE OFFICER OR AGENCY IN ANOTHER STATE, INCLUDING  
22 REPORTED INCIDENTS OF ABUSE OR NEGLECT OF THE CHILD, BUT NOT  
23 INCLUDING RECEIPT OF PUBLIC ASSISTANCE.

24 (vi) PRIOR CONTACT OF A PARENT OR GUARDIAN OF THE CHILD WITH  
25 A LAW ENFORCEMENT OFFICER, PROBATION OFFICER, OR COURT, THE  
26 FAMILY INDEPENDENCE AGENCY, OR A COMPARABLE OFFICER OR AGENCY IN  
27 ANOTHER STATE INVOLVING REPORTED INCIDENTS OF ABUSE OR NEGLECT OF

1 THE CHILD OR OTHER CHILDREN IN THE CUSTODY OF THE CHILD'S PARENT  
2 OR GUARDIAN, CRIMINAL SEXUAL CONDUCT BY THE CHILD'S PARENT OR  
3 GUARDIAN, OR OTHER CRIMINAL CONDUCT BY THE CHILD'S PARENT OR  
4 GUARDIAN INVOLVING EITHER SUBSTANCE ABUSE OR PHYSICAL ASSAULT.

5 (vii) DOMESTIC VIOLENCE, REGARDLESS OF WHETHER THE VIOLENCE  
6 WAS DIRECTED AGAINST OR WITNESSED BY THE CHILD.

7 (viii) THE MENTAL AND PHYSICAL HEALTH OF THE PARTIES  
8 INVOLVED.

9 (ix) ANY OTHER FACTOR CONSIDERED BY THE COURT TO BE RELEVANT  
10 TO THE PARTICULAR CHILD'S BEST INTERESTS.

11 SEC. 1B. AS USED IN THIS CHAPTER:

12 (A) "CHILD MISTREATMENT" MEANS AN ACT OR OMISSION OF A  
13 PARENT, GUARDIAN, OR CUSTODIAN OF A CHILD THAT CAUSES THE CHILD  
14 TO COME WITHIN THE JURISDICTION OF THE JUVENILE DIVISION OF THE  
15 PROBATE COURT. CHILD MISTREATMENT IS DIVIDED INTO FIRST, SECOND,  
16 AND THIRD DEGREES AS DESCRIBED IN SECTION 1C OF THIS CHAPTER.

17 (B) "CUSTODIAN" MEANS AN ADULT WHO IS GIVEN CUSTODY OF A  
18 CHILD BY ORDER OF A CIRCUIT COURT IN MICHIGAN OR OF A COMPARABLE  
19 COURT OF ANOTHER STATE, OR AN ADULT WHO POSSESSES A VALID POWER  
20 OF ATTORNEY EXECUTED BY THE CHILD'S PARENT GIVING CUSTODY OF THE  
21 CHILD TO THE ADULT.

22 (C) "FOSTER CARE" MEANS CARE PROVIDED TO A CHILD IN A FOSTER  
23 FAMILY HOME, FOSTER FAMILY GROUP HOME, OR CHILD CARING INSTITU-  
24 TION LICENSED OR APPROVED UNDER ACT NO. 116 OF THE PUBLIC ACTS OF  
25 1973, BEING SECTIONS 722.111 TO 722.128 OF THE MICHIGAN COMPILED  
26 LAWS, OR CARE PROVIDED TO A CHILD IN A RELATIVE'S HOME UNDER AN  
27 ORDER OF THE JUVENILE DIVISION OF THE PROBATE COURT.

1 (D) "GUARDIAN" MEANS A PERSON APPOINTED AS GUARDIAN OF A  
2 CHILD BY A PROBATE COURT IN MICHIGAN UNDER SECTION 424 OR 424A OF  
3 THE REVISED PROBATE CODE, ACT NO. 642 OF THE PUBLIC ACTS OF 1978,  
4 BEING SECTIONS 700.424 AND 700.424A OF THE MICHIGAN COMPILED  
5 LAWS, OR BY A COURT OF ANOTHER STATE UNDER A COMPARABLE STATUTORY  
6 PROVISION.

7 (E) "PERPETRATOR" MEANS A PARENT, GUARDIAN, OR CUSTODIAN WHO  
8 INTENTIONALLY OR UNINTENTIONALLY CAUSES OR PERMITS A CHILD TO BE  
9 SUBJECT TO MISTREATMENT IN THE FIRST, SECOND, OR THIRD DEGREE.

10 (F) "TORTURE OF A CHILD" MEANS THE INTENTIONAL INFLECTION OF  
11 PAIN FOR A PURPOSE OTHER THAN LEGITIMATE PUNISHMENT OR THE INTEN-  
12 TIONAL INFLECTION OF PAIN BEYOND WHAT A REASONABLE PARENT WOULD  
13 INFLICT FOR THE PURPOSE OF LEGITIMATE PUNISHMENT.

14 SEC. 1C. (1) FIRST DEGREE CHILD MISTREATMENT IS ANY OF THE  
15 FOLLOWING:

16 (A) CRIMINAL SEXUAL CONDUCT INVOLVING PENETRATION OF THE  
17 CHILD.

18 (B) LIFE-THREATENING INJURY TO THE CHILD.

19 (C) LOSS OR SERIOUS IMPAIRMENT OF A BODY ORGAN OR LIMB OF  
20 THE CHILD.

21 (D) MURDER OR ATTEMPTED MURDER OF A SIBLING OR PARENT OF THE  
22 CHILD.

23 (E) ATTEMPTED MURDER OF THE CHILD.

24 (F) TORTURE OF THE CHILD.

25 (G) ABANDONMENT OF A CHILD UNDER THE AGE OF 10, OR OF A  
26 CHILD OF ANY AGE WHO IS SEVERELY MENTALLY OR PHYSICALLY IMPAIRED,  
27 WITHOUT LEAVING THE CHILD WITH AN ADULT.

1 (2) SECOND DEGREE CHILD MISTREATMENT IS EITHER OF THE  
2 FOLLOWING:

3 (A) A FAILURE OVER A SUBSTANTIAL PERIOD OF TIME, CONSIDERING  
4 THE CHILD'S AGE, TO PROVIDE OR ARRANGE FOR THE PROVISION OF MINI-  
5 MALLY NECESSARY NUTRITION, HYGIENE, SAFETY, MEDICAL ATTENTION,  
6 PERSONAL CARE, SUPERVISION, OR GUIDANCE REQUIRED FOR THE CHILD'S  
7 GROWTH AND WELL-BEING, IF THERE HAS BEEN PREVIOUS CONTACT BETWEEN  
8 THE CHILD AND A LAW ENFORCEMENT OFFICER, PROBATION OFFICER, OR  
9 COURT, OR THE FAMILY INDEPENDENCE AGENCY, OR A COMPARABLE OFFICER  
10 OR AGENCY IN ANOTHER STATE, INCLUDING REPORTED INCIDENTS OF ABUSE  
11 OR NEGLECT OF THE CHILD, BUT NOT INCLUDING RECEIPT OF PUBLIC  
12 ASSISTANCE.

13 (B) CHRONIC AND SERIOUS BEATING, BURNING, BONDAGE, INJURY,  
14 OR EMOTIONAL MISTREATMENT OF THE CHILD THAT IS NOT FIRST DEGREE  
15 CHILD MISTREATMENT.

16 (3) THIRD DEGREE CHILD MISTREATMENT IS ANY OF THE FOLLOWING  
17 THAT DOES NOT CONSTITUTE FIRST OR SECOND DEGREE CHILD  
18 MISTREATMENT:

19 (A) A CHILD'S PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR  
20 THE CHILD'S CARE AND MAINTENANCE, IF ABLE TO DO SO, NEGLECTS OR  
21 REFUSES TO PROVIDE PROPER OR NECESSARY SUPPORT, EDUCATION, OR  
22 MEDICAL, SURGICAL, OR OTHER CARE NECESSARY FOR THE CHILD'S HEALTH  
23 OR MORALS. AS USED IN THIS SUBDIVISION, "EDUCATION" MEANS LEARN-  
24 ING BASED ON AN ORGANIZED EDUCATIONAL PROGRAM THAT IS APPROPRI-  
25 ATE, GIVEN THE CHILD'S AGE, INTELLIGENCE, ABILITY, AND PSYCHOLOG-  
26 ICAL LIMITATIONS, IN THE SUBJECT AREAS OF READING, SPELLING,

1 MATHEMATICS, SCIENCE, HISTORY, CIVICS, WRITING, AND ENGLISH  
2 GRAMMAR.

3 (B) A CHILD IS SUBJECT TO A SUBSTANTIAL RISK OF HARM TO HIS  
4 OR HER MENTAL WELL-BEING.

5 (C) A CHILD IS ABANDONED BY HIS OR HER PARENTS, GUARDIAN, OR  
6 OTHER CUSTODIAN.

7 (D) A CHILD IS WITHOUT PROPER CUSTODY OR GUARDIANSHIP. AS  
8 USED IN THIS SUBDIVISION, "WITHOUT PROPER CUSTODY OR  
9 GUARDIANSHIP" DOES NOT INCLUDE A SITUATION IN WHICH A PARENT  
10 PLACES THE CHILD WITH ANOTHER PERSON WHO IS LEGALLY RESPONSIBLE  
11 FOR THE CARE AND MAINTENANCE OF THE CHILD AND WHO IS ABLE TO AND  
12 DOES PROVIDE THE CHILD WITH PROPER CARE AND MAINTENANCE.

13 (E) A CHILD'S HOME OR ENVIRONMENT IS AN UNFIT PLACE FOR THE  
14 CHILD TO LIVE BY REASON OF A PARENT'S, GUARDIAN'S, OR OTHER  
15 CUSTODIAN'S NEGLIGENCE, CRUELTY, DRUNKENNESS, CRIMINALITY, OR  
16 DEPRAVITY.

17 (F) A CHILD'S PARENT SUBSTANTIALLY FAILS, WITHOUT GOOD  
18 CAUSE, TO COMPLY WITH A LIMITED GUARDIANSHIP PLACEMENT PLAN  
19 DESCRIBED IN SECTION 424A OF THE REVISED PROBATE CODE, ACT  
20 NO. 642 OF THE PUBLIC ACTS OF 1978, BEING SECTION 700.424A OF THE  
21 MICHIGAN COMPILED LAWS, REGARDING THE CHILD.

22 (G) A CHILD'S PARENT SUBSTANTIALLY FAILS, WITHOUT GOOD  
23 CAUSE, TO COMPLY WITH A COURT-STRUCTURED PLACEMENT PLAN DESCRIBED  
24 IN SECTION 424B OR 424C OF ACT NO. 642 OF THE PUBLIC ACTS OF  
25 1978, BEING SECTIONS 700.424B AND 700.424C OF THE MICHIGAN  
26 COMPILED LAWS, REGARDING THE CHILD.



1 (H) A CHILD HAS A GUARDIAN APPOINTED UNDER ACT NO. 642 OF  
2 THE PUBLIC ACTS OF 1978, BEING SECTIONS 700.1 TO 700.993 OF THE  
3 MICHIGAN COMPILED LAWS, AND BOTH OF THE FOLLOWING ARE TRUE CON-  
4 CERNING THE CHILD'S PARENT:

5 (i) HAVING THE ABILITY TO SUPPORT OR ASSIST IN SUPPORTING  
6 THE CHILD, THE CHILD'S PARENT FAILS OR NEGLECTS, WITHOUT GOOD  
7 CAUSE, TO PROVIDE REGULAR AND SUBSTANTIAL SUPPORT FOR THE CHILD  
8 FOR A PERIOD OF 2 YEARS OR MORE BEFORE THE FILING OF THE PETITION  
9 OR, IF A SUPPORT ORDER HAS BEEN ENTERED, FAILS TO SUBSTANTIALLY  
10 COMPLY WITH THE ORDER FOR A PERIOD OF 2 YEARS OR MORE BEFORE THE  
11 FILING OF THE PETITION.

12 (ii) HAVING THE ABILITY TO VISIT, CONTACT, OR COMMUNICATE  
13 WITH THE CHILD, THE CHILD'S PARENT REGULARLY AND SUBSTANTIALLY  
14 FAILS OR NEGLECTS, WITHOUT GOOD CAUSE, TO DO SO FOR A PERIOD OF 2  
15 YEARS OR MORE BEFORE THE FILING OF THE PETITION.

16 Sec. 2. The juvenile division of the probate court has the  
17 following authority and jurisdiction:

18 (a) Exclusive original jurisdiction superior to and regard-  
19 less of the jurisdiction of any other court in proceedings con-  
20 cerning a child under 17 years of age who is found within the  
21 county if 1 or more of the following applies:

22 (1) Except as otherwise provided in this subparagraph, the  
23 child has violated any municipal ordinance or law of the state or  
24 of the United States. The juvenile division of the probate court  
25 has jurisdiction over a child 15 years of age or older who is  
26 charged with a violation of section 83, 89, 91, 316, 317, 520b,  
27 529, or 529a of the Michigan penal code, Act No. 328 of the

1 Public Acts of 1931, being sections 750.83, 750.89, 750.91,  
2 750.316, 750.317, 750.520b, 750.529, and 750.529a of the Michigan  
3 Compiled Laws, or section 7401(2)(a)(i) or 7403(2)(a)(i) of the  
4 public health code, Act No. 368 of the Public Acts of 1978, being  
5 sections 333.7401 and 333.7403 of the Michigan Compiled Laws,  
6 only if the prosecuting attorney files a petition in juvenile  
7 court instead of authorizing a complaint and warrant.

8       (2) The child has deserted his or her home without suffi-  
9 cient cause and the court finds on the record that the child has  
10 been placed or refused alternative placement or the child and the  
11 child's parent, guardian, or custodian have exhausted or refused  
12 family counseling.

13       (3) The child is repeatedly disobedient to the reasonable  
14 and lawful commands of his or her parents, guardian, or custodian  
15 and the court finds on the record by clear and convincing evi-  
16 dence that court-accessed services are necessary.

17       (4) The child willfully and repeatedly absents himself or  
18 herself from school or other learning program intended to meet  
19 the child's educational needs, or repeatedly violates rules and  
20 regulations of the school or other learning program, and the  
21 court finds on the record that the child, the child's parent,  
22 guardian, or custodian, and school officials or learning program  
23 personnel have met on the child's educational problems, and edu-  
24 cational counseling and alternative agency help have been  
25 sought. As used in this subparagraph only, "learning program"  
26 means an organized educational program that is appropriate, given  
27 the age, intelligence, ability, and any psychological limitations

1 of a child, in the subject areas of reading, spelling,  
2 mathematics, science, history, civics, writing, and English  
3 grammar.

4 (b) Jurisdiction in proceedings concerning ~~any~~ A child  
5 under 18 years of age found within the county ~~—~~ WHO IS THE  
6 VICTIM OF FIRST, SECOND, OR THIRD DEGREE CHILD MISTREATMENT.

7 ~~(1) Whose parent or other person legally responsible for~~  
8 ~~the care and maintenance of the child, when able to do so,~~  
9 ~~neglects or refuses to provide proper or necessary support, edu-~~  
10 ~~cation, medical, surgical, or other care necessary for his or her~~  
11 ~~health or morals, who is subject to a substantial risk of harm to~~  
12 ~~his or her mental well being, who is abandoned by his or her par-~~  
13 ~~ents, guardian, or other custodian, or who is without proper cus-~~  
14 ~~tody or guardianship. As used in this subparagraph:~~

15 ~~(A) "Education" means learning based on an organized educa-~~  
16 ~~tional program that is appropriate, given the age, intelligence,~~  
17 ~~ability, and any psychological limitations of a child, in the~~  
18 ~~subject areas of reading, spelling, mathematics, science, histo-~~  
19 ~~ry, civics, writing, and English grammar.~~

20 ~~(B) "Without proper custody or guardianship" does not~~  
21 ~~include the situation where a parent has placed the child with~~  
22 ~~another person who is legally responsible for the care and main-~~  
23 ~~tenance of the child and who is able to and does provide the~~  
24 ~~child with proper care and maintenance.~~

25 ~~(2) Whose home or environment, by reason of neglect, cruel-~~  
26 ~~ty, drunkenness, criminality, or depravity on the part of a~~

~~1 parent, guardian, or other custodian, is an unfit place for the  
2 child to live in.~~

~~3 (3) Whose parent has substantially failed, without good  
4 cause, to comply with a limited guardianship placement plan  
5 described in section 424a of the revised probate code, Act  
6 No. 642 of the Public Acts of 1978, being section 700.424a of the  
7 Michigan Compiled Laws, regarding the child.~~

~~8 (4) Whose parent has substantially failed, without good  
9 cause, to comply with a court structured plan described in  
10 section 424b or 424c of the revised probate code, Act No. 642 of  
11 the Public Acts of 1978, being sections 700.424b and 700.424c of  
12 the Michigan Compiled Laws, regarding the child.~~

~~13 (5) If the child has a guardian under the revised probate  
14 code, Act No. 642 of the Public Acts of 1978, being sections  
15 700.1 to 700.993 of the Michigan Compiled Laws, and the child's  
16 parent meets both of the following criteria:~~

~~17 (A) The parent, having the ability to support or assist in  
18 supporting the child, has failed or neglected, without good  
19 cause, to provide regular and substantial support for the child  
20 for a period of 2 years or more before the filing of the petition  
21 or, if a support order has been entered, has failed to substan-  
22 tially comply with the order for a period of 2 years or more  
23 before the filing of the petition.~~

~~24 (B) The parent, having the ability to visit, contact, or  
25 communicate with the child, has regularly and substantially  
26 failed or neglected, without good cause, to do so for a period of  
27 2 years or more before the filing of the petition.~~

1 ~~If a petition is filed in any probate court alleging that a~~  
2 ~~child is within the provisions of subdivision (b)(1), (2), (3),~~  
3 ~~(4), or (5), and the custody of that child is subject to the~~  
4 ~~prior or continuing order of another court of record of this~~  
5 ~~state, the manner of notice to the other court and the authority~~  
6 ~~of the probate court to proceed is governed by rule of the~~  
7 ~~supreme court.~~

8 (c) Jurisdiction over children under 18 years of age, juris-  
9 diction of whom has been waived to the juvenile division of the  
10 probate court by a circuit court ~~pursuant to~~ UNDER a provision  
11 in a temporary order for custody of children based upon a com-  
12 plaint for divorce or upon a motion pursuant to a complaint for  
13 divorce by the prosecuting attorney, in a divorce judgment dis-  
14 solving a marriage between the parents of the minor children, or  
15 by an amended judgment relative to the custody of the child in a  
16 divorce.

17 (d) If the court finds on the record that voluntary services  
18 have been exhausted or refused, concurrent jurisdiction in pro-  
19 ceedings concerning ~~any~~ A child between the ages of 17 and 18  
20 found within the county:

21 (1) Who is repeatedly addicted to the use of drugs or the  
22 intemperate use of alcoholic liquors.

23 (2) Who repeatedly associates with criminal, dissolute, or  
24 disorderly persons.

25 (3) Who is found of his or her own free will and knowledge  
26 in a house of prostitution, assignation, or ill-fame.

1 (4) Who repeatedly associates with thieves, prostitutes,  
2 pimps, or procurers.

3 (5) Who is willfully disobedient to the reasonable and  
4 lawful commands of his or her parents, guardian, or other custo-  
5 dian and is in danger of becoming morally depraved.

6 ~~If any child is brought before the juvenile division of the~~  
7 ~~probate court in a county other than that in which the child~~  
8 ~~resides, the court may enter an order before a hearing transfer-~~  
9 ~~ring the jurisdiction of the matter to the court of the county of~~  
10 ~~residence, which shall not be construed as a legal settlement as~~  
11 ~~defined in section 55 of the social welfare act, Act No. 280 of~~  
12 ~~the Public Acts of 1939, as amended, being section 400.55 of the~~  
13 ~~Michigan Compiled Laws, with the consent of the probate judge of~~  
14 ~~the county of residence. The order, together with a certified~~  
15 ~~copy of the proceedings in the transferring court, shall be~~  
16 ~~delivered to the court of the county of residence.~~

17 (e) Authority to establish or assist in developing a program  
18 or programs within the county to prevent delinquency and provide  
19 services to act upon reports submitted to the court related to  
20 the behavior of children who do not require formal court juris-  
21 diction but otherwise fall within subdivision (a). These serv-  
22 ices shall be used only if they are voluntarily accepted by the  
23 child and his or her parents, guardian, or custodian.

24 (f) If the court operates a detention home for children  
25 within the court's jurisdiction under subdivision (a)(1), author-  
26 ity to place a child within that home pending trial if the child  
27 is within the circuit court's jurisdiction under section 606 of

1 the revised judicature act of 1961, Act No. 236 of the Public  
2 Acts of 1961, being section 600.606 of the Michigan Compiled  
3 Laws, or within the recorder's court of the city of Detroit's  
4 jurisdiction under section 10a(1)(c) of Act No. 369 of the Public  
5 Acts of 1919, being section 725.10a of the Michigan Compiled  
6 Laws, and if the circuit court or the recorder's court of the  
7 city of Detroit orders the juvenile division of the probate court  
8 in the same county to place the child in that home. The juvenile  
9 division shall comply with that order.

10 (G) IF A CHILD IS BROUGHT BEFORE THE JUVENILE DIVISION OF  
11 THE PROBATE COURT IN A COUNTY OTHER THAN THAT IN WHICH THE CHILD  
12 RESIDES, THE COURT MAY ENTER AN ORDER AT ANY STAGE OF THE PRO-  
13 CEEDING TRANSFERRING THE JURISDICTION OF THE MATTER TO THE COURT  
14 OF THE COUNTY OF RESIDENCE, WHICH SHALL NOT BE CONSTRUED AS A  
15 LEGAL SETTLEMENT AS DEFINED IN SECTION 55 OF THE SOCIAL WELFARE  
16 ACT, ACT NO. 280 OF THE PUBLIC ACTS OF 1939, BEING SECTION 400.55  
17 OF THE MICHIGAN COMPILED LAWS, WITH THE CONSENT OF THE PROBATE  
18 JUDGE OF THE COUNTY OF RESIDENCE. THE ORDER, TOGETHER WITH A  
19 CERTIFIED COPY OF THE PROCEEDINGS IN THE TRANSFERRING COURT,  
20 SHALL BE DELIVERED TO THE COURT OF THE COUNTY OF RESIDENCE.

21 Sec. 11. ~~-(1) Before June 1, 1988, if a person gives infor-~~  
22 ~~mation to the juvenile division of the probate court that a child~~  
23 ~~is within the provisions of this chapter, a preliminary inquiry~~  
24 ~~may be made to determine whether the interests of the public or~~  
25 ~~of the child require that further action be taken. If it appears~~  
26 ~~that formal jurisdiction should be acquired, the court shall~~  
27 ~~authorize a petition to be filed.~~

1       (1) ~~(2) Beginning June 1, 1988 and except~~ EXCEPT as  
 2 provided in subsection ~~(3)~~ (2), if a person gives information  
 3 to the juvenile division of the probate court that a child is  
 4 within section 2(a)(2) to ~~(6)~~ (4), (b), (c), ~~or~~ (d), (E),  
 5 (F), OR (G) of this chapter, a preliminary inquiry may be made to  
 6 determine whether the interests of the public or of the child  
 7 require that further action be taken. If it appears that formal  
 8 jurisdiction should be acquired, the court shall authorize a  
 9 petition to be filed.

10       (2) ~~(3) Beginning June 1, 1988, only~~ ONLY the prosecuting  
 11 attorney may file a petition requesting the court to take juris-  
 12 diction of a child allegedly within section 2(a)(1) of this  
 13 chapter. If the prosecuting attorney submits a petition request-  
 14 ing the court to take jurisdiction of a child allegedly within  
 15 section 2(a)(1) of this chapter and it appears that formal juris-  
 16 diction should be acquired, the court shall authorize a petition  
 17 to be filed.

18       (3) ~~(4)~~ The petition described in subsections (1) ~~—~~ AND  
 19 (2) ~~—, and (3),~~ shall be verified and may be upon information  
 20 and belief. The petition shall set forth plainly the facts that  
 21 bring the child within this chapter and shall contain all of the  
 22 following information:

- 23       (a) The name, birth date, and address of the child.
- 24       (b) The name and address of the child's parents.
- 25       (c) The name and address of the child's legal guardian, if
- 26 there is one.



1 (d) The name and address of each person having custody or  
2 control of the child.

3 (e) The name and address of the child's nearest known rela-  
4 tive, if no parent or guardian can be found.

5 (4) ~~(5)~~ If any of the facts required by subsection ~~(4)~~  
6 (3) are not known to the petitioner, the petition shall so  
7 state. If the child attains his or her seventeenth birthday  
8 after the filing of the petition, the jurisdiction of the court  
9 ~~shall continue~~ CONTINUES beyond the child's seventeenth birth-  
10 day, and the court ~~shall have~~ HAS authority to hear and dispose  
11 of the petition in accordance with this chapter.

12 (5) ~~(6) Beginning June 1, 1988, at~~ AT the time a petition  
13 is authorized, the court shall examine the court file to deter-  
14 mine if a child has had fingerprints taken as required by  
15 section 3 of Act No. 289 of the Public Acts of 1925, being sec-  
16 tion 28.243 of the Michigan Compiled Laws. If a child has not  
17 had his or her fingerprints taken, the court shall do either of  
18 the following:

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

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

24 (7) A petition or other court record may be amended at any  
25 stage of the proceedings, as the ends of justice may require.

26 (8) If the juvenile diversion act, ACT NO. 13 OF THE PUBLIC  
27 ACTS OF 1988, BEING SECTIONS 722.821 TO 722.831 OF THE MICHIGAN

1 COMPILED LAWS, is complied with and it appears that court  
 2 services can be used in the prevention of delinquency without  
 3 formal jurisdiction, the court may offer court services to chil-  
 4 dren without a petition being authorized as provided in section  
 5 2(e) of this chapter.

6 Sec. 13a. ~~(1) As used in this section and sections 18f,~~  
 7 ~~19, 19a, 19b, and 19c of this chapter:~~

8 ~~(a) "Agency" means a public or private organization, insti-~~  
 9 ~~tution, or facility responsible pursuant to court order or con-~~  
 10 ~~tractual arrangement for the care and supervision of a child.~~

11 ~~(b) "Foster care" means care provided to a child in a foster~~  
 12 ~~family home, foster family group home, or child caring institu-~~  
 13 ~~tion licensed or approved under Act No. 116 of the Public Acts of~~  
 14 ~~1973, being sections 722.111 to 722.128 of the Michigan Compiled~~  
 15 ~~Laws, or care provided to a child in a relative's home pursuant~~  
 16 ~~to an order by the juvenile division of the probate court.~~

17 (1) ~~(2)~~ If a child is alleged to come within the provi-  
 18 sions of section 2(b) of this chapter, the court may authorize a  
 19 petition to be filed at the conclusion of the preliminary hearing  
 20 or inquiry. The petition may be authorized upon a showing of  
 21 probable cause that 1 or more of the allegations in the petition  
 22 are true and fall within ~~the provisions of~~ section 2(b) of this  
 23 chapter.

24 (2) ~~(3)~~ If a petition under subsection ~~(2)~~ (1) is autho-  
 25 rized AND THE COURT FINDS THAT THERE IS NOT PROBABLE CAUSE TO  
 26 BELIEVE THE CHILD IS A VICTIM OF FIRST DEGREE CHILD MISTREATMENT,  
 27 the court may release the child in the custody of either ~~of~~ the

1 child's parents, guardian, or custodian under ~~such~~ THE  
2 reasonable terms and conditions ~~as~~ THAT are necessary for  
3 either the physical health or mental well-being of the child.

4 (3) ~~(4)~~ If a petition alleging abuse by a parent, guardi-  
5 an, custodian, or other person residing in the child's home is  
6 authorized under subsection ~~(2)~~ (1) and the court after a hear-  
7 ing finds probable cause to believe the parent, guardian, custo-  
8 dian, or other person committed the abuse, the court may order  
9 that parent, guardian, custodian, or other person to leave the  
10 home and not subsequently return to it, except as the court  
11 orders, and may release the child to the other parent or to  
12 another guardian or custodian. The court shall not enter an  
13 order under this subsection unless the court ~~determines~~ FINDS  
14 all of the following:

15 (a) The presence in the home of the person who is alleged to  
16 have committed the abuse presents a substantial risk of harm to  
17 the child's life, physical health, or mental well-being.

18 (b) Removing the person who is alleged to have committed the  
19 abuse is necessary to adequately safeguard the child from the  
20 risk of harm to the child's life, physical health, or mental  
21 well-being.

22 (c) The conditions of custody with the other parent or  
23 another guardian or custodian are adequate to safeguard the child  
24 from the risk of harm to the child's life, physical health, or  
25 mental well-being.

26 (d) It is in the best interests of the child for the child  
27 to remain in the home.

1       (4) ~~-(5)-~~ In determining whether to enter an order under  
2 subsection ~~-(4)-~~ (3), the court may consider whether the parent  
3 who is to remain in the child's home is married to the person to  
4 be removed or has a legal right to retain possession of the  
5 home.

6       (5) ~~-(6)-~~ An order entered under subsection ~~-(4)-~~ (3) may  
7 also contain 1 or more of the following terms or conditions:

8       (a) The court may require the alleged abusive parent to pay  
9 appropriate support to maintain a suitable home environment for  
10 the child during the duration of the order.

11       (b) The court may order the alleged abusive person, accord-  
12 ing to terms the court may set, to surrender to a local law  
13 enforcement agency any firearms or other potentially dangerous  
14 weapons the alleged abusive person owns, possesses, or uses.

15       (c) The court may include any reasonable term or condition  
16 necessary for the child's physical or mental well-being or neces-  
17 sary to protect the child.

18       (6) ~~-(7)-~~ If a petition under subsection ~~-(2)-~~ (1) is autho-  
19 rized, the court may order placement of the child with someone  
20 other than a parent if the court after hearing ~~determines that~~  
21 ~~both of the following conditions exist: (a) Custody~~ FINDS THAT  
22 THERE IS PROBABLE CAUSE TO BELIEVE THAT THE CHILD IS A VICTIM OF  
23 SECOND OR THIRD DEGREE CHILD MISTREATMENT AND CUSTODY of the  
24 child with a parent, guardian, or custodian presents a substan-  
25 tial risk of harm to the child's life, physical health, or mental  
26 well-being and no provision of service or other arrangement

1 except removal of the child is reasonably available to adequately  
2 safeguard the child from ~~such~~ THAT risk.

3 ~~(b) Conditions of custody of the child away from a parent,~~  
4 ~~guardian, or custodian are adequate to safeguard the child's~~  
5 ~~health and welfare.~~

6 (7) IF A PETITION UNDER SUBSECTION (1) IS AUTHORIZED, THE  
7 COURT SHALL ORDER PLACEMENT OF THE CHILD WITH SOMEONE OTHER THAN  
8 THE ALLEGED PERPETRATOR IF THE COURT AFTER HEARING FINDS THAT  
9 THERE IS PROBABLE CAUSE TO BELIEVE THAT THE CHILD IS A VICTIM OF  
10 FIRST DEGREE CHILD MISTREATMENT, UNLESS THE PARENT, GUARDIAN,  
11 CUSTODIAN, CHILD, OR AGENCY DEMONSTRATES THAT IT IS IN THE  
12 CHILD'S BEST INTEREST TO REMAIN WITH THE ALLEGED PERPETRATOR.  
13 THE COURT SHALL STATE ON THE RECORD THE REASONS FOR PLACING THE  
14 CHILD WITH THE ALLEGED PERPETRATOR.

15 (8) If the court orders placement of the child outside the  
16 child's home, the court shall inform the parties of the  
17 following:

18 (a) The agency has the responsibility to prepare an initial  
19 services plan within 30 days of the child's placement.

20 (b) The general elements of an initial services plan as  
21 required by the rules promulgated ~~pursuant to~~ UNDER Act No. 116  
22 of the Public Acts of 1973, BEING SECTIONS 722.111 TO 722.128 OF  
23 THE MICHIGAN COMPILED LAWS.

24 (c) Without a court order participation in an initial serv-  
25 ices plan is voluntary.

1 (9) In determining placement of a child pending trial, the  
2 court shall order the child placed in the most family-like  
3 setting available consistent with the needs of the child.

4 (10) ~~Unless visitation, even if supervised, would be harm-~~  
5 ~~ful to the child, the child's parent shall be permitted to visit~~  
6 ~~frequently with the child. (++)~~ Upon the motion of any party,  
7 the court shall review custody and placement orders and initial  
8 services plans pending trial and may modify those orders and  
9 plans as the court considers ~~pursuant to this section~~ are in  
10 the best interests of the child.

11 ~~(+2) As used in subsection (4), "abuse" means any of the~~  
12 ~~following:~~

13 ~~(a) Harm or threatened harm by a person to a child's health~~  
14 ~~or welfare that occurs through nonaccidental physical or mental~~  
15 ~~injury.~~

16 ~~(b) Engaging in sexual contact or penetration with a child~~  
17 ~~as defined in section 520a of the Michigan penal code, Act~~  
18 ~~No. 328 of the Public Acts of 1931, being section 750.520a of the~~  
19 ~~Michigan Compiled Laws.~~

20 ~~(c) Sexual exploitation of a child, which includes, but is~~  
21 ~~not limited to, allowing, permitting, or encouraging a child to~~  
22 ~~engage in prostitution, or allowing, permitting, encouraging, or~~  
23 ~~engaging in the photographing, filming, or depicting of a child~~  
24 ~~engaged in a listed sexual act as defined in section 145c of Act~~  
25 ~~No. 328 of the Public Acts of 1931, being section 750.145c of the~~  
26 ~~Michigan Compiled Laws.~~

~~(d) Maltreatment of a child.~~

SEC. 13B. IF A CHILD IS PHYSICALLY SEPARATED FROM A PARENT, GUARDIAN, OR OTHER CUSTODIAN BECAUSE THE COURT FINDS PROBABLE CAUSE TO BELIEVE THE CHILD IS A VICTIM OF CHILD MISTREATMENT, VISITATION SHALL BE PROVIDED ONLY IN ACCORDANCE WITH 1 OF THE FOLLOWING:

(A) IF THE COURT FINDS PROBABLE CAUSE OF FIRST DEGREE CHILD MISTREATMENT, THE COURT SHALL NOT ALLOW VISITATION BY THE ALLEGED PERPETRATOR UNLESS A PARENT, GUARDIAN, OR OTHER CUSTODIAN, THE CHILD, OR THE AGENCY DEMONSTRATES THAT VISITATION IS IN THE CHILD'S BEST INTERESTS. THE COURT SHALL STATE ON THE RECORD THE REASONS FOR ALLOWING VISITATION UNDER THIS SUBDIVISION.

(B) IF THE COURT FINDS PROBABLE CAUSE OF SECOND DEGREE CHILD MISTREATMENT, THE COURT SHALL NOT ALLOW VISITATION BY THE ALLEGED PERPETRATOR UNTIL 30 DAYS AFTER THE DATE OF THE CHILD'S SEPARATION FROM THE PERPETRATOR, UNLESS A PARENT, GUARDIAN, OR OTHER CUSTODIAN, THE CHILD, OR THE AGENCY DEMONSTRATES THAT VISITATION IS IN THE CHILD'S BEST INTERESTS. IN ITS DISCRETION, THE COURT MAY ALLOW VISITATION WITH THE ALLEGED PERPETRATOR AFTER THE 30-DAY PERIOD WITH SUPERVISION. THE COURT SHALL STATE ON THE RECORD THE REASONS FOR ALLOWING VISITATION UNDER THIS SUBDIVISION.

(C) IF THE COURT FINDS PROBABLE CAUSE OF THIRD DEGREE CHILD MISTREATMENT, THE COURT SHALL ALLOW FREQUENT VISITATION BY THE ALLEGED PERPETRATOR UNLESS VISITATION, EVEN IF SUPERVISED, IS NOT IN THE CHILD'S BEST INTERESTS. THE COURT SHALL STATE ON THE RECORD THE REASONS FOR DENYING VISITATION UNDER THIS SUBDIVISION.

1       Sec. 14. (1) ~~Any local police officer, sheriff or deputy~~  
2 ~~sheriff, state police officer, county agent~~ A LAW ENFORCEMENT  
3 OFFICER or probation officer of ~~any~~ A court of record may,  
4 without the order of the court, immediately take into custody  
5 ~~any~~ A child who is found violating ~~any~~ A law or ordinance. ~~—~~  
6 ~~or whose surroundings are such as to endanger his or her health,~~  
7 ~~morals, or welfare. If such an~~ IF THE officer ~~or county agent~~  
8 takes a child coming within the provisions of this chapter into  
9 custody, he or she shall immediately attempt to notify the  
10 CHILD'S parent or parents, guardian, or custodian. While await-  
11 ing the arrival of the parent or parents, guardian, or custodian,  
12 a child under the age of 17 years taken into custody under the  
13 provisions of this chapter shall not be held in ~~any~~ A detention  
14 facility unless the child is completely isolated so as to prevent  
15 ~~any~~ verbal, visual, or physical contact with ~~any~~ AN adult  
16 prisoner. Unless the child requires immediate detention as pro-  
17 vided for in this act, the officer shall accept the written prom-  
18 ise of the parent or parents, guardian, or custodian, to bring  
19 the child to the court at a time fixed ~~therein~~ IN THAT  
20 PROMISE. The child shall then be released to the custody of the  
21 parent or parents, guardian, or custodian.

22       (2) If a child is not released under subsection (1), the  
23 child and his or her parents, guardian, or custodian, if they can  
24 be located, shall immediately be brought before the court for a  
25 preliminary hearing on the status of the child, and an order  
26 signed by a judge of probate or a referee authorizing the filing



1 of a complaint shall be entered or the child shall be released to  
2 his or her parent or parents, guardian, or custodian.

3 (3) If a complaint is authorized under subsection (2), the  
4 order shall state where the child is to be placed, pending inves-  
5 tigation and hearing, which placement may be in any of the  
6 following:

7 (a) In the home of the child's parent, guardian, or  
8 custodian.

9 (b) If a child is within the court's jurisdiction under sec-  
10 tion 2(a) of this chapter, in a suitable foster care home subject  
11 to the court's supervision. ~~Except as otherwise provided in~~  
12 ~~subsections (4) and (5), if a child is within the court's juris-~~  
13 ~~diction under section 2(b) of this chapter, the court shall not~~  
14 ~~place a child in a foster care home subject to the court's~~  
15 ~~supervision.~~

16 (c) In a child care institution or child placing agency  
17 licensed by the ~~state department of social services~~ FAMILY  
18 INDEPENDENCE AGENCY to receive for care children within the  
19 jurisdiction of the court.

20 (d) In a suitable place of detention.

21 ~~(4) Except as otherwise provided in subsection (5), if a~~  
22 ~~court is providing at the time of the enactment of this subsec-~~  
23 ~~tion foster care home services subject to the court's supervision~~  
24 ~~to children within section 2(b) of this chapter, the court may~~  
25 ~~continue to provide those services through December 31, 1989.~~  
26 ~~Beginning January 1, 1990, the court shall discontinue providing~~  
27 ~~those services.~~

~~1 (5) If a court located in a county with a population in  
2 excess of 650,000 is providing at the time of the enactment of  
3 this subsection foster care home services subject to the court's  
4 supervision to children within section 2(b) of this chapter, the  
5 court may continue to provide those services through  
6 December 31, 1991. Beginning January 1, 1992, the court shall  
7 discontinue those services.~~

8 SEC. 14A. (1) A LAW ENFORCEMENT OFFICER OR PROBATION OFFI-  
9 CER OF A COURT OF RECORD MAY, WITHOUT THE ORDER OF THE COURT,  
10 IMMEDIATELY REMOVE A CHILD FROM THE CHILD'S SURROUNDINGS AND TAKE  
11 THE CHILD INTO TEMPORARY CUSTODY, IF, AFTER INVESTIGATION, THE  
12 OFFICER HAS REASONABLE GROUNDS TO CONCLUDE THAT THE CHILD'S  
13 HEALTH, SAFETY, OR WELFARE IS ENDANGERED. THE OFFICER MAY DETAIN  
14 THE CHILD IN PROTECTIVE CUSTODY UNTIL THE NEXT REGULAR BUSINESS  
15 DAY OF THE PROBATE COURT.

16 (2) A LAW ENFORCEMENT OFFICER OR PROBATION OFFICER WHO TAKES  
17 A CHILD INTO CUSTODY UNDER THIS SECTION SHALL DO ALL OF THE  
18 FOLLOWING:

19 (A) IMMEDIATELY ATTEMPT TO NOTIFY THE CHILD'S PARENT, GUARD-  
20 IAN, OR CUSTODIAN OF THE PLACEMENT OF THE CHILD.

21 (B) ATTEMPT TO INFORM THE PARENT, GUARDIAN, OR CUSTODIAN  
22 THAT THE CHILD WILL BE DETAINED IN PROTECTIVE CUSTODY UNTIL THE  
23 NEXT REGULAR BUSINESS DAY OF THE PROBATE COURT.

24 (C) IMMEDIATELY CONTACT THE FAMILY INDEPENDENCE AGENCY FOR  
25 PLACEMENT PENDING PRELIMINARY HEARING.

26 (3) AN AGENT FROM THE FAMILY INDEPENDENCE AGENCY WHO IS  
27 INFORMED BY AN OFFICER THAT A CHILD IS TO BE DETAINED UNDER THIS

1 SECTION SHALL FIND SUITABLE TEMPORARY PLACEMENT FOR THE CHILD  
2 PENDING A PRELIMINARY HEARING OR OTHER DISPOSITION OF THE  
3 MATTER.

4 (4) IF THE OFFICER OR FAMILY INDEPENDENCE AGENCY'S AGENT  
5 FINDS THERE IS PROBABLE CAUSE TO BELIEVE THAT THE CHILD IS THE  
6 VICTIM OF FIRST OR SECOND DEGREE CHILD MISTREATMENT, THE OFFICER  
7 OR THE AGENT SHALL FILE A PETITION TO INITIATE CHILD PROTECTIVE  
8 PROCEEDINGS AS PROVIDED IN SECTION 13A OF THIS CHAPTER.

9 (5) THE OFFICER OR AGENT SHALL ENSURE THAT NOTICE IS PRO-  
10 VIDED TO THE CHILD'S PARENT, GUARDIAN, OR CUSTODIAN OF THE TIME,  
11 DATE, AND PLACE OF THE PRELIMINARY HEARING ON THE PETITION.

12 Sec. 17c. (1) In a proceeding under section 2(a), ~~or~~ (d),  
13 OR (G) of this chapter, the court shall advise the child that the  
14 child has a right to an attorney at each stage of the  
15 proceeding. ~~(2)~~ In a proceeding under section 2(a), ~~or~~ (d),  
16 OR (G) of this chapter, the court shall appoint an attorney to  
17 represent the child if 1 or more of the following apply:

18 (a) The child's parent refuses or fails to appear and par-  
19 ticipate in the proceedings.

20 (b) The child's parent is the complainant or victim.

21 (c) The child and those responsible for his or her support  
22 are financially unable to employ an attorney and the child does  
23 not waive his or her right to an attorney.

24 (d) Those responsible for the child's support refuse or  
25 neglect to employ an attorney for the child and the child does  
26 not waive his or her right to an attorney.

1 (e) The court determines that the best interests of the  
2 child or the public require appointment.

3 (2) ~~(3)~~ Except as otherwise provided in this subsection,  
4 in a proceeding under section 2(a), ~~or~~ (d), OR (G) of this  
5 chapter, the child may waive his or her right to an attorney.  
6 The waiver by a child shall be made in open court ~~—~~ on the  
7 record ~~—~~ and shall not be made unless the court finds on the  
8 record that the waiver was voluntarily and understandingly made.  
9 The child ~~may~~ SHALL not waive his or her right to an attorney  
10 if the child's parent or guardian ad litem objects or if the  
11 appointment is made ~~pursuant to~~ UNDER subsection ~~(2)(e)~~  
12 (1)(E).

13 (3) ~~(4)~~ In a proceeding under section 2(b) or (c) of this  
14 chapter, the court shall advise the respondent at the  
15 respondent's first court appearance of all of the following:

16 (a) The right to an attorney at each stage of the  
17 proceeding.

18 (b) The right to a court-appointed attorney if the respon-  
19 dent is financially unable to employ an attorney.

20 (c) If the respondent is not represented by an attorney, the  
21 right to request and receive a court-appointed attorney at a  
22 later proceeding.

23 (4) ~~(5)~~ If it appears to the court in a proceeding under  
24 section 2(b) or (c) of this chapter that the respondent wants an  
25 attorney and is financially unable to retain an attorney, the  
26 court shall appoint an attorney to represent the respondent.

27 ~~(6)~~ Except as otherwise provided in this subsection, in a

1 proceeding under section 2(b) or (c) of this chapter, the  
2 respondent may waive his or her right to an attorney. A respon-  
3 dent who is a minor ~~may~~ SHALL not waive his or her right to an  
4 attorney if the respondent's parent or guardian ad litem  
5 objects.

6 (5) ~~(7)~~ In a proceeding under section 2(b) or (c) of this  
7 chapter, the court shall appoint an attorney to represent the  
8 child. The child shall not waive the assistance of an attorney.  
9 The appointed attorney shall observe and, dependent upon the  
10 child's age and capability, interview the child. If the child is  
11 placed in foster care, the attorney shall, before representing  
12 the child in each subsequent proceeding or hearing, review the  
13 agency case file and consult with the foster parents and the  
14 caseworker.

15 (6) ~~(8)~~ If an attorney is appointed for a party under this  
16 section, the court may enter an order assessing attorney costs  
17 against the party or the person responsible for the support of  
18 that party. An order assessing attorney costs may be enforced  
19 through contempt proceedings.

20 (7) ~~(9)~~ An attorney appointed by the court under this sec-  
21 tion shall serve until discharged by the court.

22 Sec. 18. (1) If the court finds that a child concerning  
23 whom a petition is filed is not within this chapter, the court  
24 shall enter an order dismissing the petition. Except as other-  
25 wise provided in subsection (10) OR SECTION 18G OF THIS CHAPTER,  
26 if the court finds that a child is within this chapter, the court  
27 may enter any of the following orders of disposition that are

1 appropriate for the welfare of the child and society in view of  
2 the facts proven and ascertained:

3       (a) Warn the child or the child's parents, guardian, or cus-  
4 todian and, except as provided in subsection (7), dismiss the  
5 petition.

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

16       (c) If a child is within the court's jurisdiction under sec-  
17 tion 2(a) of this chapter, place the child in a suitable foster  
18 care home subject to the court's supervision. If a child is  
19 within the court's jurisdiction under section 2(b) of this chap-  
20 ter, the court shall not place a child in a foster care home  
21 subject to the court's supervision.

22       (d) Place the child in or commit the child to a private  
23 institution or agency approved or licensed by the ~~state depart-~~  
24 ~~ment of social services~~ FAMILY INDEPENDENCE AGENCY for the care  
25 of children of similar age, sex, and characteristics.

26       (e) Commit the child to a public institution, county  
27 facility, institution operated as an agency of the court or

1 county, or agency authorized by law to receive children of  
2 similar age, sex, and characteristics. In a placement under sub-  
3 division (d) or a commitment under this subdivision, except to a  
4 state institution, the religious affiliation of the child shall  
5 be protected by placement or commitment to a private  
6 child-placing or child-caring agency or institution, if  
7 available. In every order of commitment under this subdivision  
8 to a state institution or agency described in the youth rehabili-  
9 tation services act, Act No. 150 of the Public Acts of 1974, ~~as~~  
10 ~~amended,~~ being sections 803.301 to 803.309 of the Michigan  
11 Compiled Laws or in Act No. 220 of the Public Acts of 1935, ~~as~~  
12 ~~amended,~~ being sections 400.201 to 400.214 of the Michigan  
13 Compiled Laws, the court shall name the superintendent of the  
14 institution to which the child is committed as a special guardian  
15 to receive benefits due the child from the government of the  
16 United States, and the benefits shall be used to the extent nec-  
17 essary to pay for the portions of the cost of care in the insti-  
18 tution that the parent or parents are found unable to pay.

19 (f) Provide the child with medical, dental, surgical, or  
20 other health care, in a local hospital if available, or else-  
21 where, maintaining as much as possible a local physician-patient  
22 relationship, and with clothing and other incidental items as the  
23 court considers necessary.

24 (g) Order the parents, guardian, custodian, or any other  
25 person to refrain from continuing conduct that the court deter-  
26 mines has caused or tended to cause the child to come within or  
27 to remain under this chapter, or that obstructs placement or

1 commitment of the child ~~pursuant to~~ UNDER an order under this  
2 section.

3 (h) Appoint a guardian under section 424 of the revised pro-  
4 bate code, Act No. 642 of the Public Acts of 1978, being section  
5 700.424 of the Michigan Compiled Laws, pursuant to a petition  
6 filed with the court by a person interested in the welfare of the  
7 child. If the court appoints a guardian ~~pursuant to~~ UNDER this  
8 subdivision, it may enter an order dismissing the petition under  
9 this chapter.

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

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

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

20 (2) An order of disposition placing a child in or committing  
21 a child to care outside of the child's own home and under state  
22 or court supervision shall contain a provision for reimbursement  
23 by the child, parent, guardian, or custodian to the court for the  
24 cost of care or service. The order shall be reasonable, taking  
25 into account both the income and resources of the child, parent,  
26 guardian, or custodian. The amount may be based upon the  
27 guidelines and model schedule created under subsection (6). If



1 the child is receiving an adoption support subsidy ~~pursuant to~~  
2 UNDER section 115j(4) of the social welfare act, Act No. 280 of  
3 the Public Acts of 1939, being section 400.115j of the Michigan  
4 Compiled Laws, the amount shall not exceed the amount of the sup-  
5 port subsidy. The reimbursement provision applies during the  
6 entire period the child remains in care outside of the child's  
7 own home and under state or court supervision, unless the child  
8 is in the permanent custody of the court. The court shall pro-  
9 vide for the collection of all amounts ordered to be reimbursed,  
10 and the money collected shall be accounted for and reported to  
11 the county board of commissioners. Collections to cover delin-  
12 quent accounts or to pay the balance due on reimbursement orders  
13 may be made after a child is released or discharged from care  
14 outside the child's own home and under state or court  
15 supervision. Twenty-five percent of all amounts collected  
16 ~~pursuant to~~ UNDER an order entered under this subsection shall  
17 be credited to the appropriate fund of the county to offset the  
18 administrative cost of collections. The balance of all amounts  
19 collected ~~pursuant to~~ UNDER an order entered under this subsec-  
20 tion shall be divided in the same ratio in which the county,  
21 state, and federal government participate in the cost of care  
22 outside the child's own home and under state or court  
23 supervision. The court may also collect benefits paid for the  
24 cost of care of a court ward from the government of the United  
25 States. Money collected for children placed with or committed to  
26 the ~~state department of social services~~ FAMILY INDEPENDENCE  
27 AGENCY shall be accounted for and reported on an individual child

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

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

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

26 (5) If the court appoints an attorney to represent a child,  
27 parent, guardian, or custodian, the court may require in an order

1 entered under this section that the child, parent, guardian, or  
2 custodian reimburse the court for attorney fees.

3 (6) The office of the state court administrator, under the  
4 supervision and direction of the supreme court and in consulta-  
5 tion with the ~~state department of social services~~ FAMILY INDE-  
6 PENDENCE AGENCY and the Michigan probate judges association,  
7 shall create guidelines and a model schedule that may be used by  
8 the court in determining the ability of the child, parent, guard-  
9 ian, or custodian to pay for care and any costs of service  
10 ordered under subsection (2) or (3). The guidelines and model  
11 schedule shall take into account both the income and resources of  
12 the child, parent, guardian, or custodian.

13 (7) If the court finds that a child comes under section 30  
14 of this chapter, the court shall order the child or the child's  
15 parent to pay restitution as provided in sections 30 and 31 of  
16 this chapter and in sections 44 and 45 of the crime victim's  
17 rights act, Act No. 87 of the Public Acts of 1985, being sections  
18 780.794 and 780.795 of the Michigan Compiled Laws.

19 (8) If the court imposes restitution as a condition of pro-  
20 bation, the court shall require the child to do either of the  
21 following as an additional condition of probation:

22 (a) Engage in community service or, with the victim's con-  
23 sent, perform services for the victim.

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

26 (9) If the court finds that the child is in intentional  
27 default of the payment of restitution, a court may, as provided

1 in section ~~34~~ 30 of this chapter, revoke or alter the terms and  
2 conditions of probation for nonpayment of restitution. If a  
3 child who is ordered to engage in community service intentionally  
4 refuses to perform the required community service, the court may  
5 revoke or alter the terms and conditions of probation.

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

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

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

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

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

6       (13) If the court has entered an order of disposition for a  
7 listed offense as defined in section 2 of the sex offenders reg-  
8 istration act, Act No. 295 of the Public Acts of 1994, being sec-  
9 tion 28.722 of the Michigan Compiled Laws, the court or the  
10 ~~department of social services~~ FAMILY INDEPENDENCE AGENCY shall  
11 register the child or accept the child's registration as provided  
12 in the sex offenders registration act, Act No. 295 of the Public  
13 Acts of 1994, being sections 28.721 to 28.732 of the Michigan  
14 Compiled Laws.

15       Sec. 18f. (1) If, in a proceeding under section 2(b) of  
16 this chapter, an agency advises the court against placing a child  
17 in the custody of the child's parent, guardian, or custodian, the  
18 agency shall report in writing to the court what efforts were  
19 made to prevent the child's removal from his or her home or the  
20 efforts made to rectify the conditions that caused the child's  
21 removal from his or her home. The report shall include all of  
22 the following:

23       (a) If services were provided to the child and his or her  
24 parent, guardian, or custodian, the services, including in-home  
25 services, that were provided.

1 (b) If services were not provided to the child and his or  
2 her parent, guardian, or custodian, the reasons why services were  
3 not provided.

4 (c) Likely harm to the child if the child were to be sepa-  
5 rated from his or her parent, guardian, or custodian.

6 (d) Likely harm to the child if the child were to be  
7 returned to his or her parent, guardian, or custodian.

8 (2) Before the court enters an order of disposition in a  
9 proceeding under section 2(b) of this chapter, the agency shall  
10 prepare a case service plan that shall be available to the court  
11 and all the parties to the proceeding.

12 (3) The case service plan shall provide for placing the  
13 child in the most family-like setting available and in as close  
14 proximity to the child's parents' home as is consistent with the  
15 CHILD'S best interests and special needs. ~~of the child.~~ The  
16 case service plan shall include, but not be limited to, the  
17 following:

18 (a) The type of home or institution in which the child is to  
19 be placed and the reasons for the selected placement.

20 (b) Efforts to be made by the child's parent to enable the  
21 child to return to his or her home.

22 (c) Efforts to be made by the agency to return the child to  
23 his or her home.

24 (d) Schedule of services to be provided to the parent, THE  
25 child, and if the child is to be placed in foster care, the  
26 foster parent ~~—~~ to facilitate the child's return to his or her  
27 home or to facilitate the permanent placement of the child.

1 (e) Unless visitation, even if supervised, ~~would be harmful~~  
2 ~~to the child~~ IS NOT IN THE CHILD'S BEST INTERESTS, a schedule  
3 for regular and frequent visitation between the child and his or  
4 her parent, which shall not be less than once every 7 days.

5 (4) The court shall consider the case service plan, any  
6 written or oral information concerning the child from the child's  
7 parent, guardian, custodian, foster parent, child caring institu-  
8 tion, or relative with whom the child is placed, and any other  
9 evidence offered bearing on disposition before the court enters  
10 an order of disposition. The order of disposition shall state  
11 whether reasonable efforts have been made to prevent the child's  
12 removal from his or her home or to rectify the conditions that  
13 caused the child's removal from his or her home. The court may  
14 order compliance with all or any part of the case service plan as  
15 the court considers necessary.

16 (5) If a child continues in placement outside of the child's  
17 home, the case service plan shall be updated and revised at  
18 90-day intervals as required by the rules promulgated ~~pursuant~~  
19 ~~to~~ UNDER Act No. 116 of the Public Acts of 1973, being sections  
20 722.111 to 722.128 of the Michigan Compiled Laws. The agency  
21 shall consult with the foster parents when it updates and revises  
22 the case service plan, and shall attach a statement summarizing  
23 the information received from the foster parents to the updated  
24 and revised case service plan. Updated and revised case service  
25 plans shall be available to the court and all the parties to the  
26 proceeding. Written reports, other than those portions made  
27 confidential by law, case service plans, and court orders,

1 including all updates and revisions, shall be available to the  
2 foster parent, child caring institution, or relative with whom  
3 the child is placed.

4 SEC. 18G. IF, IN PROCEEDINGS UNDER SECTION 2(B) OF THIS  
5 CHAPTER, THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT  
6 THE CHILD IS A VICTIM OF FIRST DEGREE CHILD MISTREATMENT, THE  
7 COURT SHALL DO ALL OF THE FOLLOWING:

8 (A) TERMINATE THE PARENT'S RIGHTS IF THE PARENT WAS THE PER-  
9 PETRATOR OF THE FIRST DEGREE CHILD MISTREATMENT, UNLESS THE  
10 PARENT, CHILD, OR AGENCY PROVES BY CLEAR AND CONVINCING EVIDENCE  
11 THAT IT IS NOT IN THE CHILD'S BEST INTERESTS TO TERMINATE THE  
12 PARENT'S RIGHTS. THE COURT SHALL STATE ON THE RECORD THE REASONS  
13 FOR NOT TERMINATING THE PERPETRATOR'S RIGHTS UNDER THIS  
14 SUBDIVISION.

15 (B) NOT PERMIT VISITATION BY THE PERPETRATOR UNLESS IT IS  
16 SHOWN BY CLEAR AND CONVINCING EVIDENCE THAT VISITATION IS IN THE  
17 CHILD'S BEST INTERESTS. THE COURT SHALL STATE ON THE RECORD THE  
18 REASONS FOR PERMITTING VISITATION UNDER THIS SUBDIVISION.

19 Sec. 19a. (1) If a child remains in foster care and paren-  
20 tal rights to the child have not been terminated, the court shall  
21 conduct a permanency planning hearing not more than 364 days  
22 after entry of the order of disposition and every 364 days there-  
23 after during the continuation of the child's placement in foster  
24 care. A permanency planning hearing may be combined with a  
25 review hearing held under section 19(3) of this chapter.

26 (2) A permanency planning hearing shall be conducted to  
27 review the status of the child and the progress being made toward



1 the child's return home or to show why the child should not be  
2 placed in the permanent custody of the court.

3 (3) Not less than 14 days before a permanency planning hear-  
4 ing, written notice of the hearing and a statement of the pur-  
5 poses of the hearing, including a notice that the hearing may  
6 result in further proceedings to terminate parental rights, shall  
7 be served upon all of the following:

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

10 (b) The CHILD'S foster parent or custodian. ~~of the child.~~

11 (c) If the parental rights to the child have not been termi-  
12 nated, the child's parents.

13 (d) If the child has a guardian, the CHILD'S guardian. ~~for~~  
14 ~~the child.~~

15 (e) If the child has a guardian ad litem, the CHILD'S guard-  
16 ian ad litem. ~~for the child.~~

17 (f) If tribal affiliation has been determined, the INDIAN  
18 TRIBE'S elected leader. ~~of the Indian tribe.~~

19 (g) The CHILD'S attorney, ~~for the child,~~ the attorneys for  
20 each party, and the prosecuting attorney if the prosecuting  
21 attorney has appeared in the case.

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

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

24 (4) If parental rights to the child have not been terminated  
25 and the court determines at a permanency planning hearing that  
26 the return of the child to his or her parent ~~would not cause a~~  
27 ~~substantial risk of harm to the child's life, physical health, or~~

1 ~~mental well-being~~ IS IN THE CHILD'S BEST INTERESTS, the court  
2 shall order the child returned to his or her parent. In deter-  
3 mining whether the return of the child ~~would cause a substantial~~  
4 ~~risk of harm to the child~~ IS IN THE CHILD'S BEST INTERESTS, the  
5 court shall view the failure of the parent to substantially  
6 comply with the terms and conditions of the case service plan  
7 prepared under section 18f of this chapter as evidence that  
8 return of the child to his or her parent ~~would cause a substan-~~  
9 ~~tial risk of harm to the child's life, physical health, or mental~~  
10 ~~well-being~~ IS NOT IN THE CHILD'S BEST INTERESTS. In addition to  
11 considering conduct of the parent, ~~as evidence of substantial~~  
12 ~~risk of harm,~~ the court shall consider any condition or circum-  
13 stance of the child that may be evidence that a return to the  
14 parent ~~would cause a substantial risk of harm to the child's~~  
15 ~~life, physical health, or mental well-being~~ IS NOT IN THE  
16 CHILD'S BEST INTERESTS.

17 (5) If the court determines at a permanency planning hearing  
18 that the child should not be returned to his or her parent, the  
19 court shall order the agency to initiate proceedings to terminate  
20 parental rights to the child not later than 42 days after the  
21 permanency planning hearing, unless the agency demonstrates to  
22 the court that initiating the termination of parental rights to  
23 the child is clearly not in the child's best interests.

24 (6) If the agency demonstrates under subsection (5) that  
25 initiating the termination of parental rights to the child is  
26 clearly not in the child's best interests, then the court shall  
27 order either of the following alternative placement plans:

1 (a) If the court determines that other permanent placement  
2 is not possible, the child's placement in foster care shall con-  
3 tinue for a limited period to be stated by the court.

4 (b) If the court determines that it is in the child's best  
5 interests, the child's placement in foster care shall continue on  
6 a long-term basis.

7 (7) In making the determinations under this section, the  
8 court shall consider any written or oral information concerning  
9 the child from the child's parent, guardian, custodian, foster  
10 parent, child caring institution, or relative with whom the child  
11 is placed, in addition to any other evidence offered at the  
12 hearing.

13 Sec. 19b. (1) Except as provided in subsection (4), if a  
14 child remains in foster care in the temporary custody of the  
15 court following a review hearing under section 19(3) of this  
16 chapter or a permanency planning hearing under section 19a of  
17 this chapter or if a child remains in the custody of a guardian  
18 or limited guardian, upon petition of the prosecuting attorney,  
19 whether or not the prosecuting attorney is representing or acting  
20 as legal consultant to the agency or any other party, or UPON  
21 PETITION of the child, A guardian, A custodian, A concerned  
22 person as defined in subsection (6), THE agency, or the  
23 children's ombudsman ~~pursuant to~~ AS PROVIDED IN section 7 of  
24 the children's ombudsman act, ACT NO. 204 OF THE PUBLIC ACTS OF  
25 1994, BEING SECTION 722.927 OF THE MICHIGAN COMPILED LAWS, the  
26 court shall hold a hearing to determine if the parental rights to  
27 a child should be terminated and, if all parental rights to the

1 child are terminated, the child placed in permanent custody of  
2 the court. The court shall state on the record or in writing its  
3 findings of fact and conclusions of law with respect to whether  
4 or not parental rights should be terminated.

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

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

10 (b) The CHILD'S foster parent or custodian. ~~of the child.~~

11 (c) The child's parents.

12 (d) If the child has a guardian, the CHILD'S guardian. ~~for~~  
13 ~~the child.~~

14 (e) If the child has a guardian ad litem, the CHILD'S guard-  
15 ian ad litem. ~~for the child.~~

16 (f) If tribal affiliation has been determined, the INDIAN  
17 TRIBE'S elected leader. ~~of the Indian tribe.~~

18 (g) The CHILD'S attorney ~~for the child~~ and the attorneys  
19 for all parties.

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

21 (i) The prosecutor.

22 (3) The court may terminate the parental rights of a parent  
23 to a child if the court finds, by clear and convincing evidence,  
24 1 or more of the following:

25 (a) The child has been deserted under either of the follow-  
26 ing circumstances:

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

7        (ii) The CHILD'S parent ~~of a child~~ has deserted the child  
8 for 91 or more days and has not sought custody of the child  
9 during that period.

10       (b) The child or a sibling of the child ~~has suffered physi-~~  
11 ~~cal injury or physical or sexual abuse~~ IS A VICTIM OF FIRST,  
12 SECOND, OR THIRD DEGREE CHILD MISTREATMENT under either of the  
13 following circumstances:

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

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

25       (c) The parent was a respondent in a proceeding brought  
26 under this chapter, 182 or more days have elapsed since the

1 issuance of an initial dispositional order, and the court, by  
2 clear and convincing evidence, finds either of the following:

3       (i) The conditions that led to the adjudication continue to  
4 exist and there is no reasonable likelihood that the conditions  
5 will be rectified within a reasonable time considering the age of  
6 the child.

7       (ii) Other conditions exist that cause the child to come  
8 within the jurisdiction of the court, the parent has received  
9 recommendations to rectify those conditions, the conditions have  
10 not been rectified by the parent after the parent has received  
11 notice, a hearing, and been given a reasonable opportunity to  
12 rectify the conditions, and there is no reasonable likelihood  
13 that the conditions will be rectified within a reasonable time  
14 considering the age of the child. THIS SUBSECTION DOES NOT APPLY  
15 IF THE OTHER CONDITIONS CONSTITUTE FIRST DEGREE CHILD MISTREAT-  
16 MENT, AND INSTEAD, THE COURT SHALL HOLD A HEARING UNDER SECTION  
17 2(B) AFTER NOTICE TO THE PARENT OR GUARDIAN.

18       (d) The parent of a child has placed the child in a limited  
19 guardianship under section 424a of the revised probate code, Act  
20 No. 642 of the Public Acts of 1978, being section 700.424a of the  
21 Michigan Compiled Laws, and has substantially failed, without  
22 good cause, to comply with a limited guardianship placement plan  
23 described in section 424a of Act No. 642 of the Public Acts of  
24 1978 regarding the child to the extent that such noncompliance  
25 has resulted in a disruption of the parent-child relationship.

26       (e) The parent of a child who has a guardian under ~~the~~  
27 ~~revised probate code,~~ Act No. 642 of the Public Acts of 1978,

1 being sections 700.1 to 700.993 of the Michigan Compiled Laws,  
2 has substantially failed, without good cause, to comply with a  
3 court-structured plan described in section 424b or 424c of Act  
4 No. 642 of the Public Acts of 1978, being sections 700.424b and  
5 700.424c of the Michigan Compiled Laws, regarding the child to  
6 the extent that ~~such~~ THE noncompliance has resulted in a dis-  
7 ruption of the parent-child relationship.

8 (f) The child has a guardian under ~~the revised probate~~  
9 ~~code,~~ Act No. 642 of the Public Acts of 1978 ~~—~~ and both of the  
10 following have occurred:

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

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

22 (g) The parent, without regard to intent, fails to provide  
23 proper care or custody for the child and there is no reasonable  
24 expectation that the parent will be able to provide proper care  
25 and custody within a reasonable time considering the age of the  
26 child.

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

7 (i) Parental rights to 1 or more siblings of the child have  
8 been terminated due to ~~serious and chronic neglect or physical~~  
9 ~~or sexual abuse~~ FIRST OR SECOND DEGREE CHILD MISTREATMENT, and  
10 prior attempts to rehabilitate the parents have been  
11 unsuccessful.

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

15 (4) If a petition to terminate the parental rights to a  
16 child is filed, the court may enter an order terminating parental  
17 rights under subsection (3) at the initial dispositional  
18 hearing.

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

25 (6) As used in this section, "concerned person" means a  
26 foster parent with whom the child is living or has lived, who has  
27 specific knowledge of behavior by the parent constituting grounds



1 for termination under subsection (3)(b) or (g), and who has  
2 contacted the ~~department of social services~~ FAMILY INDEPENDENCE  
3 AGENCY, the prosecuting attorney, the child's attorney, and the  
4 child's guardian ad litem, if any, and is satisfied that none of  
5 these persons intend to file a petition under this section.