

Act No. 163
Public Acts of 1997
Approved by the Governor
December 29, 1997
Filed with the Secretary of State
December 29, 1997
EFFECTIVE DATE: See act for multiple effective dates

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1997

Introduced by Senators Gougeon and Shugars

ENROLLED SENATE BILL No. 490

AN ACT to amend 1939 PA 288, entitled "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," by amending the title and sections 13a, 18, 18f, 19, and 19a of chapter XIIIA (MCL 712A.13a, 712A.18, 712A.18f, 712A.19, and 712A.19a), the title as amended by 1982 PA 398, section 13a as amended by 1996 PA 409, section 18 as amended by 1996 PA 244, sections 18f and 19 as amended by 1996 PA 16, and section 19a as amended by 1994 PA 264, and by adding section 13b to chapter XIIIA.

The People of the State of Michigan enact:

TITLE

An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties.

CHAPTER XIIIA

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

(a) "Agency" means a public or private organization, institution, or facility responsible under court order or contractual arrangement for the care and supervision of a juvenile.

(b) “Foster care” means care provided to a juvenile in a foster family home, foster family group home, or juvenile caring institution licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, or care provided to a juvenile in a relative’s home under an order of the court.

(c) “Permanent foster family agreement” means an agreement for a child 14 years old or older to remain with a particular foster family until the child is 18 years old under standards and requirements established by the family independence agency, which agreement is among all of the following:

- (i) The child.
- (ii) If the child is a temporary ward, the child’s family.
- (iii) The foster family.
- (iv) The child placing agency responsible for the child’s care in foster care.

(2) If a juvenile is alleged to be within the provisions of section 2(b) of this chapter, the court may authorize a petition to be filed at the conclusion of the preliminary hearing or inquiry. The court may authorize the petition upon a showing of probable cause that 1 or more of the allegations in the petition are true and fall within the provisions of section 2(b) of this chapter. If a petition is before the court because the family independence agency is required to submit the petition under section 17 of 1975 PA 238, MCL 722.637, the court shall hold a hearing on the petition within 24 hours or on the next business day after the petition is submitted, at which hearing the court shall at least consider the matters governed by subsections (4) and (5).

(3) Except as provided in subsection (5), if a petition under subsection (2) is authorized, the court may release the juvenile in the custody of either of the juvenile’s parents or the juvenile’s guardian or custodian under reasonable terms and conditions necessary for either the juvenile’s physical health or mental well-being.

(4) The court may order a parent, guardian, custodian, or other person residing in a child’s home to leave the home and, except as the court orders, not subsequently return to the home if all of the following take place:

(a) A petition alleging abuse of the child by the parent, guardian, custodian, or other person is authorized under subsection (2).

(b) The court after a hearing finds probable cause to believe the parent, guardian, custodian, or other person committed the abuse.

(c) The court finds on the record that the presence in the home of the person alleged to have committed the abuse presents a substantial risk of harm to the child’s life, physical health, or mental well-being.

(5) If a petition alleges abuse by a person described in subsection (4), regardless of whether the court orders the alleged abuser to leave the child’s home under subsection (4), the court shall not leave the child in or return the child to the child’s home or place the child with a person not licensed under 1973 PA 116, MCL 722.111 to 722.128, unless the court finds that the conditions of custody at the placement and with the individual with whom the child is placed are adequate to safeguard the child from the risk of harm to the child’s life, physical health, or mental well-being.

(6) In determining whether to enter an order under subsection (4), the court may consider whether the parent who is to remain in the juvenile’s home is married to the person to be removed or has a legal right to retain possession of the home.

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

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

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

(c) The court may include any reasonable term or condition necessary for the juvenile’s physical or mental well-being or necessary to protect the juvenile.

(8) If the court orders placement of the juvenile outside the juvenile’s home, the court shall inform the parties of the following:

(a) The agency has the responsibility to prepare an initial services plan within 30 days of the juvenile’s placement.

(b) The general elements of an initial services plan as required by the rules promulgated under 1973 PA 116, MCL 722.111 to 722.128.

(c) Participation in an initial services plan is voluntary without a court order.

(9) Before or within 7 days after a child is placed in a relative’s home, the department shall perform a criminal record check and central registry clearance. If the child is placed in the home of a relative, the court shall order a home study to be performed and a copy of the home study to be submitted to the court not more than 30 days after the placement.

(10) In determining placement of a juvenile pending trial, the court shall order the juvenile placed in the most family-like setting available consistent with the needs of the juvenile.

(11) If a juvenile is removed from his or her home, the juvenile's parent shall be permitted to have parenting time frequently with the juvenile. However, if parenting time, even if supervised, may be harmful to the juvenile, the court shall order the child to have a psychological evaluation or counseling, or both, to determine the appropriateness and the conditions of parenting time. The court may suspend parenting time while the psychological evaluation or counseling is conducted.

(12) Upon the motion of any party, the court shall review custody and placement orders and initial services plans pending trial and may modify those orders and plans as the court considers under this section are in the best interests of the juvenile.

(13) The court shall include in an order placing a child in foster care an order directing the release of information concerning the child in accordance with this subsection. If a child is placed in foster care, within 10 days after receipt of a written request, the agency shall provide the person who is providing the foster care with copies of all initial, updated, and revised case service plans and court orders relating to the child and all of the child's medical, mental, and education reports, including reports compiled before the child was placed with that person.

(14) In an order placing a child in foster care, the court shall include both of the following:

(a) An order that the child's parent, guardian, or custodian provide the supervising agency with the name and address of each of the child's medical providers.

(b) An order that each of the child's medical providers release the child's medical records. The order may specify providers by profession or type of institution.

(15) As used in this section, "abuse" means 1 or more of the following:

(a) Harm or threatened harm by a person to a juvenile's health or welfare that occurs through nonaccidental physical or mental injury.

(b) Engaging in sexual contact or sexual penetration as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, with a juvenile.

(c) Sexual exploitation of a juvenile, which includes, but is not limited to, allowing, permitting, or encouraging a juvenile to engage in prostitution or allowing, permitting, encouraging, or engaging in photographing, filming, or depicting a juvenile engaged in a listed sexual act as defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(d) Maltreatment of a juvenile.

Sec. 13b. (1) If a child under the court's jurisdiction under section 2(b) of this chapter is placed in foster care, the agency shall not change the child's placement except under 1 of the following circumstances:

(a) The person providing the foster care requests or agrees to the change.

(b) Even though the person providing the foster care objects to a proposed change in placement, 1 of the following applies:

(i) The court orders the child returned home.

(ii) The change in placement is less than 30 days after the child's initial removal from his or her home.

(iii) The change in placement is less than 90 days after the child's initial removal from his or her home, and the new placement is with a relative.

(iv) The change in placement is in accordance with other provisions of this section.

(2) Except as provided in subsection (7), before a change in foster care placement takes effect, the agency shall do all of the following:

(a) Notify the state court administrative office of the proposed change in placement.

(b) Notify the foster parents of the intended change in placement and inform them that, if they disagree with the decision, they may appeal within 3 days to a foster care review board. A foster parent may appeal orally, but must submit the appeal in writing immediately following the oral appeal. The agency shall provide the foster parents with the address and telephone number of a foster care review board with jurisdiction over the child.

(c) Maintain the current placement for not less than the time for appeal to the foster care review board and if a foster parent appeals, until the foster care review board determination.

(3) Upon receipt of an appeal from foster parents under subsection (2) or (7), the foster care review board shall investigate the change in foster care placement and shall report its findings and recommendations within 3 days to the court, the foster care parents, the parents, and the agency.

(4) If after investigation the foster care review board determines that the move is in the child's best interests, the agency may move the child.

(5) If after investigation the foster care review board determines that the move is not in the child's best interest, the agency shall maintain the current placement until a finding and order by the court. However, the agency shall not

return a child to a placement from which the child was removed under subsection (7) unless the court orders that placement's restoration under subsection (6). The foster care review board shall notify the court about the board's and agency's disagreement. The court shall set a hearing date and provide notice to the foster parents, each interested party, and the prosecuting attorney if the prosecuting attorney has appeared in the case. The court shall set the hearing no sooner than 7 and no later than 14 days after receipt of the notice from the foster care review board. The rules of evidence do not apply to a hearing required by this subsection.

(6) After hearing testimony from the agency and any other interested party and considering any other evidence bearing upon the proposed change in placement, the court shall order the continuation or restoration of the placement unless the court finds that the proposed change in placement is in the child's best interests.

(7) If the agency has reasonable cause to believe that the child has suffered sexual abuse or nonaccidental physical injury, or that there is substantial risk of harm to the child's emotional well-being, the agency may change the child's foster care placement without complying with subsection (1) or (2)(b) or (c). The agency shall include in the child's file documentation of its justification for action under this subsection. If a foster parent objects to the removal of a child under this subsection, he or she may appeal to the foster care review board within 3 days after the child's removal. The foster parent may appeal orally, but must submit the appeal in writing immediately following the oral appeal.

(8) At the time of or immediately following a child's removal under subsection (7), the agency shall inform the foster parents about the removal and that, if they disagree with the decision, they may appeal within 3 days to a foster care review board in the manner provided in subsection (7). The agency shall provide the foster parents with the address and telephone number of a foster care review board with jurisdiction over the child.

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 department of consumer and industry services 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, 1974 PA 150, MCL 803.301 to 803.309, or in 1935 PA 220, MCL 400.201 to 400.214, 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, 1978 PA 642, MCL 700.424, 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, 1996 PA 263, MCL 400.1301 to 400.1309, 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.

(n) If the court entered a judgment of conviction under section 2d of this chapter, enter any disposition under this section or, if the court determines that the best interests of the public would be served, impose any sentence upon the juvenile that could be imposed upon an adult convicted of the offense for which the juvenile was convicted. If the juvenile is convicted of a violation or conspiracy to commit a violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, the court may impose the alternative sentence permitted under those sections if the court determines that the best interests of the public would be served. The court may delay imposing a sentence of imprisonment under this subdivision for a period not longer than the period during which the court has jurisdiction over the juvenile under this chapter by entering an order of disposition delaying imposition of sentence and placing the juvenile on probation upon the terms and conditions it considers appropriate, including any disposition under this section. If the court delays imposing sentence under this section, section 18i of this chapter applies. If the court imposes sentence, it shall enter a judgment of sentence. If the court imposes a sentence of imprisonment, the juvenile shall receive credit against the sentence for time served before sentencing. In determining whether to enter an order of disposition or impose a sentence under this subdivision, the court shall consider all of the following factors, giving greater weight to the seriousness of the offense and the juvenile's prior record:

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

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

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

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

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

(vi) The dispositional options available for the juvenile.

(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 under section 115j(4) of the social welfare act, 1939 PA 280, MCL 400.115j, 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 under 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, 1985 PA 87, MCL 780.794 and 780.795.

(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 1925 PA 289, MCL 28.241a. 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 1925 PA 289, MCL 28.243. 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 1989 PA 196, MCL 780.901, the court shall order the juvenile to pay the assessment as provided in that act. If the court enters a judgment of conviction under section 2d of this chapter for an offense that is a felony, serious misdemeanor, or specified misdemeanor as defined in section 1 of 1989 PA 196, MCL 780.901, the court shall order the juvenile to pay the assessment as 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, 1994 PA 295, MCL 28.722, 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, 1994 PA 295, MCL 28.721 to 28.732.

(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.

(15) The court shall not impose a sentence of imprisonment in the county jail under subsection (1)(n) unless the present county jail facility for the imprisonment of the juvenile would meet all requirements under federal law and regulations for housing juveniles, and the court shall not impose the sentence until it consults with the sheriff to determine when the sentence will begin to ensure that space will be available for the juvenile.

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

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

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

(c) Likely harm to the child if the child were to be separated from his or her parent, guardian, or custodian.

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

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

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

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

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

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

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

(e) Except as provided in subdivision (f), unless parenting time, even if supervised, would be harmful to the child as determined by the court under section 13a of this chapter or otherwise, a schedule for regular and frequent parenting time between the child and his or her parent which shall not be less than once every 7 days.

(f) At the time of the initial termination hearing held to consider termination of parental rights, parenting time is automatically suspended unless the parent establishes and the court determines that the exercise of parenting time will not harm the child. If the court adjourns or continues the termination hearing beyond the original scheduled date for any reason, the court shall suspend parenting time in the interim, unless the court determines that the exercise of parenting time will not harm the child.

(4) The court shall consider the case service plan, any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom the child is placed, or the child's guardian ad litem and any other evidence, including the appropriateness of parenting time, offered bearing on disposition before the court enters an order of disposition. The order of disposition shall state whether reasonable efforts have been made to prevent the child's removal from his or her home or to rectify the conditions that caused the child's removal from his or her home. The court may order compliance with all or any part of the case service plan as the court considers necessary.

(5) If a child continues in placement outside of the child's home, the case service plan shall be updated and revised at 90-day intervals as required by the rules promulgated under 1973 PA 116, MCL 722.111 to 722.128. The agency shall consult with the foster parents when it updates and revises the case service plan, and shall attach a statement summarizing the information received from the foster parents to the updated and revised case service plan. Updated and revised case service plans shall be available to the court and all the parties to the proceeding. Within 10 days after receipt of a written request, the agency shall provide the person who is providing the foster care with the information itemized in section 13a(13) of this chapter.

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

(2) Except as otherwise provided in subsections (3), (6), (7), (9), (10), and (11), if a child is placed in foster care, the cause shall be reheard not more than 182 days after entry of the order of disposition. The showing shall be recorded stenographically at a hearing held by the judge or referee. If the child remains in foster care in the temporary custody of the court following the hearing, the cause shall be further reheard not more than 182 days after the hearing. In conducting the review hearing, the court shall review the performance of the child, the child’s parent, guardian, or custodian, the juvenile worker, and other persons providing assistance to the child and his or her family.

(3) Except as otherwise provided in subsection (4), if, in a proceeding under section 2(b) of this chapter, a child is placed and remains in foster care, a review hearing shall be held not more than 91 days after entry of the order of disposition and every 91 days after that so long as the child is subject to the jurisdiction, control, or supervision of the court, or of the Michigan children’s institute or other agency. Upon motion by any party or in the court’s discretion, a review hearing may be accelerated to review any element of the case service plan prepared pursuant to section 18f of this chapter.

(4) If a child is in a permanent foster family agreement or if a child is placed with a relative and the placement is intended to be permanent, the court shall hold a review hearing not more than 182 days after a permanency planning hearing held pursuant to section 19a of this chapter and every 182 days after that so long as the child is subject to the jurisdiction, control, or supervision of the court, or of the Michigan children’s institute or other agency. Upon the motion of any party or at the court’s discretion, a review hearing may be accelerated to review any element of the case service plan prepared pursuant to section 18f of this chapter.

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

- (a) The agency. The agency shall advise the child of the hearing if the child is 11 years of age or older.
- (b) The foster parent or custodian of the child.
- (c) If the parental rights to the child have not been terminated, the child’s parents.
- (d) If the child has a guardian, the guardian for the child.
- (e) If the child has a guardian ad litem, the guardian ad litem for the child.
- (f) If tribal affiliation has been determined, the elected leader of the Indian tribe.
- (g) The attorney for the child, the attorneys for each party, and the prosecuting attorney if the prosecuting attorney has appeared in the case.
- (h) If the child is 11 years of age or older, the child.
- (i) Other persons as the court may direct.

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

(a) Compliance with the case service plan with respect to services provided or offered to the child and the child’s parent, guardian, or custodian and whether the parent, guardian, or custodian has complied with and benefited from those services.

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

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

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

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

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

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

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

(8) At a review hearing under subsection (2), (3), or (4), the court shall determine the continuing necessity and appropriateness of the child's placement and shall order the return of the child to the custody of the parent, continue the dispositional order, modify the dispositional order, or enter a new dispositional order.

(9) If in a proceeding under section 2(b) of this chapter a child is placed in foster care, the court shall determine at the dispositional hearing and each review hearing whether the cause should be reviewed before the next review hearing required by subsection (2), (3), or (4). In making this determination, the court shall consider, but not be limited to, all of the following:

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

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

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

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

Sec. 19a. (1) If a child remains in foster care and parental rights to the child have not been terminated, the court shall conduct a permanency planning hearing not more than 364 days after an original petition has been filed. Except as otherwise provided in section 19(4), the court shall hold a review hearing not more than 91 days after the original permanency planning hearing and every 91 days after that so long as the child is subject to the jurisdiction, control, or supervision of the court, or of the Michigan children's institute or other agency. A permanency planning hearing may be combined with a review hearing held under section 19(3) of this chapter.

(2) A permanency planning hearing shall be conducted to review the status of the child and the progress being made toward the child's return home or to show why the child should not be placed in the permanent custody of the court.

(3) Not less than 14 days before a permanency planning hearing, written notice of the hearing and a statement of the purposes of the hearing, including a notice that the hearing may result in further proceedings to terminate parental rights, shall be served upon all of the following:

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

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

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

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

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

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

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

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

(i) Other persons as the court may direct.

(4) If parental rights to the child have not been terminated and the court determines at a permanency planning hearing that the return of the child to his or her parent would not cause a substantial risk of harm to the child's life, physical health, or mental well-being, the court shall order the child returned to his or her parent. In determining whether the return of the child would cause a substantial risk of harm to the child, the court shall view the failure of the parent to substantially comply with the terms and conditions of the case service plan prepared under section 18f of this chapter as evidence that return of the child to his or her parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being. In addition to considering conduct of the parent as evidence of substantial risk of harm, the court shall consider any condition or circumstance of the child that may be evidence that a return to the parent would cause a substantial risk of harm to the child's life, physical health, or mental well-being.

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

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

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

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

(7) In making the determinations under this section, the court shall consider any written or oral information concerning the child from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom the child is placed, or guardian ad litem in addition to any other evidence, including the appropriateness of parenting time, offered at the hearing.

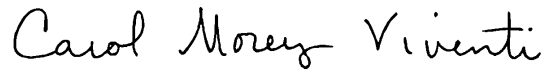
Enacting section 1. (1) The title of 1939 PA 288, as amended by this amendatory act, takes effect January 1, 1998.

(2) Sections 13a, 18, 18f, 19, and 19a of chapter XIIA of 1939 PA 288, MCL 712A.13a, 712A.18, 712A.18f, 712A.19, and 712A.19a, as amended by this amendatory act, take effect after the expiration of 90 days after the sine die adjournment date for 1997 session of the 89th Legislature.

(3) Section 13b of chapter XIIA of 1939 PA 288, MCL 712A.13b, as added by this amendatory act, takes effect July 1, 1998.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 515 of the 89th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved _____

Governor.