

Act No. 517  
Public Acts of 1998  
Approved by the Governor  
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STATE OF MICHIGAN  
89TH LEGISLATURE  
REGULAR SESSION OF 1998

Introduced by Senator Cisky

# ENROLLED SENATE BILL No. 1184

AN ACT to amend 1974 PA 150, entitled "An act to provide for the acceptance, care, and discharge of youths committed to the department as state wards; to prescribe the liability of counties for the cost of services for state wards; to prescribe procedures for the return of state wards who absent themselves without permission; to provide a penalty for the violation of this act; and to repeal acts and parts of acts," by amending the title and sections 2, 3, 4, 5, 6, 6a, 7, 7a, and 8 (MCL 803.302, 803.303, 803.304, 803.305, 803.306, 803.306a, 803.307, 803.307a, and 803.308), the title as amended and section 7a as added by 1996 PA 512, sections 2, 5, and 7 as amended by 1996 PA 417, section 4 as amended by 1988 PA 76, and section 6a as added by 1996 PA 481, and by adding section 2a.

*The People of the State of Michigan enact:*

## TITLE

An act to provide for the acceptance, care, and discharge of youths committed as public wards; to prescribe the liability for the cost of services for public wards; to prescribe procedures for the return of public wards who absent themselves without permission; to provide a penalty for the violation of this act; and to repeal acts and parts of acts.

Sec. 2. As used in this act:

(a) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act.

(b) "Department" means the family independence agency.

(c) "Public ward" means either of the following:

(i) A youth accepted for care by a youth agency who is at least 12 years of age when committed to the youth agency by the juvenile division of the probate court or the family division of circuit court under section 18(1)(e) of chapter XIIA of 1939 PA 288, MCL 712A.18, if the court acquired jurisdiction over the youth under section 2(a) or (d) of chapter XIIA of 1939 PA 288, MCL 712A.2, and the act for which the youth is committed occurred before his or her seventeenth birthday.

(ii) A youth accepted for care by a youth agency who is at least 14 years of age when committed to the youth agency by a court of general criminal jurisdiction under section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1, if the act for which the youth is committed occurred before his or her seventeenth birthday.

(d) "Youth agency" means either the department or a county juvenile agency, whichever has responsibility over a public ward.

Sec. 2a. (1) On the date a county becomes a county juvenile agency under the county juvenile agency act, the county juvenile agency shall assume responsibility for all public wards for which the department had responsibility and for which the county had financial liability under section 5 immediately before the county became a county juvenile agency.

(2) If the county revokes authorization for the county juvenile agency under the county juvenile agency act, the department shall assume responsibility for the public wards for which the county juvenile agency had responsibility on the effective date of revocation.

Sec. 3. (1) A youth agency may receive and accept youths as public wards for purposes of care and rehabilitation. A youth agency shall accept a youth properly committed to it in accordance with law. Only 1 youth agency has responsibility for a youth at any time. The department shall not receive or accept youths as public wards for a county if that county is a county juvenile agency that assumed responsibility for public wards committed by the juvenile division of probate court, family division of circuit court, or court of general criminal jurisdiction for that county.

(2) Custody of a public ward under this act is as follows:

(a) If the department accepts the youth or responsibility for the youth is transferred to the department as provided in section 2a, the state, represented by the department director or his or her designate, has custody from the time of acceptance until the youth is discharged from wardship under section 7 or responsibility for the youth is transferred to a county juvenile agency under section 2a.

(b) If a county juvenile agency accepts the youth or responsibility for the youth is transferred to the county juvenile agency under section 2a, the county has custody from the time of acceptance or transfer until the youth is discharged from wardship under section 7 or responsibility for the youth is transferred to the department under section 2a. For custody purposes, the county is represented by the county department director designated by the following:

(i) For a county that has adopted a charter under 1966 PA 293, MCL 45.501 to 45.521, the county executive or chief administrative officer.

(ii) For a county that has adopted an optional unified form of county government under 1973 PA 139, MCL 45.551 to 45.573, the county executive or county manager.

(iii) For a county not described in subparagraph (i) or (ii), the county board of commissioners.

(3) If a public ward is placed in a residential facility other than his or her own home, the youth agency shall provide the youth's food, clothing, housing, educational, medical, and treatment needs. The youth agency may consent to routine nonsurgical medical care or to emergency medical treatment of the youth, but consent for nonemergency elective surgery shall be given by the youth's parent or legal guardian. If a public ward is placed in his or her own home, the youth agency shall provide counseling services and may establish reasonable conditions under which the youth will be permitted to remain in the home, but the youth's parents retain all other parental rights and duties.

Sec. 4. (1) A youth agency may establish facilities and programs for the care of public wards. A youth agency shall supervise and operate facilities and programs or contract for the care of public wards, including institutions, halfway houses, youth camps, diagnostic centers, regional detention facilities and treatment centers, group homes, supervision in the community, or other child welfare services.

(2) A youth agency may utilize the facilities, services, or personnel of any approved agency of this state and its political subdivisions or of any licensed private agency for the care and rehabilitation of public wards. A youth agency may contract with the family division of circuit court for the care and rehabilitation of public wards.

(3) A youth agency may supervise a public ward placed in private home care.

(4) A public ward may be placed in any facility, residence, or program described in this section. If the youth agency determines the best interests of a public ward require the involvement of another state or county entity, other than the department of corrections, then the youth agency and that state or county entity shall determine an appropriate care and treatment plan for the public ward. A youth agency may place a public ward in a mental institution under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, unless the public ward resides with his or her parents. If the public ward resides with his or her parents, placement in a mental institution requires consent of the custodial parent. If placement in a mental institution occurs, the public ward shall be returned to the youth agency's custody upon release from the mental institution.

(5) When necessary, a youth agency may place a public ward in a public or private institution or agency incorporated under the laws of another state or country and approved or licensed by that state's or country's approving or licensing agency, provided that the program which the youth agency seeks to place a public ward meets licensing laws, requirements, and rules required for the placement of a public ward with a public or private institution or agency in Michigan. However, if 1 or more appropriate juvenile residential care providers located or doing business in this state have bed space available, the youth agency shall use that space rather than a space available by a provider located or doing business in another state. This requirement does not apply if the provider located or doing business in another state offers a specialized program that is not available in this state. For purposes of placements by the department only, "appropriate juvenile residential care provider" means a private nonprofit entity domiciled in this state that is licensed by the department of consumer and industry services and that entered into 1 or more contracts with the department to provide residential care services for youths on or before the effective date of the amendatory act that added this sentence.

Sec. 5. (1) Except as provided in subsection (3), the county from which the public ward is committed is liable to the state for 50% of the cost of his or her care, but this amount may be reduced by the use of funds from the annual original foster care grant of the state to the county, or otherwise, for any period in respect to which the department has made a finding that the county is unable to bear 50% of the cost of care. If the department reduces a county's liability under this section, the director shall inform the respective chairpersons of the appropriations committees of the senate and house of representatives at least 14 days before granting the reduction. The county of residence of the public ward is

liable to the state, rather than the county from which the youth was committed, if the juvenile division of the probate court or the family division of circuit court of the county of residence withheld consent to a transfer of proceedings under section 2 of chapter XIIA of 1939 PA 288, MCL 712A.2, as determined by the department. The finding that the county is unable to bear 50% of the expense shall be based on a study of the financial resources and necessary expenditures of the county made by the department.

(2) The department shall determine the cost of care on a per diem basis using the initial annual allotment of appropriations for the current fiscal year exclusive of capital outlay and the projected occupancy figures upon which that allotment was based. That cost of care applies in determining required reimbursement to the state for care provided during the calendar year immediately following the beginning of the current fiscal year for which the state expenditures were allotted.

(3) A county that is a county juvenile agency is liable for the entire cost of a public ward's care while he or she is committed to the county juvenile agency.

Sec. 6. (1) A public ward shall not absent himself or herself from the facility or residence in which he or she has been placed without the youth agency's prior approval. A public ward who violates this provision may be returned to the facility in which he or she was placed by a peace officer without a warrant. A person who knows the whereabouts of a public ward who violates this subsection shall immediately notify the youth agency and the nearest peace officer.

(2) A person who induces or assists a public ward to violate subsection (1) or who fails to give the notice required in subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

Sec. 6a. (1) If a public ward described in subsection (2) escapes from a facility or residence in which he or she has been placed, other than his or her own home or the home of his or her parent or guardian, the individual at that facility or residence responsible for maintaining custody of the public ward at the time of the escape shall immediately notify 1 of the following of the escape or cause 1 of the following to be immediately notified of the escape:

(a) If the escape occurs in a city, village, or township that has a police department, that police department.

(b) If subdivision (a) does not apply, 1 of the following:

(i) The sheriff department of the county where the escape occurs.

(ii) The department of state police post having jurisdiction over the area where the escape occurs.

(2) Subsection (1) applies if the public ward is a public ward under an order of any of the following:

(a) The juvenile division of the probate court or the family division of circuit court under section 2(a)(1) of chapter XIIA of 1939 PA 288, MCL 712A.2.

(b) The circuit court under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606.

(c) The recorder's court of the city of Detroit under section 10a(1)(c) of former 1919 PA 369.

(3) A police agency that receives notification of an escape under subsection (1) shall enter that notification into the law enforcement information network without undue delay.

(4) As used in this section, "escape" means to leave without lawful authority or to fail to return to custody when required.

Sec. 7. (1) A youth accepted by a youth agency remains a public ward until discharged from public wardship with the approval of any of the following and, if placed in an institution, shall remain until released with the approval of any of the following:

(a) If the youth was committed to a youth agency under section 18(1)(e) of chapter XIIA of 1939 PA 288, MCL 712A.18, and the youth was adjudicated as being in the court's jurisdiction under section 2(a) of chapter XIIA of 1939 PA 288, MCL 712A.2, with the approval of the family division of circuit court.

(b) If the youth was committed to a youth agency under section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1, with the approval of the court of general criminal jurisdiction under section 1b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1b.

(2) Except as otherwise provided in this section, a youth accepted as a public ward shall be automatically discharged from public wardship upon reaching the age of 19. Except as provided in subsection (3), a youth committed to a youth agency under section 18(1)(e) of chapter XIIA of 1939 PA 288, MCL 712A.18, for an offense that, if committed by an adult, would be a violation or attempted violation of section 72, 83, 84, 86, 88, 89, 91, 110a(2), 186a, 316, 317, 349, 520b, 520c, 520d, 520g, 529, 529a, 530, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.84, 750.86, 750.88, 750.89, 750.91, 750.110a, 750.186a, 750.316, 750.317, 750.349, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, 750.530, and 750.531, or section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, shall be automatically discharged from public wardship upon reaching the age of 21. Except as provided in subsection (4), a youth committed to a youth agency under section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1, shall be automatically discharged from public wardship upon reaching the age of 21.

(3) If the family division of circuit court imposes a delayed sentence on the youth under section 18(1)(n) of chapter XIII A of 1939 PA 288, MCL 712A.18, the youth shall be discharged from public wardship and committed under the court's order.

(4) If a court of general criminal jurisdiction sentences the youth to a sentence provided by law for an adult offender under section 1b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1b, the youth shall be discharged from public wardship and committed under the court's order.

Sec. 7a. (1) A public ward under a youth agency's jurisdiction for a violation of section 91, 316, or 317 of the Michigan penal code, 1931 PA 328, MCL 750.91, 750.316, and 750.317, or a violation or attempted violation of section 349, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.349, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, shall not be placed in a community placement of any kind and shall not be discharged from wardship until he or she has provided samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and has provided samples for a determination of his or her secretor status. However, if at the time the public ward is to be discharged from public wardship the department of state police already has a sample from the public ward that meets the requirements of the rules promulgated under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the public ward is not required to provide another sample.

(2) The samples required to be collected under this section shall be collected by the youth agency and transmitted to the department of state police in the manner prescribed by rules promulgated under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(3) The youth agency may collect a sample under this section regardless of whether the public ward consents to the collection. The youth agency is not required to give the public ward an opportunity for a hearing or obtain a court order before collecting the sample.

(4) As used in this section, "sample" means a portion of a public ward's blood, saliva, or tissue collected from the public ward.

Sec. 8. All records of a youth agency pertaining to a public ward are confidential and shall not be made public except as follows:

(a) If the person is less than 18 years of age, by the agency's authorization when necessary for the person's best interests.

(b) If the person is 18 years of age or older, by his or her consent.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

- (a) Senate Bill No. 1183.
- (b) Senate Bill No. 1185.
- (c) Senate Bill No. 1186.
- (d) Senate Bill No. 1187.
- (e) Senate Bill No. 1196.
- (f) Senate Bill No. 1197.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved \_\_\_\_\_

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Governor.