



HOUSE BILL No. 5485

March 8, 2000, Introduced by Rep. Richner and referred to the Committee on Family and Civil Law.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 23e of chapter X and sections 2, 18, and 19b of chapter XIIIA (MCL 710.23e, 712A.2, 712A.18, and 712A.19b), section 23e of chapter X as amended by 1994 PA 373, sections 2 and 19b of chapter XIIIA as amended by 1998 PA 530, and section 18 of chapter XIIIA as amended by 1999 PA 86.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

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Sec. 23e. (1) Not later than 14 days after the filing of a petition by the prosecutor ~~pursuant to~~ AS REQUIRED BY section 23d(4) of this chapter, by a prospective adoptive parent ~~pursuant to~~ AS PERMITTED IN section 23d(6) of this chapter, or by a child placing agency ~~pursuant to~~ AS REQUIRED BY section 23d(7) of this chapter, the court shall hold a hearing to

1 determine the custody of a child for whom a temporary placement
2 has been made.

3 (2) Upon receiving a petition filed under section 23d(5) of
4 this chapter, the court shall immediately issue an ex parte order
5 directing the prospective adoptive parent to return the child to
6 the parent or guardian with legal custody within 24 hours after
7 receipt of the order, unless the court proceeds under subsection
8 (3).

9 (3) The court may appoint an attorney to represent the child
10 or refer the matter to the department. The attorney or the
11 department may file a petition on THE CHILD'S behalf ~~of the~~
12 ~~child~~ requesting the court to take jurisdiction under section
13 2(b) of chapter XIIIA. If that petition has not been filed within
14 14 days after the court appoints an attorney or refers the matter
15 to the department under this section, the court shall order the
16 return of the child to the parent or guardian with legal
17 custody. During the period before the petition for jurisdiction
18 under section 2(b) of chapter XIIIA is filed and a preliminary
19 hearing is held or the return of custody is ordered, the court
20 shall remove the child from the home of the prospective adoptive
21 parent and make a temporary disposition appropriate for the wel-
22 fare of the child as authorized by section 18 of chapter XIIIA.

23 (4) Subject to subsection (2), the court may appoint a
24 guardian under the ~~revised probate code, Act No. 642 of the~~
25 ~~Public Acts of 1978, being sections 700.1 to 700.993 of the~~
26 ~~Michigan Compiled Laws, pursuant~~ ESTATES AND PROTECTED
27 INDIVIDUALS CODE, 1998 PA 386, MCL 700.1101 TO 700.8102, IN

1 RESPONSE to a petition filed by the prospective adoptive parent
2 or another individual interested in the CHILD'S welfare, ~~of the~~
3 ~~child,~~ and make a temporary disposition appropriate for the
4 CHILD'S welfare ~~of the child~~ as authorized by section 18 of
5 chapter XIIA until an order of guardianship is entered.

6 (5) The court may order the return of a child to a child
7 placing agency that has obtained legal custody of the child.

8 (6) The court may appoint a guardian ad litem for the child
9 or for a minor parent of the child.

10 (7) This act provides the exclusive remedy for all custody
11 disputes arising out of a temporary placement.

12 CHAPTER XIIA

13 Sec. 2. The court has the following authority and
14 jurisdiction:

15 (a) Exclusive original jurisdiction superior to and regard-
16 less of the jurisdiction of ~~any other~~ ANOTHER court in proceed-
17 ings concerning a juvenile under 17 years of age who is found
18 within the county if 1 or more of the following applies:

19 (1) Except as otherwise provided in this sub-subdivision,
20 the juvenile has violated any municipal ordinance or law of the
21 state or of the United States. If the court enters into an
22 agreement under section 2e of this chapter, the court has juris-
23 diction over a juvenile who committed a civil infraction as pro-
24 vided in that section. The court has jurisdiction over a juve-
25 nile 14 years of age or older who is charged with a specified
26 juvenile violation only if the prosecuting attorney files a
27 petition in the court instead of authorizing a complaint and

1 warrant. As used in this sub-subdivision, "specified juvenile
2 violation" means ~~any~~ 1 OR MORE of the following:

3 (A) A violation of section 72, 83, 86, 89, 91, 316, 317,
4 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA
5 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316,
6 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

7 (B) A violation of section 84 or 110a(2) of the Michigan
8 penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile
9 is armed with a dangerous weapon. As used in this paragraph,
10 "dangerous weapon" means 1 or more of the following:

11 (i) A loaded or unloaded firearm, whether operable or
12 inoperable.

13 (ii) A knife, stabbing instrument, brass knuckles, black-
14 jack, club, or other object specifically designed or customarily
15 carried or possessed for use as a weapon.

16 (iii) An object that is likely to cause death or bodily
17 injury when used as a weapon and that is used as a weapon or car-
18 ried or possessed for use as a weapon.

19 (iv) An object or device that is used or fashioned in a
20 manner to lead a person to believe the object or device is an
21 object or device described in subparagraphs (i) to (iii).

22 (C) A violation of section 186a of the Michigan penal code,
23 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
24 from a juvenile facility, but only if the juvenile facility from
25 which the individual escaped or attempted to escape was 1 of the
26 following:

1 (i) A high-security or medium-security facility operated by
2 the family independence agency or a county juvenile agency.

3 (ii) A high-security facility operated by a private agency
4 under contract with the family independence agency or a county
5 juvenile agency.

6 (D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of
7 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

8 (E) An attempt to commit a violation described in paragraphs
9 (A) to (D).

10 (F) Conspiracy to commit a violation described in paragraphs
11 (A) to (D).

12 (G) Solicitation to commit a violation described in para-
13 graphs (A) to (D).

14 (H) ~~Any~~ A lesser included offense of a violation described
15 in paragraphs (A) to (G) if the individual is charged with a vio-
16 lation described in paragraphs (A) to (G).

17 (I) ~~Any other~~ ANOTHER violation arising out of the same
18 transaction as a violation described in paragraphs (A) to (G) if
19 the individual is charged with a violation described in para-
20 graphs (A) to (G).

21 (2) The juvenile has deserted his or her home without suffi-
22 cient cause, and the court finds on the record that the juvenile
23 has been placed or refused alternative placement or the juvenile
24 and the juvenile's parent, guardian, or custodian have exhausted
25 or refused family counseling.

26 (3) The juvenile is repeatedly disobedient to the reasonable
27 and lawful commands of his or her parents, guardian, or

1 custodian, and the court finds on the record by clear and
2 convincing evidence that court-accessed services are necessary.

3 (4) The juvenile willfully and repeatedly absents himself or
4 herself from school or other learning program intended to meet
5 the juvenile's educational needs, or repeatedly violates rules
6 and regulations of the school or other learning program, and the
7 court finds on the record that the juvenile, the juvenile's
8 parent, guardian, or custodian, and school officials or learning
9 program personnel have met on the juvenile's educational problems
10 and educational counseling and alternative agency help have been
11 sought. As used in this sub-subdivision only, "learning program"
12 means an organized educational program that is appropriate, given
13 the age, intelligence, ability, and ~~any~~ psychological limita-
14 tions of a juvenile, in the subject areas of reading, spelling,
15 mathematics, science, history, civics, writing, and English
16 grammar.

17 (b) Jurisdiction in proceedings concerning ~~any~~ A juvenile
18 under 18 years of age found within the county:

19 (1) Whose parent or other person legally responsible for the
20 care and maintenance of the juvenile, when able to do so,
21 neglects or refuses to provide proper or necessary support, edu-
22 cation, medical, surgical, or other care necessary for his or her
23 health or morals, who is subject to a substantial risk of harm to
24 his or her mental well-being, who is abandoned by his or her par-
25 ents, guardian, or other custodian, or who is without proper cus-
26 tody or guardianship. As used in this sub-subdivision:

1 (A) "Education" means learning based on an organized
2 educational program that is appropriate, given the age,
3 intelligence, ability, and ~~any~~ psychological limitations of a
4 juvenile, in the subject areas of reading, spelling, mathematics,
5 science, history, civics, writing, and English grammar.

6 (B) "Without proper custody or guardianship" does not mean a
7 parent has placed the juvenile with another person who is legally
8 responsible for the care and maintenance of the juvenile and who
9 is able to and does provide the juvenile with proper care and
10 maintenance.

11 (2) Whose home or environment, by reason of neglect, cruel-
12 ty, drunkenness, criminality, or depravity on the part of a
13 parent, guardian, nonparent adult, or other custodian, is an
14 unfit place for the juvenile to live in.

15 (3) Whose parent has substantially failed, without good
16 cause, to comply with a limited guardianship placement plan
17 described in section ~~424a of the revised probate code, 1978 PA~~
18 ~~642, MCL 700.424a~~ 5205 OF THE ESTATES AND PROTECTED INDIVIDUALS
19 CODE, 1998 PA 386, MCL 700.5205, regarding the juvenile.

20 (4) Whose parent has substantially failed, without good
21 cause, to comply with a court-structured plan described in sec-
22 tion ~~424b or 424c of the revised probate code, 1978 PA 642, MCL~~
23 ~~700.424b and 700.424c~~ 5207 OR 5209 OF THE ESTATES AND PROTECTED
24 INDIVIDUALS CODE, 1998 PA 386, MCL 700.5207 AND 700.5209, regard-
25 ing the juvenile.

26 (5) If the juvenile has a guardian under the ~~revised~~
27 ~~probate code, 1978 PA 642, MCL 700.1 to 700.993~~ ESTATES AND

1 PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.1101 TO
2 700.8102, and the juvenile's parent meets both of the following
3 criteria:

4 (A) The parent, having the ability to support or assist in
5 supporting the juvenile, has failed or neglected, without good
6 cause, to provide regular and substantial support for the juve-
7 nile for 2 years or more before the filing of the petition or, if
8 a support order has been entered, has failed to substantially
9 comply with the order for 2 years or more before the filing of
10 the petition.

11 (B) The parent, having the ability to visit, contact, or
12 communicate with the juvenile, has regularly and substantially
13 failed or neglected, without good cause, to do so for 2 years or
14 more before the filing of the petition.

15 If a petition is filed in the court alleging that a juvenile
16 is within the provisions of subdivision (b)(1), (2), (3), (4), or
17 (5) and the custody of that juvenile is subject to the prior or
18 continuing order of another court of record of this state, the
19 manner of notice to the other court of record and the authority
20 of the court to proceed is governed by rule of the supreme
21 court.

22 (c) Jurisdiction over juveniles under 18 years of age,
23 jurisdiction of whom has been waived to the family division of
24 circuit court by a circuit court under a provision in a temporary
25 order for custody of juveniles based upon a complaint for divorce
26 or upon a motion ~~pursuant~~ RELATED to a complaint for divorce by
27 the prosecuting attorney, in a divorce judgment dissolving a

1 marriage between the JUVENILE'S parents, ~~of the juveniles,~~ or
2 by an amended judgment relative to the JUVENILE'S custody ~~of the~~
3 ~~juvenile~~ in a divorce.

4 (d) If the court finds on the record that voluntary services
5 have been exhausted or refused, concurrent jurisdiction in pro-
6 ceedings concerning ~~any~~ A juvenile between the ages of 17 and
7 18 found within the county who is ~~any~~ 1 OR MORE of the
8 following:

9 (1) Repeatedly addicted to the use of drugs or the intemper-
10 ate use of alcoholic liquors.

11 (2) Repeatedly associating with criminal, dissolute, or dis-
12 orderly persons.

13 (3) Found of his or her own free will and knowledge in a
14 house of prostitution, assignation, or ill-fame.

15 (4) Repeatedly associating with thieves, prostitutes, pimps,
16 or procurers.

17 (5) Willfully disobedient to the reasonable and lawful com-
18 mands of his or her parents, guardian, or other custodian and in
19 danger of becoming morally depraved.

20 If ~~any~~ A juvenile is brought before the court in a county
21 other than that in which the juvenile resides, before a hearing
22 and with the consent of the judge of the court in the county of
23 residence, the court may enter an order transferring jurisdiction
24 of the matter to the court of the county of residence. Consent
25 to transfer jurisdiction is not required if the county of resi-
26 dence is a county juvenile agency and satisfactory proof of
27 residence is furnished to the court of the county of residence.

1 The order ~~is~~ DOES not CONSTITUTE a legal settlement ~~as~~
2 ~~defined~~ in THIS STATE THAT IS REQUIRED FOR THE PURPOSE OF sec-
3 tion 55 of the social welfare act, 1939 PA 280, MCL 400.55. The
4 order and a certified copy of the proceedings in the transferring
5 court shall be delivered to the court of the county of
6 residence. A case designated as a case in which the juvenile
7 shall be tried in the same manner as an adult under section 2d of
8 this chapter may be transferred for venue or for juvenile dispo-
9 sition, but shall not be transferred on grounds of residency. If
10 the case is not transferred, ~~the case shall be tried by~~ the
11 court having jurisdiction of the offense SHALL TRY THE CASE.

12 (e) Authority to establish or assist in developing a program
13 or programs within the county to prevent delinquency and provide
14 services to act upon reports submitted to the court related to
15 the behavior of ~~juveniles who do~~ A JUVENILE WHO DOES not
16 require formal court jurisdiction but otherwise ~~fall~~ FALLS
17 within subdivision (a). These services shall be used only if
18 ~~they are voluntarily accepted by~~ the juvenile and his or her
19 parents, guardian, or custodian VOLUNTARILY ACCEPTS THEM.

20 (f) If the court operates a detention home for juveniles
21 within the court's jurisdiction under subdivision (a)(1), author-
22 ity to place a juvenile within that home pending trial if the
23 juvenile is within the circuit court's jurisdiction under section
24 606 of the revised judicature act of 1961, 1961 PA 236, MCL
25 600.606, and if the circuit court orders the family division of
26 circuit court in the same county to place the juvenile in that

1 home. The family division of circuit court shall comply with
2 that order.

3 (g) Authority to place a juvenile in a county jail under
4 section 27a of chapter IV of the code of criminal procedure, 1927
5 PA 175, MCL 764.27a, if the court designates the case under sec-
6 tion 2d of this chapter as a case in which the juvenile is to be
7 tried in the same manner as an adult and the court determines
8 there is probable cause to believe that the offense was committed
9 and probable cause to believe the juvenile committed that
10 offense.

11 (h) Jurisdiction over a proceeding under section 2950 or
12 2950a of the revised judicature act of 1961, 1961 PA 236,
13 MCL 600.2950 and 600.2950a, in which a minor less than 18 years
14 of age is the respondent. Venue for an initial action under sec-
15 tion 2950 or 2950a of the revised judicature act of 1961, 1961
16 PA 236, MCL 600.2950 and 600.2950a, is proper in the county of
17 residence of either the petitioner or respondent. If the respon-
18 dent does not live in this state, venue for the initial action is
19 proper in the petitioner's county of residence.

20 Sec. 18. (1) If the court finds that a juvenile concerning
21 whom a petition is filed is not within this chapter, the court
22 shall enter an order dismissing the petition. Except as other-
23 wise provided in subsection (10), if the court finds that a juve-
24 nile is within this chapter, the court may enter any of the fol-
25 lowing orders of disposition that are appropriate for the welfare
26 of the juvenile and society in view of the facts proven and
27 ascertained:

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

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

14 (c) If a juvenile is within the court's jurisdiction under
15 section 2(a) of this chapter, or under section 2(h) of this chap-
16 ter for a supplemental petition, place the juvenile in a suitable
17 foster care home subject to the court's supervision. If a juve-
18 nile is within the court's jurisdiction under section 2(b) of
19 this chapter, the court shall not place a juvenile in a foster
20 care home subject to the court's supervision.

21 (d) Except as otherwise provided in this subdivision, place
22 the juvenile in or commit the juvenile to a private institution
23 or agency approved or licensed by the department of consumer and
24 industry services for the care of juveniles of similar age, sex,
25 and characteristics. If the juvenile is not a ward of the court,
26 the court shall commit the juvenile to the family independence
27 agency or, if the county is a county juvenile agency, to that

1 county juvenile agency for placement in or commitment to such an
2 institution or agency as the family independence agency or county
3 juvenile agency determines is most appropriate, subject to any
4 initial level of placement the court designates.

5 (e) Except as otherwise provided in this subdivision, commit
6 the juvenile to a public institution, county facility, institu-
7 tion operated as an agency of the court or county, or agency
8 authorized by law to receive juveniles of similar age, sex, and
9 characteristics. If the juvenile is not a ward of the court, the
10 court shall commit the juvenile to the family independence agency
11 or, if the county is a county juvenile agency, to that county
12 juvenile agency for placement in or commitment to such an insti-
13 tution or facility as the family independence agency or county
14 juvenile agency determines is most appropriate, subject to any
15 initial level of placement the court designates. If a child is
16 not less than 17 years of age and is in violation of a personal
17 protection order, the court may commit the child to a county jail
18 within the adult prisoner population. In a placement under sub-
19 division (d) or a commitment under this subdivision, except to a
20 state institution or a county juvenile agency institution, the
21 juvenile's religious affiliation shall be protected by placement
22 or commitment to a private child-placing or child-caring agency
23 or institution, if available. Except for commitment to the
24 family independence agency or a county juvenile agency, an order
25 of commitment under this subdivision to a state institution or
26 agency described in the youth rehabilitation services act, 1974
27 PA 150, MCL 803.301 to 803.309, or in 1935 PA 220, MCL 400.201 to

1 400.214, the court shall name the superintendent of the
2 institution to which the juvenile is committed as a special
3 guardian to receive benefits due the juvenile from the government
4 of the United States. An order of commitment under this subdivi-
5 sion to the family independence agency or a county juvenile
6 agency shall name that agency as a special guardian to receive
7 those benefits. The benefits received by the special guardian
8 shall be used to the extent necessary to pay for the portions of
9 the cost of care in the institution or facility that the parent
10 or parents are found unable to pay.

11 (f) Provide the juvenile with medical, dental, surgical, or
12 other health care, in a local hospital if available, or else-
13 where, maintaining as much as possible a local physician-patient
14 relationship, and with clothing and other incidental items the
15 court determines are necessary.

16 (g) Order the parents, guardian, custodian, or any other
17 person to refrain from continuing conduct that the court deter-
18 mines has caused or tended to cause the juvenile to come within
19 or to remain under this chapter or that obstructs placement or
20 commitment of the juvenile ~~pursuant to~~ BY an order under this
21 section.

22 (h) Appoint a guardian under ~~section 424 of the revised~~
23 ~~probate code, 1978 PA 642, MCL 700.424, or~~ section 5204 of the
24 estates and protected individuals code, 1998 PA 386, MCL
25 700.5204, ~~pursuant~~ IN RESPONSE to a petition filed with the
26 court by a person interested in the juvenile's welfare. If the

1 court appoints a guardian ~~pursuant to~~ AS AUTHORIZED BY this
2 subdivision, it may dismiss the petition under this chapter.

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

4 (j) If the court finds that a juvenile has violated a munic-
5 ipal ordinance or a state or federal law, order the juvenile to
6 pay a civil fine in the amount of the civil or penal fine pro-
7 vided by the ordinance or law. Money collected from fines levied
8 under this subsection shall be distributed as provided in section
9 29 of this chapter.

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

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

17 (m) If a juvenile is within the court's jurisdiction under
18 section 2(a)(1) of this chapter, place the juvenile in and order
19 the juvenile to complete satisfactorily a program of training in
20 a juvenile boot camp established by the family independence
21 agency under the juvenile boot camp act, 1996 PA 263,
22 MCL 400.1301 to 400.1309, as provided in that act. If the county
23 is a county juvenile agency, however, the court shall commit the
24 juvenile to that county juvenile agency for placement in the pro-
25 gram under that act. Upon receiving a report of satisfactory
26 completion of the program from the family independence agency,
27 the court shall authorize the juvenile's release from placement

1 in the juvenile boot camp. Following satisfactory completion of
2 the juvenile boot camp program, the juvenile shall complete an
3 additional period of not less than 120 days or more than 180 days
4 of intensive supervised community reintegration in the juvenile's
5 local community. To place or commit a juvenile under this subdi-
6 vision, the court shall determine all of the following:

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

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

11 (iii) The juvenile does not appear to have any mental handi-
12 cap that would prevent participation in the program.

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

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

16 (vi) If the court must commit the juvenile to a county juve-
17 nile agency, the county juvenile agency is able to place the
18 juvenile in a juvenile boot camp program.

19 (n) If the court entered a judgment of conviction under sec-
20 tion 2d of this chapter, enter any disposition under this section
21 or, if the court determines that the best interests of the public
22 would be served, impose any sentence upon the juvenile that could
23 be imposed upon an adult convicted of the offense for which the
24 juvenile was convicted. If the juvenile is convicted of a viola-
25 tion or conspiracy to commit a violation of section 7403(2)(a)(i)
26 of the public health code, 1978 PA 368, MCL 333.7403, the court
27 may impose the alternative sentence permitted under that section

1 if the court determines that the best interests of the public
2 would be served. The court may delay imposing a sentence of
3 imprisonment under this subdivision for a period not longer than
4 the period during which the court has jurisdiction over the juve-
5 nile under this chapter by entering an order of disposition
6 delaying imposition of sentence and placing the juvenile on pro-
7 bation upon the terms and conditions it considers appropriate,
8 including any disposition under this section. If the court
9 delays imposing sentence under this section, section 18i of this
10 chapter applies. If the court imposes sentence, it shall enter a
11 judgment of sentence. If the court imposes a sentence of impris-
12 onment, the juvenile shall receive credit against the sentence
13 for time served before sentencing. In determining whether to
14 enter an order of disposition or impose a sentence under this
15 subdivision, the court shall consider all of the following fac-
16 tors, giving greater weight to the seriousness of the offense and
17 the juvenile's prior record:

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

23 (ii) The juvenile's culpability in committing the offense,
24 including, but not limited to, the level of the juvenile's par-
25 ticipation in planning and carrying out the offense and the exis-
26 tence of any aggravating or mitigating factors recognized by the
27 sentencing guidelines.

1 (iii) The juvenile's prior record of delinquency including,
2 but not limited to, any record of detention, any police record,
3 any school record, or any other evidence indicating prior delin-
4 quent behavior.

5 (iv) The juvenile's programming history, including, but not
6 limited to, the juvenile's past willingness to participate mean-
7 ingfully in available programming.

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

10 (vi) The dispositional options available for the juvenile.

11 (2) An order of disposition placing a juvenile in or commit-
12 ting a juvenile to care outside of the juvenile's own home and
13 under state, county juvenile agency, or court supervision shall
14 contain a provision for reimbursement by the juvenile, parent,
15 guardian, or custodian to the court for the cost of care or
16 service. The order shall be reasonable, taking into account both
17 the income and resources of the juvenile, parent, guardian, or
18 custodian. The amount may be based upon the guidelines and model
19 schedule created under subsection (6). If the juvenile is
20 receiving an adoption support subsidy under ~~section 115j(4)~~
21 SECTIONS 115F TO 115I of the social welfare act, 1939 PA 280, MCL
22 ~~400.115j~~ 400.115F TO 400.115I, the amount shall not exceed the
23 amount of the support subsidy. The reimbursement provision
24 applies during the entire period the juvenile remains in care
25 outside of the juvenile's own home and under state, county juve-
26 nile agency, or court supervision, unless the juvenile is in the
27 permanent custody of the court. The court shall provide for the

1 collection of all amounts ordered to be reimbursed and the money
2 collected shall be accounted for and reported to the county board
3 of commissioners. Collections to cover delinquent accounts or to
4 pay the balance due on reimbursement orders may be made after a
5 juvenile is released or discharged from care outside the
6 juvenile's own home and under state, county juvenile agency, or
7 court supervision. Twenty-five percent of all amounts collected
8 ~~pursuant to~~ UNDER an order entered under this subsection shall
9 be credited to the appropriate fund of the county to offset the
10 administrative cost of collections. The balance of all amounts
11 collected under an order entered under this subsection shall be
12 divided in the same ratio in which the county, state, and federal
13 government participate in the cost of care outside the juvenile's
14 own home and under state, county juvenile agency, or court
15 supervision. The court may also collect FROM THE GOVERNMENT OF
16 THE UNITED STATES benefits paid for the cost of care of a court
17 ward. ~~from the government of the United States.~~ Money collected
18 for juveniles placed by the court with or committed to the family
19 independence agency or a county juvenile agency shall be
20 accounted for and reported on an individual juvenile basis. In
21 cases of delinquent accounts, the court may also enter an order
22 to intercept state or federal tax refunds of a juvenile, parent,
23 guardian, or custodian and initiate the necessary offset proceed-
24 ings in order to recover the cost of care or service. The court
25 shall send to the person who is the subject of the intercept
26 order advance written notice of the proposed offset. The notice
27 shall include notice of the opportunity to contest the offset on

1 the grounds that the intercept is not proper because of a mistake
2 of fact concerning the amount of the delinquency or the identity
3 of the person subject to the order. The court shall provide for
4 the prompt reimbursement of an amount withheld in error or an
5 amount found to exceed the delinquent amount.

6 (3) An order of disposition placing a juvenile in the
7 juvenile's own home under subsection (1)(b) may contain a provi-
8 sion for reimbursement by the juvenile, parent, guardian, or cus-
9 todian to the court for the cost of service. If an order is
10 entered under this subsection, an amount due shall be determined
11 and treated in the same manner provided for an order entered
12 under subsection (2).

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

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

24 (6) The office of the state court administrator, under the
25 supervision and direction of the supreme court and in consulta-
26 tion with the family independence agency and the Michigan probate
27 judges association, shall create guidelines and a model schedule

1 the court may use in determining the ability of the juvenile,
2 parent, guardian, or custodian to pay for care and any costs of
3 service ordered under subsection (2) or (3). The guidelines and
4 model schedule shall take into account both the income and
5 resources of the juvenile, parent, guardian, or custodian.

6 (7) If the court finds that a juvenile comes under section
7 30 of this chapter, the court shall order the juvenile or the
8 juvenile's parent to pay restitution as provided in sections 30
9 and 31 of this chapter and in sections 44 and 45 of the crime
10 victim's rights act, 1985 PA 87, MCL 780.794 and 780.795.

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

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

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

18 (9) If the court finds that the juvenile is in intentional
19 default of the payment of restitution, a court may, as provided
20 in section 31 of this chapter, revoke or alter the terms and con-
21 ditions of probation for nonpayment of restitution. If a juve-
22 nile who is ordered to engage in community service intentionally
23 refuses to perform the required community service, the court may
24 revoke or alter the terms and conditions of probation.

25 (10) The court shall not enter an order of disposition for a
26 juvenile offense as defined in section ~~1A~~ 1A of 1925 PA 289,
27 MCL ~~28.241A~~ 28.241A, or a judgment of sentence for a conviction

1 until the court has examined the court file and has determined
2 that the juvenile's fingerprints have been taken and forwarded as
3 required by section 3 of 1925 PA 289, MCL 28.243, and as required
4 by the sex offenders registration act, 1994 PA 295, MCL 28.721 to
5 28.732. If a juvenile has not had his or her fingerprints taken,
6 the court shall do either of the following:

7 (a) Order the juvenile to submit himself or herself to the
8 police agency that arrested or obtained the warrant for the
9 juvenile's arrest so the juvenile's fingerprints can be taken and
10 forwarded.

11 (b) Order the juvenile committed to the sheriff's custody
12 for taking and forwarding the juvenile's fingerprints.

13 (11) Upon final disposition, conviction, acquittal, or dis-
14 missal of an offense within the court's jurisdiction under sec-
15 tion 2(a)(1) of this chapter, USING FORMS APPROVED BY THE STATE
16 COURT ADMINISTRATOR, the clerk of the court entering the final
17 disposition, conviction, acquittal, or dismissal shall immedi-
18 ately advise the department of state police of that final dispo-
19 sition, conviction, acquittal, or dismissal ~~on forms approved by~~
20 ~~the state court administrator,~~ as required by section 3 of 1925
21 PA 289, MCL 28.243. The report to the department of state police
22 shall include information as to the finding of the judge or jury
23 and a summary of the disposition or sentence imposed.

24 (12) If the court enters an order of disposition based on an
25 act that is a juvenile offense as defined in section 1 of 1989
26 PA 196, MCL 780.901, the court shall order the juvenile to pay
27 the assessment as provided in that act. If the court enters a

1 judgment of conviction under section 2d of this chapter for an
2 offense that is a felony, serious misdemeanor, or specified mis-
3 demeanor as defined in section 1 of 1989 PA 196, MCL 780.901, the
4 court shall order the juvenile to pay the assessment as provided
5 in that act.

6 (13) If the court has entered an order of disposition or a
7 judgment of conviction for a listed offense as defined in section
8 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722,
9 the court, the family independence agency, or the county juvenile
10 agency shall register the juvenile or accept the juvenile's reg-
11 istration as provided in the sex offenders registration act, 1994
12 PA 295, MCL 28.721 to 28.732.

13 (14) If the court enters an order of disposition placing a
14 juvenile in a juvenile boot camp program, or committing a juve-
15 nile to a county juvenile agency for placement in a juvenile boot
16 camp program, and the court receives from the family independence
17 agency a report that the juvenile has failed to perform satisfac-
18 torily in the program, that the juvenile does not meet the
19 program's requirements or is medically unable to participate in
20 the program for more than 25 days, that there is no opening in a
21 juvenile boot camp program, or that the county juvenile agency is
22 unable to place the juvenile in a juvenile boot camp program, the
23 court shall release the juvenile from placement or commitment and
24 enter an alternative order of disposition. A juvenile shall not
25 be placed in a juvenile boot camp ~~pursuant to~~ UNDER an order of
26 disposition more than once, except that a juvenile returned to
27 the court for a medical condition, because there was no opening

1 in a juvenile boot camp program, or because the county juvenile
2 agency was unable to place the juvenile in a juvenile boot camp
3 program may be placed again in the juvenile boot camp program
4 after the medical condition is corrected, an opening becomes
5 available, or the county juvenile agency is able to place the
6 juvenile.

7 (15) If the juvenile is within the court's jurisdiction
8 under section 2(a)(i) of this chapter for an offense other than a
9 listed offense as defined in section 2(d)(i) to (ix) and (xi) to
10 (xiii) of the sex offenders registration act, 1994 PA 295, MCL
11 28.722, the court shall determine if the offense is a violation
12 of a law of this state or a local ordinance of a municipality of
13 this state that by its nature constitutes a sexual offense
14 against an individual who is less than 18 years of age. If so,
15 the order of disposition is for a listed offense as defined in
16 section 2(d)(x) of the sex offenders registration act, 1994 PA
17 295, MCL 28.722, and the court shall include the basis for that
18 determination on the record and include the determination in the
19 order of disposition.

20 (16) The court shall not impose a sentence of imprisonment
21 in the county jail under subsection (1)(n) unless the present
22 county jail facility for the juvenile's imprisonment would meet
23 all requirements under federal law and regulations for housing
24 juveniles. The court shall not impose the sentence until it con-
25 sults with the sheriff to determine when the sentence will begin
26 to ensure that space will be available for the juvenile.

1 (17) In a proceeding under section 2(h) of this chapter,
2 this section ~~shall~~ only ~~apply~~ APPLIES to a disposition for a
3 violation of a personal protection order and subsequent
4 proceedings.

5 Sec. 19b. (1) Except as provided in subsection (4), if a
6 child remains in foster care in the temporary custody of the
7 court following a review hearing under section 19(3) of this
8 chapter or a permanency planning hearing under section 19a of
9 this chapter or if a child remains in the custody of a guardian
10 or limited guardian, upon petition of the prosecuting attorney,
11 whether or not the prosecuting attorney is representing or acting
12 as legal consultant to the agency or ~~any other~~ ANOTHER party,
13 or UPON petition of the child, guardian, custodian, concerned
14 person as defined in subsection (6), agency, or children's
15 ombudsman as authorized in section 7 of the children's ombudsman
16 act, 1994 PA 204, MCL 722.927, the court shall hold a hearing to
17 determine if the parental rights to a child should be terminated
18 and, if all parental rights to the child are terminated, the
19 child placed in permanent COURT custody. ~~of the court.~~ The
20 court shall state on the record or in writing its findings of
21 fact and conclusions of law with respect to whether or not paren-
22 tal rights should be terminated. The court shall issue an opin-
23 ion or order regarding a petition for termination of parental
24 rights within 70 days after the commencement of the initial hear-
25 ing on the petition. However, the court's failure to issue an
26 opinion within 70 days does not dismiss the petition.

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

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

6 (b) The child's foster parent or custodian.

7 (c) The child's parents.

8 (d) If the child has a guardian, the child's guardian.

9 (e) If the child has a guardian ad litem, the child's guard-
10 ian ad litem.

11 (f) If tribal affiliation has been determined, the Indian
12 tribe's elected leader.

13 (g) The child's attorney and each party's attorney.

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

15 (i) The prosecutor.

16 (3) The court may terminate a parent's parental rights to a
17 child if the court finds, by clear and convincing evidence, 1 or
18 more of the following:

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

21 (i) The child's parent is unidentifiable, has deserted the
22 child for 28 or more days, and has not sought custody of the
23 child during that period. For the purposes of this section, a
24 parent is unidentifiable if the parent's identity cannot be
25 ascertained after reasonable efforts have been made to locate and
26 identify the parent.

1 (ii) The child's parent has deserted the child for 91 or
2 more days and has not sought custody of the child during that
3 period.

4 (b) The child or a sibling of the child has suffered physi-
5 cal injury or physical or sexual abuse under 1 or more of the
6 following circumstances:

7 (i) The parent's act caused the physical injury or physical
8 or sexual abuse and the court finds that there is a reasonable
9 likelihood that the child will suffer from injury or abuse in the
10 foreseeable future if placed in the parent's home.

11 (ii) The parent who had the opportunity to prevent the phys-
12 ical injury or physical or sexual abuse failed to do so, and the
13 court finds that there is a reasonable likelihood that the child
14 will suffer injury or abuse in the foreseeable future if placed
15 in the parent's home.

16 (iii) A nonparent adult's act caused the physical injury or
17 physical or sexual abuse, and the court finds that there is a
18 reasonable likelihood that the child will suffer from injury or
19 abuse by the nonparent adult in the foreseeable future if placed
20 in the parent's home.

21 (c) The parent was a respondent in a proceeding brought
22 under this chapter, 182 or more days have elapsed since the issu-
23 ance of an initial dispositional order, and the court, by clear
24 and convincing evidence, finds either of the following:

25 (i) The conditions that led to the adjudication continue to
26 exist and there is no reasonable likelihood that the conditions

1 will be rectified within a reasonable time considering the
2 child's age.

3 (ii) Other conditions exist that cause the child to come
4 within the court's jurisdiction, the parent has received recom-
5 mendations to rectify those conditions, the conditions have not
6 been rectified by the parent after the parent has received notice
7 and a hearing and has been given a reasonable opportunity to rec-
8 tify the conditions, and there is no reasonable likelihood that
9 the conditions will be rectified within a reasonable time consid-
10 ering the child's age.

11 (d) The child's parent has placed the child in a limited
12 guardianship under section ~~424a~~ of the revised probate code,
13 ~~1978 PA 642, MCL 700.424a~~ 5205 OF THE ESTATES AND PROTECTED
14 INDIVIDUALS CODE, 1998 PA 386, MCL 700.5205, and has substan-
15 tially failed, without good cause, to comply with a limited
16 guardianship placement plan described in section ~~424a~~ of the
17 revised probate code, ~~1978 PA 642, MCL 700.424a~~ 5205 OF THE
18 ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL
19 700.5205, regarding the child to the extent that the noncompli-
20 ance has resulted in a disruption of the parent-child
21 relationship.

22 (e) The child has a guardian under the ~~revised probate~~
23 ~~code, 1978 PA 642, MCL 700.1 to 700.993~~ ESTATES AND PROTECTED
24 INDIVIDUALS CODE, 1998 PA 386, MCL 700.1101 TO 700.8102, and the
25 parent has substantially failed, without good cause, to comply
26 with a court-structured plan described in section ~~424b or 424c~~
27 of the revised probate code, ~~1978 PA 642, MCL 700.424b~~ and

1 ~~700.424c~~ 5207 OR 5209 OF THE ESTATES AND PROTECTED INDIVIDUALS
2 CODE, 1998 PA 386, MCL 700.5207 AND 700.5209, regarding the child
3 to the extent that the noncompliance has resulted in a disruption
4 of the parent-child relationship.

5 (f) The child has a guardian under the ~~revised probate~~
6 ~~code, 1978 PA 642, MCL 700.1 to 700.993~~ ESTATES AND PROTECTED
7 INDIVIDUALS CODE, 1998 PA 386, MCL 700.1101 TO 700.8102, and both
8 of the following have occurred:

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

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

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

25 (h) The parent is imprisoned for such a period that the
26 child will be deprived of a normal home for a period exceeding 2
27 years, ~~and~~ the parent has not provided for the child's proper

1 care and custody, and there is no reasonable expectation that the
2 parent will be able to provide proper care and custody within a
3 reasonable time considering the child's age.

4 (i) Parental rights to 1 or more siblings of the child have
5 been terminated due to serious and chronic neglect or physical or
6 sexual abuse, and prior attempts to rehabilitate the parents have
7 been unsuccessful.

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

11 (k) The parent abused the child or a sibling of the child
12 and the abuse included 1 or more of the following:

13 (i) Abandonment of a young child.

14 (ii) Criminal sexual conduct involving penetration,
15 attempted penetration, or assault with intent to penetrate.

16 (iii) Battering, torture, or other severe physical abuse.

17 (iv) Loss or serious impairment of an organ or limb.

18 (v) Life threatening injury.

19 (vi) Murder or attempted murder.

20 (l) The parent's rights to another child were terminated as
21 a result of proceedings under section 2(b) of this chapter or a
22 similar law of another state.

23 (m) The parent's rights to another child were voluntarily
24 terminated following the initiation of proceedings under section
25 2(b) of this chapter or a similar law of another state.

26 (n) The parent is convicted of 1 or more of the following,
27 and the court determines that termination is in the child's best

1 interests because continuing the parent-child relationship with
2 the parent would be harmful to the child:

3 (i) A violation of section 316, 317, 520b, 520c, 520d, 520e,
4 or 520g of the Michigan penal code, 1931 PA 328, MCL 750.316,
5 750.317, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

6 (ii) A violation of a criminal statute, an element of which
7 is the use of force or the threat of force, and which subjects
8 the parent to sentencing under section 10, 11, or 12 of chapter
9 IX of the code of criminal procedure, 1927 PA 175, MCL 769.10,
10 769.11, and 769.12.

11 (iii) A federal law or law of another state with provisions
12 substantially similar to a crime or procedure listed or described
13 in subparagraph (i) or (ii).

14 (4) If a petition to terminate the parental rights to a
15 child is filed, the court may enter an order terminating parental
16 rights under subsection (3) at the initial dispositional
17 hearing. If a petition to terminate parental rights to a child
18 is filed, parenting time for a parent who is a subject of the
19 petition is automatically suspended and, except as otherwise pro-
20 vided in this subsection, remains suspended at least until a
21 decision is issued on the termination petition. If a parent
22 whose parenting time is suspended under this subsection estab-
23 lishes, and the court determines, that parenting time will not
24 harm the child, the court may order parenting time in the amount
25 and under the conditions the court determines appropriate.

26 (5) If the court finds that there are grounds for
27 termination of parental rights, the court shall order termination

1 of parental rights and order that additional efforts for
2 reunification of the child with the parent not be made, unless
3 the court finds that termination of parental rights to the child
4 is clearly not in the child's best interests.

5 (6) As used in this section, "concerned person" means a
6 foster parent with whom the child is living or has lived who has
7 specific knowledge of behavior by the parent constituting grounds
8 for termination under subsection (3)(b) or (g) and who has con-
9 tacted the family independence agency, the prosecuting attorney,
10 the child's attorney, and the child's guardian ad litem, if any,
11 and is satisfied that none of these persons intend to file a
12 petition under this section.

13 Enacting section 1. This amendatory act takes effect April
14 1, 2000.