

HOUSE BILL No. 5635

February 12, 2002, Introduced by Reps. Voorhees, Jelinek, Julian, Kooiman, Vear, Vander Roest, Pappageorge, Meyer, Middaugh, Vander Veen and Gosselin and referred to the Committee on Criminal Justice.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 18 of chapter XIIA (MCL 712A.18), as amended
by 2000 PA 55.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XIIA

2

Sec. 18. (1) If the court finds that a juvenile concerning

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whom a petition is filed is not within this chapter, the court

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shall enter an order dismissing the petition. Except as other-

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wise provided in subsection (10), if the court finds that a juve-

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nile is within this chapter, the court may enter any of the fol-

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lowing orders of disposition that are appropriate for the welfare

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of the juvenile and society in view of the facts proven and

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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 by an order under this section.

21 (h) Appoint a guardian under section 5204 of the estates and
22 protected individuals code, 1998 PA 386, MCL 700.5204, in
23 response to a petition filed with the court by a person inter-
24 ested in the juvenile's welfare. If the court appoints a guard-
25 ian as authorized by this subdivision, it may dismiss the peti-
26 tion under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

17 (N) IF THE JUVENILE IS NOT LESS THAN 14 YEARS OF AGE BUT
18 LESS THAN 17 YEARS OF AGE, AND IS WITHIN THE COURT'S JURISDICTION
19 UNDER SECTION 2(A)(1) OF THIS CHAPTER FOR AN OFFENSE THAT IS A
20 FELONY, COMMIT THE CHILD TO A COUNTY JAIL FOR A PERIOD NO GREATER
21 THAN 90 DAYS SUBJECT TO SUBSECTION (16).

22 (O) ~~-(n)-~~ If the court entered a judgment of conviction
23 under section 2d of this chapter, enter any disposition under
24 this section or, if the court determines that the best interests
25 of the public would be served, impose any sentence upon the juve-
26 nile that could be imposed upon an adult convicted of the offense
27 for which the juvenile was convicted. If the juvenile is

1 convicted of a violation or conspiracy to commit a violation of
2 section 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL
3 333.7403, the court may impose the alternative sentence permitted
4 under that section if the court determines that the best inter-
5 ests of the public would be served. The court may delay imposing
6 a sentence of imprisonment under this subdivision for a period
7 not longer than the period during which the court has jurisdic-
8 tion over the juvenile under this chapter by entering an order of
9 disposition delaying imposition of sentence and placing the juve-
10 nile on probation upon the terms and conditions it considers
11 appropriate, including any disposition under this section. If
12 the court delays imposing sentence under this section, section
13 18i of this chapter applies. If the court imposes sentence, it
14 shall enter a judgment of sentence. If the court imposes a sen-
15 tence of imprisonment, the juvenile shall receive credit against
16 the sentence for time served before sentencing. In determining
17 whether to enter an order of disposition or impose a sentence
18 under this subdivision, the court shall consider all of the fol-
19 lowing factors, giving greater weight to the seriousness of the
20 offense and the juvenile's prior record:

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

26 (ii) The juvenile's culpability in committing the offense,
27 including, but not limited to, the level of the juvenile's

1 participation in planning and carrying out the offense and the
2 existence of any aggravating or mitigating factors recognized by
3 the sentencing guidelines.

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

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

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

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

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

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

1 of the proposed offset. The notice shall include notice of the
2 opportunity to contest the offset on the grounds that the inter-
3 cept is not proper because of a mistake of fact concerning the
4 amount of the delinquency or the identity of the person subject
5 to the order. The court shall provide for the prompt reimburse-
6 ment of an amount withheld in error or an amount found to exceed
7 the delinquent amount.

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

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

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

26 (6) The office of the state court administrator, under the
27 supervision and direction of the supreme court and in

1 consultation with the family independence agency and the Michigan
2 probate judges association, shall create guidelines and a model
3 schedule the court may use in determining the ability of the
4 juvenile, parent, guardian, or custodian to pay for care and any
5 costs of service ordered under subsection (2) or (3). The guide-
6 lines and model schedule shall take into account both the income
7 and resources of the juvenile, parent, guardian, or custodian.

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

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

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

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

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

1 (10) The court shall not enter an order of disposition for a
2 juvenile offense as defined in section 1a of 1925 PA 289, MCL
3 28.241a, or a judgment of sentence for a conviction until the
4 court has examined the court file and has determined that the
5 juvenile's fingerprints have been taken and forwarded as required
6 by section 3 of 1925 PA 289, MCL 28.243, and as required by the
7 sex offenders registration act, 1994 PA 295, MCL 28.721 to
8 28.732. If a juvenile has not had his or her fingerprints taken,
9 the court shall do either of the following:

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

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

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

1 (12) If the court enters an order of disposition based on an
2 act that is a juvenile offense as defined in section 1 of 1989
3 PA 196, MCL 780.901, the court shall order the juvenile to pay
4 the assessment as provided in that act. If the court enters a
5 judgment of conviction under section 2d of this chapter for an
6 offense that is a felony, serious misdemeanor, or specified mis-
7 demeanor as defined in section 1 of 1989 PA 196, MCL 780.901, the
8 court shall order the juvenile to pay the assessment as provided
9 in that act.

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

17 (14) If the court enters an order of disposition placing a
18 juvenile in a juvenile boot camp program, or committing a juve-
19 nile to a county juvenile agency for placement in a juvenile boot
20 camp program, and the court receives from the family independence
21 agency a report that the juvenile has failed to perform satisfac-
22 torily in the program, that the juvenile does not meet the
23 program's requirements or is medically unable to participate in
24 the program for more than 25 days, that there is no opening in a
25 juvenile boot camp program, or that the county juvenile agency is
26 unable to place the juvenile in a juvenile boot camp program, the
27 court shall release the juvenile from placement or commitment and

1 enter an alternative order of disposition. A juvenile shall not
2 be placed in a juvenile boot camp under an order of disposition
3 more than once, except that a juvenile returned to the court for
4 a medical condition, because there was no opening in a juvenile
5 boot camp program, or because the county juvenile agency was
6 unable to place the juvenile in a juvenile boot camp program may
7 be placed again in the juvenile boot camp program after the medi-
8 cal condition is corrected, an opening becomes available, or the
9 county juvenile agency is able to place the juvenile.

10 (15) If the juvenile is within the court's jurisdiction
11 under section ~~2(a)(i)~~ (2)(A)(1) of this chapter for an offense
12 other than a listed offense as defined in section 2(d)(i) to (ix)
13 and (xi) to (xiii) of the sex offenders registration act, 1994 PA
14 295, MCL 28.722, the court shall determine if the offense is a
15 violation of a law of this state or a local ordinance of a munic-
16 ipality of this state that by its nature constitutes a sexual
17 offense against an individual who is less than 18 years of age.
18 If so, the order of disposition is for a listed offense as
19 defined in section 2(d)(x) of the sex offenders registration act,
20 1994 PA 295, MCL 28.722, and the court shall include the basis
21 for that determination on the record and include the determina-
22 tion in the order of disposition.

23 (16) The court shall not impose a sentence of imprisonment
24 in the county jail under subsection (1)(n) OR (O) unless the
25 present county jail facility for the juvenile's imprisonment
26 would meet all requirements under federal law and regulations for
27 housing juveniles. The court shall not impose the sentence until

1 it consults with the sheriff to determine when the sentence will
2 begin to ensure that space will be available for the juvenile.

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