

SENATE BILL No. 437

May 1, 2003, Introduced by Senator SWITALSKI and referred to the Committee on Appropriations.

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, and by adding section 18m to chapter XIIA.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XIIA

2 Sec. 18. (1) If the court finds that a juvenile concerning
3 whom a petition is filed is not within this chapter, the court
4 shall enter an order dismissing the petition. Except as
5 otherwise provided in subsection (10), if the court finds that a
6 juvenile is within this chapter, the court may enter any of the
7 following orders of disposition that are appropriate for the
8 welfare of the juvenile and society in view of the facts proven
9 and ascertained:

10 (a) Warn the juvenile or the juvenile's parents, guardian, or

1 custodian and, except as provided in subsection (7), dismiss the
2 petition.

3 (b) Place the juvenile on probation, or under supervision in
4 the juvenile's own home or in the home of an adult who is related
5 to the juvenile. As used in this subdivision, "related" means
6 being a parent, grandparent, brother, sister, stepparent,
7 stepsister, stepbrother, uncle, or aunt by marriage, blood, or
8 adoption. The court shall order the terms and conditions of
9 probation or supervision, including reasonable rules for the
10 conduct of the parents, guardian, or custodian, if any, as the
11 court determines necessary for the physical, mental, or moral
12 well-being and behavior of the juvenile. **The court also shall**
13 **order, as a condition of probation or supervision, that the**
14 **juvenile shall pay the minimum state cost prescribed by section**
15 **18m of this chapter.**

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

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

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

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

1 institution or agency described in the youth rehabilitation
2 services act, 1974 PA 150, MCL 803.301 to 803.309, or in 1935
3 PA 220, MCL 400.201 to 400.214, the court shall name the
4 superintendent of the institution to which the juvenile is
5 committed as a special guardian to receive benefits due the
6 juvenile from the government of the United States. An order of
7 commitment under this subdivision to the family independence
8 agency or a county juvenile agency shall name that agency as a
9 special guardian to receive those benefits. The benefits
10 received by the special guardian shall be used to the extent
11 necessary to pay for the portions of the cost of care in the
12 institution or facility that the parent or parents are found
13 unable to pay.

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

19 (g) Order the parents, guardian, custodian, or any other
20 person to refrain from continuing conduct that the court
21 determines has caused or tended to cause the juvenile to come
22 within or to remain under this chapter or that obstructs
23 placement or commitment of the juvenile by an order under this
24 section.

25 (h) Appoint a guardian under section 5204 of the estates and
26 protected individuals code, 1998 PA 386, MCL 700.5204, in
27 response to a petition filed with the court by a person

1 interested in the juvenile's welfare. If the court appoints a
2 guardian as authorized by this subdivision, it may dismiss the
3 petition under this chapter.

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

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

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

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

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

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

9 (i) Placement in a juvenile boot camp will benefit the
10 juvenile.

11 (ii) The juvenile is physically able to participate in the
12 program.

13 (iii) The juvenile does not appear to have any mental
14 handicap that would prevent participation in the program.

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

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

18 (vi) If the court must commit the juvenile to a county
19 juvenile agency, the county juvenile agency is able to place the
20 juvenile in a juvenile boot camp program.

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

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

8 (iv) The juvenile's programming history, including, but not
9 limited to, the juvenile's past willingness to participate
10 meaningfully 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
15 committing a juvenile to care outside of the juvenile's own home
16 and under state, county juvenile agency, or court supervision
17 shall contain a provision for reimbursement by the juvenile,
18 parent, guardian, or custodian to the court for the cost of care
19 or service. The order shall be reasonable, taking into account
20 both the income and resources of the juvenile, parent, guardian,
21 or custodian. The amount may be based upon the guidelines and
22 model schedule created under subsection (6). If the juvenile is
23 receiving an adoption support subsidy under sections 115f to
24 ~~115f~~ **115m** of the social welfare act, 1939 PA 280, MCL 400.115f
25 to ~~400.115f~~ **400.115m**, the amount shall not exceed the amount of
26 the support subsidy. The reimbursement provision applies during
27 the entire period the juvenile remains in care outside of the

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

1 intercept order advance written notice of the proposed offset.
2 The notice shall include notice of the opportunity to contest the
3 offset on the grounds that the intercept is not proper because of
4 a mistake of fact concerning the amount of the delinquency or the
5 identity of the person subject to the order. The court shall
6 provide for the prompt reimbursement of an amount withheld in
7 error or an amount found to exceed 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
10 provision for reimbursement by the juvenile, parent, guardian, or
11 custodian 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
19 chapter and until a copy of the order, bearing the seal of the
20 court, is served on the parent or other person as provided in
21 section 13 of this chapter.

22 (5) If the court appoints an attorney to represent a
23 juvenile, parent, guardian, or custodian, the court may require
24 in an 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
6 guidelines and model schedule shall take into account both the
7 income and resources of the juvenile, parent, guardian, or
8 custodian.

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

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

17 (a) Engage in community service or, with the victim's
18 consent, perform services for the victim.

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

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

1 probation.

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

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

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

17 (11) Upon final disposition, conviction, acquittal, or
18 dismissal of an offense within the court's jurisdiction under
19 section 2(a)(1) of this chapter, using forms approved by the
20 state court administrator, the clerk of the court entering the
21 final disposition, conviction, acquittal, or dismissal shall
22 immediately advise the department of state police of that final
23 disposition, conviction, acquittal, or dismissal as required by
24 section 3 of 1925 PA 289, MCL 28.243. The report to the
25 department of state police shall include information as to the
26 finding of the judge or jury and a summary of the disposition or
27 sentence 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
7 misdemeanor as defined in section 1 of 1989 PA 196, MCL 780.901,
8 the court shall order the juvenile to pay the assessment as
9 provided 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
15 registration as provided in the sex offenders registration act,
16 1994 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
19 juvenile to a county juvenile agency for placement in a juvenile
20 boot camp program, and the court receives from the family
21 independence agency a report that the juvenile has failed to
22 perform satisfactorily in the program, that the juvenile does not
23 meet the program's requirements or is medically unable to
24 participate in the program for more than 25 days, that there is
25 no opening in a juvenile boot camp program, or that the county
26 juvenile agency is unable to place the juvenile in a juvenile
27 boot camp program, the court shall release the juvenile from

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

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

24 (16) The court shall not impose a sentence of imprisonment in
25 the county jail under subsection ~~(1)(n)~~ **(1)(m)** unless the
26 present county jail facility for the juvenile's imprisonment
27 would meet all requirements under federal law and regulations for

1 housing juveniles. The court shall not impose the sentence until
2 it consults with the sheriff to determine when the sentence will
3 begin to ensure that space will be available for the juvenile.

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

7 (18) If a juvenile is within the court's jurisdiction under
8 section 2(a)(1) of this chapter, the court shall order the
9 juvenile to pay costs as provided in section 18m of this
10 chapter.

11 Sec. 18m. (1) If a juvenile is within the court's
12 jurisdiction under section 2(a)(1) of this chapter, the court
13 shall order the juvenile to pay costs of not less than the
14 following amount, as applicable:

15 (a) \$60.00, if the juvenile is found to be within the court's
16 jurisdiction for a felony.

17 (b) \$45.00, if the juvenile is found to be within the court's
18 jurisdiction for a serious misdemeanor or a specified
19 misdemeanor.

20 (c) \$35.00, if the juvenile is found to be within the court's
21 jurisdiction for a misdemeanor not described in subdivision (b)
22 or of an ordinance violation.

23 (2) Of the costs ordered to be paid, the clerk of the court
24 shall pay to the justice system fund created in section 181 of
25 the revised judicature act of 1961, 1961 PA 236, MCL 600.181, the
26 applicable amount specified as a minimum cost in subsection (1).

27 (3) If a juvenile who is ordered to pay a minimum state cost

1 under this section is subject to any combination of fines, costs,
2 restitution, assessments, or payments arising out of the same
3 juvenile proceeding, money collected from that person for the
4 payment of fines, costs, restitution, assessments, or other
5 payments shall be allocated as provided in section 29 of this
6 chapter.

7 (4) On the last day of each month, the clerk of the court
8 shall transmit the minimum state cost or portions of minimum
9 state cost collected under this section to the department of
10 treasury for deposit in the justice system fund created in
11 section 181 of the revised judicature act of 1961, 1961 PA 236,
12 MCL 600.181.

13 (5) As used in this section:

14 (a) "Felony" means a violation of a penal law of this state
15 for which the offender may be punished by imprisonment for more
16 than 1 year or an offense expressly designated by law to be a
17 felony.

18 (b) "Ordinance violation" means that term as defined in
19 section 1 of chapter I of the code of criminal procedure, 1927 PA
20 175, MCL 761.1.

21 (c) "Serious misdemeanor" means that term as defined in
22 section 61 of the crime victim's rights act, 1985 PA 87, MCL
23 780.811.

24 (d) "Specified misdemeanor" means that term as defined in
25 section 1 of 1989 PA 196, MCL 780.901.

26 Enacting section 1. This amendatory act takes effect
27 October 1, 2003.