

# SENATE BILL No. 363

April 12, 2005, Introduced by Senator BASHAM and referred to the Committee on Judiciary.

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  
2004 PA 475.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER XIIA

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

1 (a) Warn the juvenile or the juvenile's parents, guardian, or  
2 custodian and, except as provided in subsection (7), dismiss the  
3 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 an  
7 individual who is at least 18 years of age and related to the child  
8 by blood, marriage, or adoption, as grandparent, great-grandparent,  
9 great-great-grandparent, aunt or uncle, great-aunt or great-uncle,  
10 great-great-aunt or great-great-uncle, sibling, stepsibling, nephew  
11 or niece, first cousin or first cousin once removed, and the spouse  
12 of any of the above, even after the marriage has ended by death or  
13 divorce. A child may be placed with the parent of a man whom the  
14 court has found probable cause to believe is the putative father if  
15 there is no man with legally established rights to the child. This  
16 placement of the child with the parent of a man whom the court has  
17 found probable cause to believe is the putative father is for the  
18 purposes of placement only and is not to be construed as a finding  
19 of paternity or to confer legal standing. The court shall order the  
20 terms and conditions of probation or supervision, including  
21 reasonable rules for the conduct of the parents, guardian, or  
22 custodian, if any, as the court determines necessary for the  
23 physical, mental, or moral well-being and behavior of the juvenile.  
24 The court may order that the juvenile participate in a juvenile  
25 drug treatment court under chapter 10A of the revised judicature  
26 act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082. The court also  
27 shall order, as a condition of probation or supervision, that the

1 juvenile shall pay the minimum state cost prescribed by section 18m  
2 of this chapter.

3 (c) If a juvenile is within the court's jurisdiction under  
4 section 2(a) of this chapter, or under section 2(h) of this chapter  
5 for a supplemental petition, place the juvenile in a suitable  
6 foster care home subject to the court's supervision. If a juvenile  
7 is within the court's jurisdiction under section 2(b) of this  
8 chapter, the court shall not place a juvenile in a foster care home  
9 subject to the court's supervision.

10 (d) Except as otherwise provided in this subdivision, place  
11 the juvenile in or commit the juvenile to a private institution or  
12 agency approved or licensed by the department of ~~consumer and~~  
13 ~~industry services~~ **LABOR AND ECONOMIC GROWTH** for the care of  
14 juveniles of similar age, sex, and characteristics. If the juvenile  
15 is not a ward of the court, the court shall commit the juvenile to  
16 the family independence agency or, if the county is a county  
17 juvenile agency, to that county juvenile agency for placement in or  
18 commitment to such an institution or agency as the family  
19 independence agency or county juvenile agency determines is most  
20 appropriate, subject to any initial level of placement the court  
21 designates.

22 (e) Except as otherwise provided in this subdivision, commit  
23 the juvenile to a public institution, county facility, institution  
24 operated as an agency of the court or county, or agency authorized  
25 by law to receive juveniles of similar age, sex, and  
26 characteristics. If the juvenile is not a ward of the court, the  
27 court shall commit the juvenile to the family independence agency

1 or, if the county is a county juvenile agency, to that county  
2 juvenile agency for placement in or commitment to such an  
3 institution or facility as the family independence agency or county  
4 juvenile agency determines is most appropriate, subject to any  
5 initial level of placement the court designates. If a child is not  
6 less than 17 years of age and is in violation of a personal  
7 protection order, the court may commit the child to a county jail  
8 within the adult prisoner population. In a placement under  
9 subdivision (d) or a commitment under this subdivision, except to a  
10 state institution or a county juvenile agency institution, the  
11 juvenile's religious affiliation shall be protected by placement or  
12 commitment to a private child-placing or child-caring agency or  
13 institution, if available. Except for commitment to the family  
14 independence agency or a county juvenile agency, an order of  
15 commitment under this subdivision to a state institution or agency  
16 described in the youth rehabilitation services act, 1974 PA 150,  
17 MCL 803.301 to 803.309, or in 1935 PA 220, MCL 400.201 to 400.214,  
18 the court shall name the superintendent of the institution to which  
19 the juvenile is committed as a special guardian to receive benefits  
20 due the juvenile from the government of the United States. An order  
21 of commitment under this subdivision to the family independence  
22 agency or a county juvenile agency shall name that agency as a  
23 special guardian to receive those benefits. The benefits received  
24 by the special guardian shall be used to the extent necessary to  
25 pay for the portions of the cost of care in the institution or  
26 facility that the parent or parents are found unable to pay.

27 (f) Provide the juvenile with medical, dental, surgical, or

1 other health care, in a local hospital if available, or elsewhere,  
2 maintaining as much as possible a local physician-patient  
3 relationship, and with clothing and other incidental items the  
4 court determines are necessary.

5 (g) Order the parents, guardian, custodian, or any other  
6 person to refrain from continuing conduct that the court determines  
7 has caused or tended to cause the juvenile to come within or to  
8 remain under this chapter or that obstructs placement or commitment  
9 of the juvenile by an order under this section.

10 (h) Appoint a guardian under section 5204 of the estates and  
11 protected individuals code, 1998 PA 386, MCL 700.5204, in response  
12 to a petition filed with the court by a person interested in the  
13 juvenile's welfare. If the court appoints a guardian as authorized  
14 by this subdivision, it may dismiss the petition under this  
15 chapter.

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

17 (j) If the court finds that a juvenile has violated a  
18 municipal ordinance or a state or federal law, order the juvenile  
19 to pay a civil fine in the amount of the civil or penal fine  
20 provided by the ordinance or law. Money collected from fines levied  
21 under this subsection shall be distributed as provided in section  
22 29 of this chapter.

23 (k) If a juvenile is within the court's jurisdiction under  
24 section 2(a)(1) of this chapter, order the juvenile's parent or  
25 guardian to personally participate in treatment reasonably  
26 available in the parent's or guardian's location.

27 (l) If a juvenile is within the court's jurisdiction under

1 section 2(a)(1) of this chapter, place the juvenile in and order  
2 the juvenile to complete satisfactorily a program of training in a  
3 juvenile boot camp established by the family independence agency  
4 under the juvenile boot camp act, 1996 PA 263, MCL 400.1301 to  
5 400.1309, as provided in that act. If the county is a county  
6 juvenile agency, however, the court shall commit the juvenile to  
7 that county juvenile agency for placement in the program under that  
8 act. Upon receiving a report of satisfactory completion of the  
9 program from the family independence agency, the court shall  
10 authorize the juvenile's release from placement in the juvenile  
11 boot camp. Following satisfactory completion of the juvenile boot  
12 camp program, the juvenile shall complete an additional period of  
13 not less than 120 days or more than 180 days of intensive  
14 supervised community reintegration in the juvenile's local  
15 community. To place or commit a juvenile under this subdivision,  
16 the court shall determine all of the following:

17 (i) Placement in a juvenile boot camp will benefit the  
18 juvenile.

19 (ii) The juvenile is physically able to participate in the  
20 program.

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

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

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

26 (vi) If the court must commit the juvenile to a county juvenile  
27 agency, the county juvenile agency is able to place the juvenile in

1 a juvenile boot camp program.

2 (m) ~~If~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (N), IF**  
3 the court entered a judgment of conviction under section 2d of this  
4 chapter, enter any disposition under this section or, if the court  
5 determines that the best interests of the public would be served,  
6 impose any sentence upon the juvenile that could be imposed upon an  
7 adult convicted of the offense for which the juvenile was  
8 convicted. If the juvenile is convicted of a violation or  
9 conspiracy to commit a violation of section 7403(2)(a)(i) of the  
10 public health code, 1978 PA 368, MCL 333.7403, the court may impose  
11 the alternative sentence permitted under that section if the court  
12 determines that the best interests of the public would be served.  
13 The court may delay imposing a sentence of imprisonment under this  
14 subdivision for a period not longer than the period during which  
15 the court has jurisdiction over the juvenile under this chapter by  
16 entering an order of disposition delaying imposition of sentence  
17 and placing the juvenile on probation upon the terms and conditions  
18 it considers appropriate, including any disposition under this  
19 section. If the court delays imposing sentence under this section,  
20 section 18i of this chapter applies. If the court imposes sentence,  
21 it shall enter a judgment of sentence. If the court imposes a  
22 sentence of imprisonment, the juvenile shall receive credit against  
23 the sentence for time served before sentencing. In determining  
24 whether to enter an order of disposition or impose a sentence under  
25 this subdivision, the court shall consider all of the following  
26 factors, giving greater weight to the seriousness of the offense  
27 and the juvenile's prior record:

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

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

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

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

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

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

21 **(N) IF THE JUVENILE IS CONVICTED OF A VIOLATION OF SECTION 316**  
22 **OR 317 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.316 AND**  
23 **750.317, THE COURT SHALL SENTENCE THE JUVENILE IN THE SAME MANNER**  
24 **AS AN ADULT.**

25 (2) An order of disposition placing a juvenile in or  
26 committing a juvenile to care outside of the juvenile's own home  
27 and under state, county juvenile agency, or court supervision shall



1 contain a provision for reimbursement by the juvenile, parent,  
2 guardian, or custodian to the court for the cost of care or  
3 service. The order shall be reasonable, taking into account both  
4 the income and resources of the juvenile, parent, guardian, or  
5 custodian. The amount may be based upon the guidelines and model  
6 schedule created under subsection (6). If the juvenile is receiving  
7 an adoption support subsidy under sections 115f to 115m of the  
8 social welfare act, 1939 PA 280, MCL 400.115f to 400.115m, the  
9 amount shall not exceed the amount of the support subsidy. The  
10 reimbursement provision applies during the entire period the  
11 juvenile remains in care outside of the juvenile's own home and  
12 under state, county juvenile agency, or court supervision, unless  
13 the juvenile is in the permanent custody of the court. The court  
14 shall provide for the collection of all amounts ordered to be  
15 reimbursed and the money collected shall be accounted for and  
16 reported to the county board of commissioners. Collections to cover  
17 delinquent accounts or to pay the balance due on reimbursement  
18 orders may be made after a juvenile is released or discharged from  
19 care outside the juvenile's own home and under state, county  
20 juvenile agency, or court supervision. Twenty-five percent of all  
21 amounts collected under an order entered under this subsection  
22 shall be credited to the appropriate fund of the county to offset  
23 the administrative cost of collections. The balance of all amounts  
24 collected under an order entered under this subsection shall be  
25 divided in the same ratio in which the county, state, and federal  
26 government participate in the cost of care outside the juvenile's  
27 own home and under state, county juvenile agency, or court

1 supervision. The court may also collect from the government of the  
2 United States benefits paid for the cost of care of a court ward.  
3 Money collected for juveniles placed by the court with or committed  
4 to the family independence agency or a county juvenile agency shall  
5 be accounted for and reported on an individual juvenile basis. In  
6 cases of delinquent accounts, the court may also enter an order to  
7 intercept state or federal tax refunds of a juvenile, parent,  
8 guardian, or custodian and initiate the necessary offset  
9 proceedings in order to recover the cost of care or service. The  
10 court shall send to the person who is the subject of the intercept  
11 order advance written notice of the proposed offset. The notice  
12 shall include notice of the opportunity to contest the offset on  
13 the grounds that the intercept is not proper because of a mistake  
14 of fact concerning the amount of the delinquency or the identity of  
15 the person subject to the order. The court shall provide for the  
16 prompt reimbursement of an amount withheld in error or an amount  
17 found to exceed the delinquent amount.

18 (3) An order of disposition placing a juvenile in the  
19 juvenile's own home under subsection (1)(b) may contain a provision  
20 for reimbursement by the juvenile, parent, guardian, or custodian  
21 to the court for the cost of service. If an order is entered under  
22 this subsection, an amount due shall be determined and treated in  
23 the same manner provided for an order entered under subsection (2).

24 (4) An order directed to a parent or a person other than the  
25 juvenile is not effective and binding on the parent or other person  
26 unless opportunity for hearing is given by issuance of summons or  
27 notice as provided in sections 12 and 13 of this chapter and until

1 a copy of the order, bearing the seal of the court, is served on  
2 the parent or other person as provided in section 13 of this  
3 chapter.

4 (5) If the court appoints an attorney to represent a juvenile,  
5 parent, guardian, or custodian, the court may require in an order  
6 entered under this section that the juvenile, parent, guardian, or  
7 custodian reimburse the court for attorney fees.

8 (6) The office of the state court administrator, under the  
9 supervision and direction of the supreme court, shall create  
10 guidelines that the court may use in determining the ability of the  
11 juvenile, parent, guardian, or custodian to pay for care and any  
12 costs of service ordered under subsection (2) or (3). The  
13 guidelines shall take into account both the income and resources of  
14 the juvenile, parent, guardian, or custodian.

15 (7) If the court finds that a juvenile comes under section 30  
16 of this chapter, the court shall order the juvenile or the  
17 juvenile's parent to pay restitution as provided in sections 30 and  
18 31 of this chapter and in sections 44 and 45 of the crime victim's  
19 rights act, 1985 PA 87, MCL 780.794 and 780.795.

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

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

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

27 (9) If the court finds that the juvenile is in intentional

1 default of the payment of restitution, a court may, as provided in  
2 section 31 of this chapter, revoke or alter the terms and  
3 conditions of probation for nonpayment of restitution. If a  
4 juvenile who is ordered to engage in community service  
5 intentionally refuses to perform the required community service,  
6 the court may revoke or alter the terms and conditions of  
7 probation.

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

17 (a) Order the juvenile to submit himself or herself to the  
18 police agency that arrested or obtained the warrant for the  
19 juvenile's arrest so the juvenile's fingerprints can be taken and  
20 forwarded.

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

23 (11) Upon final disposition, conviction, acquittal, or  
24 dismissal of an offense within the court's jurisdiction under  
25 section 2(a)(1) of this chapter, using forms approved by the state  
26 court administrator, the clerk of the court entering the final  
27 disposition, conviction, acquittal, or dismissal shall immediately

1 advise the department of state police of that final disposition,  
2 conviction, acquittal, or dismissal as required by section 3 of  
3 1925 PA 289, MCL 28.243. The report to the department of state  
4 police shall include information as to the finding of the judge or  
5 jury and a summary of the disposition or sentence imposed.

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

14 (13) If the court has entered an order of disposition or a  
15 judgment of conviction for a listed offense as defined in section 2  
16 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the  
17 court, the family independence agency, or the county juvenile  
18 agency shall register the juvenile or accept the juvenile's  
19 registration as provided in the sex offenders registration act,  
20 1994 PA 295, MCL 28.721 to 28.732.

21 (14) If the court enters an order of disposition placing a  
22 juvenile in a juvenile boot camp program, or committing a juvenile  
23 to a county juvenile agency for placement in a juvenile boot camp  
24 program, and the court receives from the family independence agency  
25 a report that the juvenile has failed to perform satisfactorily in  
26 the program, that the juvenile does not meet the program's  
27 requirements or is medically unable to participate in the program

1 for more than 25 days, that there is no opening in a juvenile boot  
2 camp program, or that the county juvenile agency is unable to place  
3 the juvenile in a juvenile boot camp program, the court shall  
4 release the juvenile from placement or commitment and enter an  
5 alternative order of disposition. A juvenile shall not be placed in  
6 a juvenile boot camp under an order of disposition more than once,  
7 except that a juvenile returned to the court for a medical  
8 condition, because there was no opening in a juvenile boot camp  
9 program, or because the county juvenile agency was unable to place  
10 the juvenile in a juvenile boot camp program may be placed again in  
11 the juvenile boot camp program after the medical condition is  
12 corrected, an opening becomes available, or the county juvenile  
13 agency is able to place the juvenile.

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

26 (16) The court shall not impose a sentence of imprisonment in  
27 the county jail under subsection (1)(m) unless the present county

1 jail facility for the juvenile's imprisonment would meet all  
2 requirements under federal law and regulations for housing  
3 juveniles. The court shall not impose the sentence until it  
4 consults with the sheriff to determine when the sentence will begin  
5 to ensure that space will be available for the juvenile.

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

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

12 (19) A juvenile who has been ordered to pay the minimum state  
13 cost as provided in section 18m of this chapter as a condition of  
14 probation or supervision and who is not in willful default of the  
15 payment of the minimum state cost may petition the court at any  
16 time for a remission of the payment of any unpaid portion of the  
17 minimum state cost. If the court determines that payment of the  
18 amount due will impose a manifest hardship on the juvenile or his  
19 or her immediate family, the court may remit all or part of the  
20 amount of the minimum state cost due or modify the method of  
21 payment.