

HOUSE BILL No. 5837

February 28, 2008, Introduced by Reps. Byrnes, Spade, Polidori, Meadows, Stahl, Brown, Cushingberry, Bieda, Sheltroun and Melton and referred to the Committee on Oversight and Investigations.

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:

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

1 of this chapter.

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

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

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

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

1 (f) Provide the juvenile with medical, dental, surgical, or
2 other health care, in a local hospital if available, or elsewhere,
3 maintaining as much as possible a local physician-patient
4 relationship, and with clothing and other incidental items the
5 court determines are necessary.

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

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

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

18 (j) If the court finds that a juvenile has violated a
19 municipal ordinance or a state or federal law, order the juvenile
20 to pay a civil fine in the amount of the civil or penal fine
21 provided by the ordinance or law. Money collected from fines levied
22 under this subsection shall be distributed as provided in section
23 29 of this chapter.

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

(l) If a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter, place the juvenile in and order the juvenile to complete satisfactorily a program of training in a juvenile boot camp established by the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** under the juvenile boot camp act, 1996 PA 263, MCL 400.1301 to 400.1309, as provided in that act. If the county is a county juvenile agency, however, the court shall commit the juvenile to that county juvenile agency for placement in the program under that act. Upon receiving a report of satisfactory completion of the program from the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES**, the court shall authorize the juvenile's release from placement in the juvenile boot camp. Following satisfactory completion of the juvenile boot camp program, the juvenile shall complete an additional period of not less than 120 days or more than 180 days of intensive supervised community reintegration in the juvenile's local community. To place or commit a juvenile under this subdivision, the court shall determine all of the following:

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

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

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

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

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

1 (vi) If the court must commit the juvenile to a county juvenile
2 agency, the county juvenile agency is able to place the juvenile in
3 a juvenile boot camp program.

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

1 to the seriousness of the offense and the juvenile's prior record:

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

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

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

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

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

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

22 (2) An order of disposition placing a juvenile in or
23 committing a juvenile to care outside of the juvenile's own home
24 and under state, county juvenile agency, or court supervision shall
25 contain a provision for reimbursement by the juvenile, parent,
26 guardian, or custodian to the court for the cost of care or
27 service. The order shall be reasonable, taking into account both

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

1 to the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** or a
2 county juvenile agency shall be accounted for and reported on an
3 individual juvenile basis. In cases of delinquent accounts, the
4 court may also enter an order to intercept state or federal tax
5 refunds of a juvenile, parent, guardian, or custodian and initiate
6 the necessary offset proceedings in order to recover the cost of
7 care or service. The court shall send to the person who is the
8 subject of the intercept order advance written notice of the
9 proposed offset. The notice shall include notice of the opportunity
10 to contest the offset on the grounds that the intercept is not
11 proper because of a mistake of fact concerning the amount of the
12 delinquency or the identity of the person subject to the order. The
13 court shall provide for the prompt reimbursement of an amount
14 withheld in error or an amount found to exceed the delinquent
15 amount.

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

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

1 chapter.

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

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

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

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

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

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

25 (9) If the court finds that the juvenile is in intentional
26 default of the payment of restitution, a court may, as provided in
27 section 31 of this chapter, revoke or alter the terms and

1 conditions of probation for nonpayment of restitution. If a
2 juvenile who is ordered to engage in community service
3 intentionally refuses to perform the required community service,
4 the court may revoke or alter the terms and conditions of
5 probation.

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

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

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

21 (11) Upon final disposition, conviction, acquittal, or
22 dismissal of an offense within the court's jurisdiction under
23 section 2(a)(1) of this chapter, using forms approved by the state
24 court administrator, the clerk of the court entering the final
25 disposition, conviction, acquittal, or dismissal shall immediately
26 advise the department of state police of that final disposition,
27 conviction, acquittal, or dismissal as required by section 3 of

1 1925 PA 289, MCL 28.243. The report to the department of state
2 police shall include information as to the finding of the judge or
3 jury and a summary of the disposition or sentence imposed.

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

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

19 (14) If the court enters an order of disposition placing a
20 juvenile in a juvenile boot camp program, or committing a juvenile
21 to a county juvenile agency for placement in a juvenile boot camp
22 program, and the court receives from the ~~family independence agency~~
23 **DEPARTMENT OF HUMAN SERVICES** a report that the juvenile has failed
24 to perform satisfactorily in the program, that the juvenile does
25 not meet the program's requirements or is medically unable to
26 participate in the program for more than 25 days, that there is no
27 opening in a juvenile boot camp program, or that the county

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

12 (15) If the juvenile is within the court's jurisdiction under
13 section 2(a)(1) of this chapter for an offense other than a listed
14 offense as defined in section 2(e)(i) to (ix) and (xi) to (xiii) of the
15 sex offenders registration act, 1994 PA 295, MCL 28.722, the court
16 shall determine if the offense is a violation of a law of this
17 state or a local ordinance of a municipality of this state that by
18 its nature constitutes a sexual offense against an individual who
19 is less than 18 years of age. If so, the order of disposition is
20 for a listed offense as defined in section 2(e)(x) of the sex
21 offenders registration act, 1994 PA 295, MCL 28.722, and the court
22 shall 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)(m) unless the present county
26 jail facility for the juvenile's imprisonment would meet all
27 requirements under federal law and regulations for housing

1 juveniles. The court shall not impose the sentence until it
2 consults with the sheriff to determine when the sentence will begin
3 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 personal
6 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 juvenile
9 to pay costs as provided in section 18m of this chapter.

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

20 (20) IF THE COURT ENTERS AN ORDER OF DISPOSITION PLACING A
21 JUVENILE WHO IS A PUBLIC WARD IN A PUBLIC OR PRIVATE INSTITUTION,
22 FACILITY, OR OUT-OF-STATE FACILITY, THAT IS NOT ACCREDITED THROUGH
23 EITHER THE JOINT COMMISSION ON ACCREDITATION OF HOSPITALS, THE
24 COUNCIL ON ACCREDITATION, OR THE COMMISSION ON ACCREDITATION OF
25 REHABILITATION FACILITIES, STATE MONEY SHALL NOT BE USED TO COVER
26 ANY PORTION OF THE COST OF CARE FOR THAT JUVENILE. AS USED IN THIS
27 SUBSECTION, "PUBLIC WARD" MEANS THAT TERM AS IT IS DEFINED IN

1 SECTION 2 OF THE YOUTH REHABILITATION SERVICES ACT, 1974 PA 150,
2 MCL 803.302.

3 Enacting section 1. This amendatory act takes effect January
4 1, 2011.