

HOUSE BILL No. 5770

July 13, 2016, Introduced by Reps. Heise, Kosowski, LaFontaine, Inman, Santana, Cox and Darany and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 22, 39, and 68 of chapter X, sections 1 and 20 of chapter XII, and sections 1, 2, 2d, 8, 9, 14, 14a, 14b, 16, 17, 17b, 18, 18f, 18k, 18s, 19a, 19c, and 28 of chapter XIIA (MCL 710.22, 710.39, 710.68, 712.1, 712.20, 712A.1, 712A.2, 712A.2d, 712A.8, 712A.9, 712A.14, 712A.14a, 712A.14b, 712A.16, 712A.17, 712A.17b, 712A.18, 712A.18f, 712A.18k, 712A.18s, 712A.19a, 712A.19c, and 712A.28), section 22 of chapter X as amended by 2004 PA 487, section 39 of chapter X as amended by 2014 PA 119, section 68 of chapter X as amended by 2012 PA 385, section 1 of chapter XII as amended by 2006 PA 488, section 20 of chapter XII as amended by 2003 PA 245, section 1 of chapter XIIA as amended by 2014 PA 533, section 2 of chapter XIIA as amended by 2014 PA 519, sections 2d, 8, 16, and 28 of chapter XIIA as amended by 1998 PA 478, section 14

1 registered professional nurse certified as a nurse midwife by the
2 Michigan board of nursing.

3 (g) "Best interests of the adoptee" or "best interests of the
4 child" means the sum total of the following factors to be
5 considered, evaluated, and determined by the court to be applied to
6 give the adoptee permanence at the earliest possible date:

7 (i) The love, affection, and other emotional ties existing
8 between the adopting individual or individuals and the adoptee or,
9 in the case of a hearing under section 39 of this chapter, the
10 putative father and the adoptee.

11 (ii) The capacity and disposition of the adopting individual
12 or individuals or, in the case of a hearing under section 39 of
13 this chapter, the putative father to give the adoptee love,
14 affection, and guidance, and to educate and create a milieu that
15 fosters the religion, racial identity, and culture of the adoptee.

16 (iii) The capacity and disposition of the adopting individual
17 or individuals or, in the case of a hearing under section 39 of
18 this chapter, the putative father, to provide the adoptee with
19 food, clothing, education, permanence, medical care or other
20 remedial care recognized and permitted under the laws of this state
21 in place of medical care, and other material needs.

22 (iv) The length of time the adoptee has lived in a stable,
23 satisfactory environment, and the desirability of maintaining
24 continuity.

25 (v) The permanence as a family unit of the proposed adoptive
26 home, or, in the case of a hearing under section 39 of this
27 chapter, the home of the putative father.

1 (vi) The moral fitness of the adopting individual or
2 individuals or, in the case of a hearing under section 39 of this
3 chapter, of the putative father.

4 (vii) The mental and physical health of the adopting
5 individual or individuals or, in the case of a hearing under
6 section 39 of this chapter, of the putative father, and of the
7 adoptee.

8 (viii) The home, school, and community record of the adoptee.

9 (ix) The reasonable preference of the adoptee, if the adoptee
10 is 14 years of age or less and if the court considers the adoptee
11 to be of sufficient age to express a preference.

12 (x) The ability and willingness of the adopting individual or
13 individuals to adopt the adoptee's siblings.

14 (xi) Any other factor considered by the court to be relevant
15 to a particular adoption proceeding, or to a putative father's
16 request for child custody.

17 (h) "Born out of wedlock" means a child conceived and born to
18 a woman who was not married from the conception to the date of
19 birth of the child, or a child whom the court has determined to be
20 a child born during a marriage but not the issue of that marriage.

21 (i) "Central adoption registry" means the registry established
22 by the department under section 27b of this chapter to control the
23 release of identifying adoption information.

24 (j) "Child" means an individual less than 18 years of age.

25 (k) "Child placing agency" means a private organization
26 licensed under 1973 PA 116, MCL 722.111 to 722.128, to place
27 children for adoption.

1 (l) "Consent" means a document in which all parental rights
2 over a specific child are voluntarily relinquished to the court for
3 placement with a specific adoptive parent.

4 (m) "Court" means the family division of circuit court of this
5 state, or if the context requires, the court having jurisdiction
6 over adoption in another state or country.

7 (n) "Department" means the ~~family independence~~
8 ~~agency~~ **DEPARTMENT OF HEALTH AND HUMAN SERVICES.**

9 (o) "Direct placement" means a placement in which a parent or
10 guardian selects an adoptive parent for a child, other than a
11 stepparent or an individual related to the child within the fifth
12 degree by marriage, blood, or adoption, and transfers physical
13 custody of the child to the prospective adoptive parent.

14 (p) "Formal placement" means a placement that is approved by
15 the court under section 51 of this chapter.

16 (q) "Person" means an individual, partnership, corporation,
17 association, governmental entity, or other legal entity.

18 (r) "Petitioner", except as used in section 68b of this
19 chapter, means the individual or individuals who file an adoption
20 petition with the court.

21 (s) "Placement" or "to place" means selection of an adoptive
22 parent for a child and transfer of physical custody of the child to
23 a prospective adoptive parent according to this chapter.

24 (t) "Relative" means an individual who is related to the child
25 within the fifth degree by marriage, blood, or adoption.

26 (u) "Release" means a document in which all parental rights
27 over a specific child are voluntarily relinquished to the

1 department or to a child placing agency.

2 (v) "Rescission petition" means a petition filed by an adult
3 adoptee and his or her parent whose rights have been terminated to
4 rescind the adoption in which a stepparent acquired parental rights
5 and to restore parental rights of that parent according to section
6 66 of this chapter.

7 (w) "Suitable to be a parent of an adoptee" means a conclusion
8 that there is no specific concern with respect to an individual
9 that would suggest that placement of any child, or a particular
10 child, in the home of the individual would pose a risk of harm to
11 the physical or psychological well-being of the child.

12 (x) "Temporary placement" means a placement that occurs before
13 court approval under section 51 of this chapter and that meets the
14 requirements of section 23d of this chapter.

15 (y) "Within the fifth degree by marriage, blood, or adoption"
16 means any of the following relationships: parent, step-parent,
17 grandparent, step-grandparent, brother, step-brother, sister, step-
18 sister, uncle, step-uncle, aunt, step-aunt, first cousin, step-
19 first cousin, great aunt, step-great aunt, great uncle, step-great
20 uncle, great grandparent, step-great grandparent, first cousin once
21 removed, step-first cousin once removed, great great grandparent,
22 step-great great grandparent, great great uncle, step-great great
23 uncle, great great aunt, step-great great aunt, great great great
24 grandparent, or step-great great great grandparent.

25 Sec. 39. (1) If the putative father does not come within the
26 provisions of subsection (2), and if the putative father appears at
27 the hearing and requests custody of the child, the court shall

1 inquire into his fitness and his ability to properly care for the
2 child and shall determine whether the best interests of the child
3 will be served by granting custody to him. If the court finds that
4 it would not be in the best interests of the child to grant custody
5 to the putative father, the court shall terminate his rights to the
6 child.

7 (2) If the putative father has established a custodial
8 relationship with the child or has provided substantial and regular
9 support or care in accordance with the putative father's ability to
10 provide support or care for the mother during pregnancy or for
11 either mother or child after the child's birth during the 90 days
12 before notice of the hearing was served upon him, the rights of the
13 putative father shall not be terminated except by proceedings in
14 accordance with section 51(6) of this chapter or section 2 of
15 chapter XIIA.

16 (3) If the court determines that the parental rights of the
17 putative father will not be terminated under subsection (1), the
18 court shall do all of the following:

19 (a) Terminate the temporary placement made under section 23d
20 of this chapter.

21 (b) Return custody of the child to the mother or the guardian
22 unless the mother's parental rights have been terminated under this
23 chapter or other law and are not restored under section 62 of this
24 chapter.

25 (c) Deny the order of adoption and dismiss the pending
26 adoption proceeding.

27 (4) The fact that the mother or guardian executed or proposed

1 to execute a release or consent relinquishing the mother's parental
2 rights or the guardian's rights to the child and sought termination
3 of the putative father's parental rights under section 36, 37, or
4 39 of this chapter shall not be used against the mother or guardian
5 in any proceeding under the child custody act of 1970, 1970 PA 91,
6 MCL 722.21 to 722.31, after the court has completed the provisions
7 in subsection (3).

8 (5) If the mother's parental rights are terminated under this
9 chapter or other law and are not restored under section 62 of this
10 chapter and if the court awards custody of a child born out of
11 wedlock to the putative father, the court shall enter an order
12 granting custody to the putative father and legitimating the child
13 for all purposes. Upon entry of an order granting custody and
14 legitimating the child, the clerk of the court shall collect a fee
15 of \$35.00 from the putative father. The clerk shall retain \$9.00 of
16 the fee and remit the \$26.00 balance, along with a written report
17 of the order granting custody and legitimating the child, to the
18 director of the department. ~~of community health.~~ The report shall
19 be on a form prescribed by or in a manner approved by the director
20 of the department. ~~of community health.~~ Regardless of whether the
21 fee required by this section is collected, the clerk shall transmit
22 and the department ~~of community health~~ shall receive the report of
23 the order granting custody and legitimating the child.

24 Sec. 68. (1) Within 63 days after a request for nonidentifying
25 information is received, a child placing agency, a court, or the
26 department shall provide in writing to the adoptive parent, adult
27 adoptee, former parent, or adult former sibling requesting the

1 information all of the nonidentifying information described in
2 section 27(1) and (2) of this chapter.

3 (2) Within 63 days after a request for identifying information
4 about an adult adoptee is received, a child placing agency or court
5 or the department shall provide in writing to the former parent or
6 adult former sibling requesting the information the adult adoptee's
7 most recent name and address if the adult adoptee has given written
8 consent to release of the information ~~pursuant to~~ **UNDER** this
9 chapter. If the adult adoptee has not given written consent to the
10 release of information, the child placing agency, the court, or the
11 department shall, upon presentation of a certified copy of the
12 order of appointment, give the adult adoptee's name and address to
13 a confidential intermediary appointed under section 68b of this
14 chapter, together with any other information in its possession that
15 would help the confidential intermediary locate the adult adoptee.
16 At the option of agency or the department, the information may be
17 released to the court for release to the confidential intermediary.

18 (3) If the department or a child placing agency receives a
19 request for adoption record information in its possession from an
20 adult adoptee, former parent, or adult former sibling, the
21 department or child placing agency shall provide the individual
22 requesting the information with the identity of the court that
23 confirmed the adoption within 28 days after receipt of the request.
24 If a court receives such a request, the court shall provide the
25 individual requesting the information with the identity of the
26 child placing agency that handled the adoption.

27 (4) If the court that terminated parental rights receives from

1 the former parents or adult former siblings of the adult adoptee a
2 request for the identity of the agency, court, or department to
3 which the child was committed, the court shall provide in writing
4 the name of that agency, court, or department, if known, within 28
5 days after receipt of the request.

6 (5) Upon receipt of a written request for identifying
7 information from an adult adoptee, a child placing agency, a court,
8 or the department, if it maintains the adoption file for that
9 adoptee, shall submit a clearance request form to the central
10 adoption registry. Within 28 days after receipt of a clearance
11 reply form from the central adoption registry, the child placing
12 agency, court, or department shall notify the adoptee in writing of
13 the identifying information to which the adoptee is entitled under
14 subsection (6) or (7), or, if the identifying information cannot be
15 released under those subsections, the reason why the information
16 cannot be released. The child placing agency, court, or department
17 shall retain a copy of the notice sent to the adult adoptee.

18 (6) For adoptions in which the former parents' rights were
19 terminated on or after May 28, 1945 and before September 12, 1980,
20 a child placing agency, a court, or the department shall release to
21 an adult adoptee or to a confidential intermediary appointed under
22 section 68b of this chapter the identifying information described
23 in section 27(3) of this chapter and other identifying information
24 on file with the central adoption registry as specified in section
25 27b of this chapter, in the following manner:

26 (a) All of the identifying information described in section
27 27(3) of this chapter shall be released to the adult adoptee ~~if~~

1 both former parents have on file with the central adoption registry
2 a statement consenting to release of the identifying information.

3 (b) The identifying information described in section 27(3)(b)
4 and (c) of this chapter about 1 of the former parents and the
5 identifying information described in section 27(3)(a) and (d) of
6 this chapter shall be released to the adult adoptee if that former
7 parent has on file with the central adoption registry a statement
8 consenting to release of identifying information.

9 (c) The identifying information described in section 27(3)(b)
10 and (c) of this chapter about 1 of the former parents and the
11 identifying information described in section 27(3)(a) and (d) of
12 this chapter shall be released to the adult adoptee if that parent
13 is deceased.

14 (d) All of the identifying information described in section
15 27(3) of this chapter on both former parents shall be released to
16 the adult adoptee ~~if~~ if both former parents are deceased.

17 (e) Upon presentation of a certified copy of the order of
18 appointment, all of the identifying information described in
19 section 27(3) of this chapter shall be released to a confidential
20 intermediary appointed under section 68b of this chapter, together
21 with additional information to assist the confidential intermediary
22 to locate former family members. At the option of the agency or the
23 department, the information may be released to the court for
24 release to the confidential intermediary.

25 (7) For all adoptions in which the former parents' rights were
26 terminated before May 28, 1945 or on or after September 12, 1980, a
27 child placing agency, a court, or the department shall release to

1 an adult adoptee the identifying information described in section
2 27(3) of this chapter and any additional information on file with
3 the central adoption registry as specified in section 27b of this
4 chapter, except that if a former parent has filed a statement
5 currently in effect with the central adoption registry denying
6 consent to have identifying information released, the identifying
7 information specified in section 27(3)(b) and (c) of this chapter
8 shall not be released about that parent. For purposes of this
9 subsection, a denial of consent is not effective after the death of
10 the former parent. This subsection does not apply to adoptions in
11 which the former parents' rights were terminated under chapter XII
12 of this act unless the former parent has filed a statement with the
13 central adoption registry consenting to the release of identifying
14 information.

15 (8) Upon receipt of a written request from an adult adoptee
16 for the name and address of an adult former sibling, a child
17 placing agency, a court, or the department, if it maintains the
18 adoption file for that adoptee, shall submit a clearance request
19 form to the central adoption registry. Within 28 days after receipt
20 of a clearance reply form from the central adoption registry, the
21 child placing agency, court, or department shall notify the adoptee
22 in writing of the name and address of an adult former sibling whose
23 statement was forwarded by the central adoption registry.

24 (9) If a child placing agency or court or the department
25 requests information from the central adoption registry and if the
26 clearance reply form from the central adoption registry indicates
27 that neither of the former parents has on file with the central

1 adoption registry a statement currently in effect denying consent
2 to have identifying information released, the child placing agency,
3 court, or department shall deliver to the adult adoptee a copy of
4 the clearance reply form it received from the central adoption
5 registry. The clearance reply form may be used by the adult adoptee
6 to obtain a copy of his or her original certificate of live birth
7 under section 2882 of the public health code, 1978 PA 368, MCL
8 333.2882. Except for adoptions in which the former parents'
9 parental rights were terminated under chapter XII of this act, this
10 subsection applies to all adoptions in which the parents' rights
11 were terminated before May 28, 1945 or on or after September 12,
12 1980.

13 (10) If a child placing agency, a court, or the department
14 receives written information concerning a physician-verified
15 medical or genetic condition of an individual biologically related
16 to an adoptee and a request that the information be transmitted to
17 the adoptee because of the serious threat it poses to the adoptee's
18 life, the child placing agency, court, or department shall send a
19 written copy of the information by first-class mail within 7 days
20 after the request is received to the adoptee at his or her last
21 known address. If the adoptee is less than 18 years of age, the
22 information shall be sent by first-class mail within 7 days after
23 the request is received to the adoptive parents at their last known
24 address.

25 (11) If the information described in subsection (10) is
26 returned undelivered, the agency, court, or department shall make a
27 reasonable effort to find the most recent address of the adoptee or

1 minor adoptee's parents and shall again send the information by
2 first-class mail within 21 days after receiving the returned
3 letter.

4 (12) If a child placing agency, a court, or the department
5 receives written information concerning a physician-verified
6 medical or genetic condition of a person biologically related to an
7 adoptee, and the condition is not life-threatening to the adoptee,
8 the child placing agency, court, or department shall place the
9 information in its adoption files. If the child placing agency,
10 court, or department receives a written request for the information
11 from the adult adoptee or minor adoptee's adoptive parents, it
12 shall release a written copy of the information to the adult
13 adoptee or to the minor adoptee's adoptive parents within 63 days
14 after the request for the information was made.

15 (13) If a child placing agency, a court, or the department
16 receives written information concerning a physician-verified
17 medical or genetic condition that threatens the life of an adoptee
18 and for which a biologically related person could give life-saving
19 aid, and receives a request from or on behalf of the adoptee that
20 the information be transmitted, the child placing agency, court, or
21 department shall send a written copy of the information by first-
22 class mail within 7 days after the request is received to the
23 biological parents or adult biological siblings of the adoptee at
24 their last known address.

25 (14) If the information described in subsection (13) is
26 returned undelivered, the agency, court, or department shall make a
27 reasonable effort to find the most recent address of the biological

1 parents or adult biological siblings and shall again send the
2 information by first-class mail within 21 days after receiving the
3 returned letter.

4 (15) If a child placing agency, a court, or the department
5 provides an adoptee with the name of 1 of the adoptee's former
6 parents, that child placing agency, court, or department shall
7 notify the ~~department of community health~~ **DEPARTMENT'S VITAL**
8 **RECORDS OFFICE** of that fact. Upon receipt of notification by the
9 child placing agency, court, or department, the ~~department of~~
10 ~~community health~~ **DEPARTMENT'S VITAL RECORDS OFFICE** shall insure
11 **ENSURE** that the original birth certificate on file for the adoptee
12 has been sealed and that a new birth certificate has been prepared
13 in conformance with section 67 of this chapter.

14 (16) An employee or agent of a child placing agency, a court,
15 or the department, who intentionally releases identifying
16 information in violation of this section, is guilty of a
17 misdemeanor.

18 (17) This section also applies to a stepparent adoption and to
19 the adoption of a child related to the petitioner within the fifth
20 degree by marriage, blood, or adoption.

21 (18) As used in this section, "adult adoptee" means an
22 individual who was adopted as a child who is now 18 years of age or
23 older or an individual who was 18 years of age or older at the time
24 of adoption.

25 (19) A child placing agency, a court, and the department may
26 require a fee for supplying information under this section. The fee
27 shall be \$60.00 or the actual cost of supplying the information,

1 whichever is less. The child placing agency, court, or department
2 may waive a part or all of the fee in case of indigency or
3 hardship.

4 (20) A direct descendant of a deceased adult adoptee may
5 request information under this section. All information to which an
6 adult adoptee is entitled under this section shall be released to
7 the adult adoptee's direct descendants if the adult adoptee is
8 deceased.

9 (21) A child placing agency, a court, or the department shall
10 permit the children's ombudsman to inspect adoption records in its
11 possession in connection with an investigation authorized under the
12 children's ombudsman act, 1994 PA 204, MCL 722.921 to 722.935. The
13 ombudsman shall not disclose information obtained by an inspection
14 under this section. If the children's ombudsman requires further
15 information from an individual whose identity is protected in
16 closed adoption records, the ombudsman shall contact the individual
17 discreetly and confidentially. The ombudsman shall inform the
18 individual that his or her participation in the investigation is
19 confidential, is strictly voluntary, and will not alter or
20 constitute a challenge to the adoption. The ombudsman shall honor
21 the individual's request not to be contacted further. As used in
22 this subsection, "children's ombudsman" or "ombudsman" means the
23 ombudsman appointed under section 3 of the children's ombudsman
24 act, 1994 PA 204, MCL 722.923, or his or her designee.

25 CHAPTER XII

26 Sec. 1. (1) This chapter shall be known and may be cited as
27 the "safe delivery of newborns law".

1 (2) As used in this chapter:

2 (a) "Child placing agency" means that term as defined in
3 section 1 of 1973 PA 116, MCL 722.111.

4 (b) "Court" means the family division of circuit court.

5 (c) "Department" means the department of **HEALTH AND** human
6 services.

7 (d) "DNA identification profile" and "DNA identification
8 profiling" mean those terms as defined in section 1 of the
9 paternity act, 1956 PA 205, MCL 722.711.

10 (e) "Domestic violence" means that term as defined in section
11 1 of 1978 PA 389, MCL 400.1501.

12 (f) "Emergency service provider" means a uniformed or
13 otherwise identified employee or contractor of a fire department,
14 hospital, or police station when that individual is inside the
15 premises and on duty. Emergency service provider also includes a
16 paramedic or an emergency medical technician when either of those
17 individuals is responding to a 9-1-1 emergency call.

18 (g) "Fire department" means an organized fire department as
19 that term is defined in section 1 of the fire prevention code, 1941
20 PA 207, MCL 29.1.

21 (h) "Gross negligence" means conduct so reckless as to
22 demonstrate a substantial lack of concern for whether an injury
23 results.

24 (i) "Hospital" means a hospital that is licensed under article
25 17 of the public health code, 1978 PA 368, MCL 333.20101 to
26 333.22260.

27 (j) "Lawyer-guardian ad litem" means an attorney appointed

1 under section 2 of this chapter. A lawyer-guardian ad litem
2 represents the newborn, and has the powers and duties, as set forth
3 in section 17d of chapter XIIIA.

4 (k) "Newborn" means a child who a physician reasonably
5 believes to be not more than 72 hours old.

6 (l) "Police station" means that term as defined in section 43
7 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

8 (m) "Preplacement assessment" means an assessment of a
9 prospective adoptive parent as described in section 23f of chapter
10 X.

11 (n) "Surrender" means to leave a newborn with an emergency
12 service provider without expressing an intent to return for the
13 newborn.

14 Sec. 20. The department ~~of community health in conjunction~~
15 ~~with the department~~ shall establish a safe delivery program. The
16 safe delivery program shall include, but is not limited to, both of
17 the following:

18 (a) A toll-free, 24-hour telephone line. The information
19 provided with this telephone line shall include, but is not limited
20 to, all of the following:

21 (i) Information on prenatal care and the delivery of a
22 newborn.

23 (ii) Names of health agencies that can assist in obtaining
24 services and supports that provide for the pregnancy-related health
25 of the mother and the health of the baby.

26 (iii) Information on adoption options and the name and
27 telephone number of a child placing agency that can assist a parent

1 or expecting parent in obtaining adoption services.

2 (iv) Information that, in order to safely provide for the
3 health of the mother and her newborn, the best place for the
4 delivery of a child is in a hospital, hospital-based birthing
5 center, or birthing center that is accredited by the ~~commission for~~
6 ~~the accreditation of birth centers.~~ **COMMISSION FOR THE ACCREDITATION**
7 **OF BIRTH CENTERS.**

8 (v) An explanation that, to the extent of the law, prenatal
9 care and delivery services are routinely confidential within the
10 health care system, if requested by the mother.

11 (vi) Information that a hospital will take into protective
12 custody a newborn that is surrendered as provided for in this
13 chapter and, if needed, provide emergency medical assistance to the
14 mother, the newborn, or both.

15 (vii) Information regarding legal and procedural requirements
16 related to the voluntary surrender of a child as provided for in
17 this chapter.

18 (viii) Information regarding the legal consequences for
19 endangering a child, including child protective service
20 investigations and potential criminal penalties.

21 (ix) Information that surrendering a newborn for adoption as
22 provided in this chapter is an affirmative defense to charges of
23 abandonment as provided in section 135 of the Michigan penal code,
24 1931 PA 328, MCL 750.135.

25 (x) Information about resources for counseling and assistance
26 with crisis management.

27 (b) A pamphlet that provides information to the public

1 concerning the safe delivery program. The department ~~of community~~
2 ~~health and the department~~ shall jointly publish and distribute the
3 pamphlet. The pamphlet shall prominently display the toll-free
4 telephone number prescribed by subdivision (a).

5 CHAPTER XIIA

6 Sec. 1. (1) As used in this chapter:

7 (a) "Civil infraction" means that term as defined in section
8 113 of the revised judicature act of 1961, 1961 PA 236, MCL
9 600.113.

10 (b) "Competency evaluation" means a court-ordered examination
11 of a juvenile directed to developing information relevant to a
12 determination of his or her competency to proceed at a particular
13 stage of a court proceeding involving a juvenile who is the subject
14 of a delinquency petition.

15 (c) "Competency hearing" means a hearing to determine whether
16 a juvenile is competent to proceed.

17 (d) "County juvenile agency" means that term as defined in
18 section 2 of the county juvenile agency act, 1998 PA 518, MCL
19 45.622.

20 (e) "Court" means the family division of circuit court.

21 (f) "Department" means the department of **HEALTH AND** human
22 services. ~~A reference in this chapter to the "department of social~~
23 ~~welfare" or the "family independence agency" means the department~~
24 ~~of human services.~~

25 (g) "Foreign protection order" means that term as defined in
26 section 2950h of the revised judicature act of 1961, 1961 PA 236,
27 MCL 600.2950h.

1 (h) "Incompetent to proceed" means that a juvenile, based on
2 age-appropriate norms, lacks a reasonable degree of rational and
3 factual understanding of the proceeding or is unable to do 1 or
4 more of the following:

5 (i) Consult with and assist his or her attorney in preparing
6 his or her defense in a meaningful manner.

7 (ii) Sufficiently understand the charges against him or her.

8 (i) "Juvenile" means a person who is less than 17 years of age
9 who is the subject of a delinquency petition.

10 (j) "Least restrictive environment" means a supervised
11 community placement, preferably a placement with the juvenile's
12 parent, guardian, relative, or a facility or conditions of
13 treatment that is a residential or institutional placement only
14 utilized as a last resort based on the best interest of the
15 juvenile or for reasons of public safety.

16 (k) "Licensed child caring institution" means a child caring
17 institution as defined and licensed under 1973 PA 116, MCL 722.111
18 to 722.128.

19 (l) "MCI" means the Michigan children's institute created and
20 established by 1935 PA 220, MCL 400.201 to 400.214.

21 (m) "Mental health code" means the mental health code, 1974 PA
22 258, MCL 330.1001 to 330.2106.

23 (n) "Personal protection order" means a personal protection
24 order issued under section 2950 or 2950a of the revised judicature
25 act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, and includes
26 a valid foreign protection order.

27 (o) "Qualified juvenile forensic mental health examiner" means

1 1 of the following who performs forensic mental health examinations
2 for the purposes of sections 1062 to 1074 of the mental health
3 code, **MCL 330.2062 TO 330.2074**, but does not exceed the scope of
4 his or her practice as authorized by state law:

5 (i) A psychiatrist or psychologist who possesses experience or
6 training in the following:

7 (A) Forensic evaluation procedures for juveniles.

8 (B) Evaluation, diagnosis, and treatment of children and
9 adolescents with emotional disturbance, mental illness, or
10 developmental disabilities.

11 (C) Clinical understanding of child and adolescent
12 development.

13 (D) Familiarity with competency standards in this state.

14 (ii) Beginning September 28, 2014, a mental health
15 professional other than a psychiatrist or psychologist who has
16 completed a juvenile competency training program for forensic
17 mental health examiners that is endorsed by the department under
18 section 1072 of the mental health code, **MCL 330.2072**, and who
19 possesses experience or training in all of the following:

20 (A) Forensic evaluation procedures for juveniles.

21 (B) Evaluation, diagnosis, and treatment of children and
22 adolescents with emotional disturbance, mental illness, or
23 developmental disabilities.

24 (C) Clinical understanding of child and adolescent
25 development.

26 (D) Familiarity with competency standards in this state.

27 (p) "Qualified restoration provider" means an individual who

1 the court determines, as a result of the opinion provided by the
2 qualified forensic mental health examiner, has the skills and
3 training necessary to provide restoration services. The court shall
4 take measures to avoid any conflict of interest among agencies or
5 individuals who may provide evaluation and restoration.

6 (q) "Restoration" means the process by which education or
7 treatment of a juvenile results in that juvenile becoming competent
8 to proceed.

9 (r) "Serious misdemeanor" means that term as defined in
10 section 61 of the William Van Regenmorter crime victim's rights
11 act, 1985 PA 87, MCL 780.811.

12 (s) "Valid foreign protection order" means a foreign
13 protection order that satisfies the conditions for validity
14 provided in section 2950i of the revised judicature act of 1961,
15 1961 PA 236, MCL 600.2950i.

16 (2) Except as otherwise provided, proceedings under this
17 chapter are not criminal proceedings.

18 (3) This chapter shall be liberally construed so that each
19 juvenile coming within the court's jurisdiction receives the care,
20 guidance, and control, preferably in his or her own home, conducive
21 to the juvenile's welfare and the best interest of the state. If a
22 juvenile is removed from the control of his or her parents, the
23 juvenile shall be placed in care as nearly as possible equivalent
24 to the care that should have been given to the juvenile by his or
25 her parents.

26 Sec. 2. The court has the following authority and
27 jurisdiction:

1 (a) Exclusive original jurisdiction superior to and regardless
2 of the jurisdiction of another court in proceedings concerning a
3 juvenile under 17 years of age who is found within the county if 1
4 or more of the following applies:

5 (1) Except as otherwise provided in this sub-subdivision, the
6 juvenile has violated any municipal ordinance or law of the state
7 or of the United States. If the court enters into an agreement
8 under section 2e of this chapter, the court has jurisdiction over a
9 juvenile who committed a civil infraction as provided in that
10 section. The court has jurisdiction over a juvenile 14 years of age
11 or older who is charged with a specified juvenile violation only if
12 the prosecuting attorney files a petition in the court instead of
13 authorizing a complaint and warrant. As used in this sub-
14 subdivision, "specified juvenile violation" means 1 or more of the
15 following:

16 (A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,
17 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328,
18 MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,
19 750.349, 750.520b, 750.529, 750.529a, and 750.531.

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

24 (i) A loaded or unloaded firearm, whether operable or
25 inoperable.

26 (ii) A knife, stabbing instrument, brass knuckles, blackjack,
27 club, or other object specifically designed or customarily carried

1 or possessed for use as a weapon.

2 (iii) An object that is likely to cause death or bodily injury
3 when used as a weapon and that is used as a weapon or carried or
4 possessed for use as a weapon.

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

8 (C) A violation of section 186a of the Michigan penal code,
9 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
10 from a juvenile facility, but only if the juvenile facility from
11 which the individual escaped or attempted to escape was 1 of the
12 following:

13 (i) A high-security or medium-security facility operated by
14 the department of human services or a county juvenile agency.

15 (ii) A high-security facility operated by a private agency
16 under contract with the department ~~of human services~~ or a county
17 juvenile agency.

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

20 (E) An attempt to commit a violation described in paragraphs
21 (A) to (D).

22 (F) Conspiracy to commit a violation described in paragraphs
23 (A) to (D).

24 (G) Solicitation to commit a violation described in paragraphs
25 (A) to (D).

26 (H) A lesser included offense of a violation described in
27 paragraphs (A) to (G) if the individual is charged with a violation

1 described in paragraphs (A) to (G).

2 (I) Another violation arising out of the same transaction as a
3 violation described in paragraphs (A) to (G) if the individual is
4 charged with a violation described in paragraphs (A) to (G).

5 (2) The juvenile has deserted his or her home without
6 sufficient cause, and the court finds on the record that the
7 juvenile has been placed or refused alternative placement or the
8 juvenile and the juvenile's parent, guardian, or custodian have
9 exhausted or refused family counseling.

10 (3) The juvenile is repeatedly disobedient to the reasonable
11 and lawful commands of his or her parents, guardian, or custodian,
12 and the court finds on the record by clear and convincing evidence
13 that court-accessed services are necessary.

14 (4) The juvenile willfully and repeatedly absents himself or
15 herself from school or other learning program intended to meet the
16 juvenile's educational needs, or repeatedly violates rules and
17 regulations of the school or other learning program, and the court
18 finds on the record that the juvenile, the juvenile's parent,
19 guardian, or custodian, and school officials or learning program
20 personnel have met on the juvenile's educational problems and
21 educational counseling and alternative agency help have been
22 sought. As used in this sub-subdivision only, "learning program"
23 means an organized educational program that is appropriate, given
24 the age, intelligence, ability, and psychological limitations of a
25 juvenile, in the subject areas of reading, spelling, mathematics,
26 science, history, civics, writing, and English grammar.

27 (b) Jurisdiction in proceedings concerning a juvenile under 18

1 years of age found within the county:

2 (1) Whose parent or other person legally responsible for the
3 care and maintenance of the juvenile, when able to do so, neglects
4 or refuses to provide proper or necessary support, education,
5 medical, surgical, or other care necessary for his or her health or
6 morals, who is subject to a substantial risk of harm to his or her
7 mental well-being, who is abandoned by his or her parents,
8 guardian, or other custodian, or who is without proper custody or
9 guardianship. As used in this sub-subdivision:

10 (A) "Education" means learning based on an organized
11 educational program that is appropriate, given the age,
12 intelligence, ability, and psychological limitations of a juvenile,
13 in the subject areas of reading, spelling, mathematics, science,
14 history, civics, writing, and English grammar.

15 (B) "Without proper custody or guardianship" does not mean a
16 parent has placed the juvenile with another person who is legally
17 responsible for the care and maintenance of the juvenile and who is
18 able to and does provide the juvenile with proper care and
19 maintenance.

20 (2) Whose home or environment, by reason of neglect, cruelty,
21 drunkenness, criminality, or depravity on the part of a parent,
22 guardian, nonparent adult, or other custodian, is an unfit place
23 for the juvenile to live in.

24 (3) If the juvenile is dependent and is in danger of
25 substantial physical or psychological harm. The juvenile may be
26 found to be dependent when any of the following occurs:

27 (A) The juvenile is homeless or not domiciled with a parent or

1 other legally responsible person.

2 (B) The juvenile has repeatedly run away from home and is
3 beyond the control of a parent or other legally responsible person.

4 (C) The juvenile is alleged to have committed a commercial
5 sexual activity as that term is defined in section 462a of the
6 Michigan penal code, 1931 PA 328, MCL 750.462a, or a delinquent act
7 that is the result of force, fraud, coercion, or manipulation
8 exercised by a parent or other adult.

9 (D) The juvenile's custodial parent or legally responsible
10 person has died or has become permanently incapacitated and no
11 appropriate parent or legally responsible person is willing and
12 able to provide care for the juvenile.

13 (4) Whose parent has substantially failed, without good cause,
14 to comply with a limited guardianship placement plan described in
15 section 5205 of the estates and protected individuals code, 1998 PA
16 386, MCL 700.5205, regarding the juvenile.

17 (5) Whose parent has substantially failed, without good cause,
18 to comply with a court-structured plan described in section 5207 or
19 5209 of the estates and protected individuals code, 1998 PA 386,
20 MCL 700.5207 and 700.5209, regarding the juvenile.

21 (6) If the juvenile has a guardian under the estates and
22 protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206,
23 and the juvenile's parent meets both of the following criteria:

24 (A) The parent, having the ability to support or assist in
25 supporting the juvenile, has failed or neglected, without good
26 cause, to provide regular and substantial support for the juvenile
27 for 2 years or more before the filing of the petition or, if a

1 support order has been entered, has failed to substantially comply
2 with the order for 2 years or more before the filing of the
3 petition.

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

8 If a petition is filed in the court alleging that a juvenile
9 is within the provisions of subdivision (b)(1), (2), (3), (4), (5),
10 or (6) and the custody of that juvenile is subject to the prior or
11 continuing order of another court of record of this state, the
12 manner of notice to the other court of record and the authority of
13 the court to proceed is governed by rule of the supreme court.

14 (c) Jurisdiction over juveniles under 18 years of age,
15 jurisdiction of whom has been waived to the family division of
16 circuit court by a circuit court under a provision in a temporary
17 order for custody of juveniles based upon a complaint for divorce
18 or upon a motion related to a complaint for divorce by the
19 prosecuting attorney, in a divorce judgment dissolving a marriage
20 between the juvenile's parents, or by an amended judgment relative
21 to the juvenile's custody in a divorce.

22 (d) If the court finds on the record that voluntary services
23 have been exhausted or refused, concurrent jurisdiction in
24 proceedings concerning a juvenile between the ages of 17 and 18
25 found within the county who is 1 or more of the following:

26 (1) Repeatedly addicted to the use of drugs or the intemperate
27 use of alcoholic liquors.

1 (2) Repeatedly associating with criminal, dissolute, or
2 disorderly persons.

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

5 (4) Repeatedly associating with thieves, prostitutes, pimps,
6 or procurers.

7 (5) Willfully disobedient to the reasonable and lawful
8 commands of his or her parents, guardian, or other custodian and in
9 danger of becoming morally depraved.

10 If a juvenile is brought before the court in a county other
11 than that in which the juvenile resides, before a hearing and with
12 the consent of the judge of the court in the county of residence,
13 the court may enter an order transferring jurisdiction of the
14 matter to the court of the county of residence. Consent to transfer
15 jurisdiction is not required if the county of residence is a county
16 juvenile agency and satisfactory proof of residence is furnished to
17 the court of the county of residence. The order does not constitute
18 a legal settlement in this state that is required for the purpose
19 of section 55 of the social welfare act, 1939 PA 280, MCL 400.55.
20 The order and a certified copy of the proceedings in the
21 transferring court shall be delivered to the court of the county of
22 residence. A case designated as a case in which the juvenile shall
23 be tried in the same manner as an adult under section 2d of this
24 chapter may be transferred for venue or for juvenile disposition ,
25 but shall not be transferred on grounds of residency. If the case
26 is not transferred, the court having jurisdiction of the offense
27 shall try the case.

1 (e) Authority to establish or assist in developing a program
2 or programs within the county to prevent delinquency and provide
3 services to act upon reports submitted to the court related to the
4 behavior of a juvenile who does not require formal court
5 jurisdiction but otherwise falls within subdivision (a). These
6 services shall be used only if the juvenile and his or her parents,
7 guardian, or custodian voluntarily accepts them.

8 (f) If the court operates a detention home for juveniles
9 within the court's jurisdiction under subdivision (a)(1), authority
10 to place a juvenile within that home pending trial if the juvenile
11 is within the circuit court's jurisdiction under section 606 of the
12 revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if
13 the circuit court orders the family division of circuit court in
14 the same county to place the juvenile in that home. The family
15 division of circuit court shall comply with that order.

16 (g) Authority to place a juvenile in a county jail under
17 section 27a of chapter IV of the code of criminal procedure, 1927
18 PA 175, MCL 764.27a, if the court designates the case under section
19 2d of this chapter as a case in which the juvenile is to be tried
20 in the same manner as an adult and the court determines there is
21 probable cause to believe that the offense was committed and
22 probable cause to believe the juvenile committed that offense.

23 (h) Jurisdiction over a proceeding under section 2950 or 2950a
24 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950
25 and 600.2950a, in which a minor less than 18 years of age is the
26 respondent, or a proceeding to enforce a valid foreign protection
27 order issued against a respondent who is a minor less than 18 years

1 of age. A personal protection order shall not be issued against a
2 respondent who is a minor less than 10 years of age. Venue for an
3 initial action under section 2950 or 2950a of the revised
4 judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, is
5 proper in the county of residence of either the petitioner or
6 respondent. If the respondent does not live in this state, venue
7 for the initial action is proper in the petitioner's county of
8 residence.

9 (i) In a proceeding under this chapter concerning a juvenile's
10 care and supervision, the court may issue orders affecting a party
11 as necessary. This subdivision does not apply after May 1, 2018. As
12 used in this subdivision, "party" means 1 of the following:

13 (i) In a delinquency proceeding, the petitioner and juvenile.

14 (ii) In a child protective proceeding, the petitioner,
15 department, ~~of human services,~~ child, respondent, parent, guardian,
16 or legal custodian, and any licensed child caring institution or
17 child placing agency under contract with the department ~~of human~~
18 ~~services~~ to provide for a juvenile's care and supervision.

19 Sec. 2d. (1) In a petition or amended petition alleging that a
20 juvenile is within the court's jurisdiction under section 2(a)(1)
21 of this chapter for a specified juvenile violation, the prosecuting
22 attorney may designate the case as a case in which the juvenile is
23 to be tried in the same manner as an adult. An amended petition
24 making a designation under this subsection shall be filed only by
25 leave of the court.

26 (2) In a petition alleging that a juvenile is within the
27 court's jurisdiction under section 2(a)(1) of this chapter for an

1 offense other than a specified juvenile violation, the prosecuting
2 attorney may request that the court designate the case as a case in
3 which the juvenile is to be tried in the same manner as an adult.
4 The court may designate the case following a hearing if it
5 determines that the best interests of the juvenile and the public
6 would be served by the juvenile being tried in the same manner as
7 an adult. In determining whether the best interests of the juvenile
8 and the public would be served, the court shall consider all of the
9 following factors, giving greater weight to the seriousness of the
10 alleged offense and the juvenile's prior delinquency record than to
11 the other factors:

12 (a) The seriousness of the alleged offense in terms of
13 community protection, including, but not limited to, the existence
14 of any aggravating factors recognized by the sentencing guidelines,
15 the use of a firearm or other dangerous weapon, and the impact on
16 any victim.

17 (b) The juvenile's culpability in committing the alleged
18 offense, including, but not limited to, the level of the juvenile's
19 participation in planning and carrying out the offense and the
20 existence of any aggravating or mitigating factors recognized by
21 the sentencing guidelines.

22 (c) The juvenile's prior record of delinquency, including, but
23 not limited to, any record of detention, any police record, any
24 school record, or any other evidence indicating prior delinquent
25 behavior.

26 (d) The juvenile's programming history, including, but not
27 limited to, the juvenile's past willingness to participate

1 meaningfully in available programming.

2 (e) The adequacy of the punishment or programming available in
3 the juvenile justice system.

4 (f) The dispositional options available for the juvenile.

5 (3) If a case is designated under this section, the case shall
6 be set for trial in the same manner as the trial of an adult in a
7 court of general criminal jurisdiction unless a probable cause
8 hearing is required under subsection (4).

9 (4) If the petition in a case designated under this section
10 alleges an offense that if committed by an adult would be a felony
11 or punishable by imprisonment for more than 1 year, the court shall
12 conduct a probable cause hearing not later than 14 days after the
13 case is designated to determine whether there is probable cause to
14 believe the offense was committed and whether there is probable
15 cause to believe the juvenile committed the offense. This hearing
16 may be combined with the designation hearing under subsection (2)
17 for an offense other than a specified juvenile offense. A probable
18 cause hearing under this section is the equivalent of the
19 preliminary examination in a court of general criminal jurisdiction
20 and satisfies the requirement for that hearing. A probable cause
21 hearing shall be conducted by a judge other than the judge who will
22 try the case if the juvenile is tried in the same manner as an
23 adult.

24 (5) If the court determines there is probable cause to believe
25 the offense alleged in the petition was committed and probable
26 cause to believe the juvenile committed the offense, the case shall
27 be set for trial in the same manner as the trial of an adult in a

1 court of general criminal jurisdiction.

2 (6) If the court determines that an offense did not occur or
3 there is not probable cause to believe the juvenile committed the
4 offense, the court shall dismiss the petition. If the court
5 determines there is probable cause to believe another offense was
6 committed and there is probable cause to believe the juvenile
7 committed that offense, the court may further determine whether the
8 case should be designated as a case in which the juvenile should be
9 tried in the same manner as an adult as provided in subsection (2).
10 If the court designates the case, the case shall be set for trial
11 in the same manner as the trial of an adult in a court of general
12 criminal jurisdiction.

13 (7) If a case is designated under this section, the
14 proceedings are criminal proceedings and shall afford all
15 procedural protections and guarantees to which the juvenile would
16 be entitled if being tried for the offense in a court of general
17 criminal jurisdiction. A plea of guilty or nolo contendere or a
18 verdict of guilty shall result in entry of a judgment of
19 conviction. The conviction shall have the same effect and
20 liabilities as if it had been obtained in a court of general
21 criminal jurisdiction.

22 (8) Following a judgment of conviction, the court shall enter
23 a disposition or impose a sentence authorized under section
24 18(1)(n) of this chapter.

25 (9) As used in this section, "specified juvenile violation"
26 means any of the following:

27 (a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,

1 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328,
2 MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,
3 750.349, 750.520b, 750.529, 750.529a, and 750.531.

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

8 (i) A loaded or unloaded firearm, whether operable or
9 inoperable.

10 (ii) A knife, stabbing instrument, brass knuckles, blackjack,
11 club, or other object specifically designed or customarily carried
12 or possessed for use as a weapon.

13 (iii) An object that is likely to cause death or bodily injury
14 when used as a weapon and that is used as a weapon or carried or
15 possessed for use as a weapon.

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

19 (c) A violation of section 186a of the Michigan penal code,
20 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
21 from a juvenile facility, but only if the juvenile facility from
22 which the juvenile escaped or attempted to escape was 1 of the
23 following:

24 (i) A high-security or medium-security facility operated by
25 the ~~family independence agency~~ **DEPARTMENT** or a county juvenile
26 agency.

27 (ii) A high-security facility operated by a private agency

1 under contract with the ~~family independence agency~~ **DEPARTMENT** or a
2 county juvenile agency.

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

5 (e) An attempt to commit a violation described in subdivisions
6 (a) to (d).

7 (f) Conspiracy to commit a violation described in subdivisions
8 (a) to (d).

9 (g) Solicitation to commit a violation described in
10 subdivisions (a) to (d).

11 (h) Any lesser included offense of an offense described in
12 subdivisions (a) to (g) if the juvenile is alleged in the petition
13 to have committed an offense described in subdivisions (a) to (g).

14 (i) Any other offense arising out of the same transaction as
15 an offense described in subdivisions (a) to (g) if the juvenile is
16 alleged in the petition to have committed an offense described in
17 subdivisions (a) to (g).

18 Sec. 8. The office of county agent is created. The county
19 agent is an officer of the court and under the general supervision
20 of the judges of the court and shall serve at their pleasure. The
21 county agent shall organize, direct and develop the juvenile
22 welfare work of the court as authorized by the judge. When
23 requested by the superintendent or director, the county agent shall
24 supervise juveniles released from public institutions or agencies
25 and may perform other juvenile welfare work as requested and with
26 the approval of the judge, including services to school-age
27 juveniles of the various school districts within the county, after

1 consultation and agreement with the county school commissioner and
2 the superintendents of schools in a county. With the judge's
3 approval, the county agent or his or her assistants shall
4 investigate and report on juveniles or families within the county
5 as requested by the ~~family independence agency,~~ **DEPARTMENT**, the
6 county juvenile agency, or the superintendent of any state
7 institution regarding the welfare of any juvenile. Assistant county
8 agents shall perform the duties assigned to them by the county
9 agent.

10 Sec. 9. The judge of probate in each county may appoint 1 or
11 more suitable persons of good character and qualified training or
12 experience, other than the county agent or assistants, to act as
13 probation officer, who shall receive ~~such~~ compensation as the board
14 of supervisors may appropriate for that purpose, and who, at the
15 discretion of the judge, may be authorized and empowered to perform
16 county agent duties.

17 The judge of probate may also appoint other probation officers
18 who shall receive no compensation from the county treasury for the
19 duties performed under ~~such~~ **THE** appointment.

20 It ~~shall be~~ **IS** the duty of the judge of probate to notify the
21 state department ~~of social welfare~~ of the appointment of all paid
22 probation officers made by him **OR HER** under the provisions of this
23 chapter. All probation officers shall hold office during the
24 pleasure of the court and shall report to the ~~said~~ court upon all
25 cases under their care.

26 Sec. 14. (1) Any local police officer, sheriff or deputy
27 sheriff, state police officer, county agent or probation officer of

1 any court of record may, without the order of the court,
2 immediately take into custody any child who is found violating any
3 law or ordinance, or for whom there is reasonable cause to believe
4 is violating or has violated a personal protection order issued
5 under section 2(h) of this chapter by the court under section 2950
6 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL
7 600.2950 and 600.2950a, or for whom there is reasonable cause to
8 believe is violating or has violated a valid foreign protection
9 order. If the officer or county agent takes a child coming within
10 the provisions of this chapter into custody, he or she shall
11 immediately attempt to notify the parent or parents, guardian, or
12 custodian. While awaiting the arrival of the parent or parents,
13 guardian, or custodian, a child under the age of 17 years taken
14 into custody under the provisions of this chapter shall not be held
15 in any detention facility unless the child is completely isolated
16 so as to prevent any verbal, visual, or physical contact with any
17 adult prisoner. Unless the child requires immediate detention as
18 provided for in this act, the officer shall accept the written
19 promise of the parent or parents, guardian, or custodian, to bring
20 the child to the court at a fixed time. The child shall then be
21 released to the custody of the parent or parents, guardian, or
22 custodian.

23 (2) If a child is not released under subsection (1), the child
24 and his or her parents, guardian, or custodian, if they can be
25 located, shall immediately be brought before the court for a
26 preliminary hearing on the status of the child, and an order signed
27 by a judge or a referee authorizing the filing of a complaint shall

1 be entered or the child shall be released to his or her parent or
2 parents, guardian, or custodian.

3 (3) If a complaint is authorized under subsection (2), the
4 order shall state where the child is to be placed, pending
5 investigation and hearing, which placement may be in any of the
6 following:

7 (a) In the home of the child's parent, guardian, or custodian.

8 (b) If a child is within the court's jurisdiction under
9 section 2(a) of this chapter, in a suitable foster care home
10 subject to the court's supervision. Except as otherwise provided in
11 subsections (4) and (5), if a child is within the court's
12 jurisdiction under section 2(b) of this chapter, the court shall
13 not place a child in a foster care home subject to the court's
14 supervision.

15 (c) In a child care institution or child placing agency
16 licensed by the department ~~of human services~~ to receive for care
17 children within the jurisdiction of the court.

18 (d) In a suitable place of detention.

19 (4) Except as otherwise provided in subsection (5), if a court
20 is providing at the time of the enactment of this subsection foster
21 care home services subject to the court's supervision to children
22 within section 2(b) of this chapter, the court may continue to
23 provide those services through December 31, 1989. Beginning January
24 1, 1990, the court shall discontinue providing those services.

25 (5) If a court located in a county with a population in excess
26 of 650,000 is providing at the time of the enactment of this
27 subsection foster care home services subject to the court's

1 supervision to children within section 2(b) of this chapter, the
2 court may continue to provide those services through December 31,
3 1991. Beginning January 1, 1992, the court shall discontinue those
4 services.

5 Sec. 14a. (1) If there is reasonable cause to believe that a
6 child is at substantial risk of harm or is in surroundings that
7 present an imminent risk of harm and the child's immediate removal
8 from those surroundings is necessary to protect the child's health
9 and safety, an officer may, without a court order, immediately take
10 that child into protective custody. An officer who takes a child
11 into protective custody under this section shall immediately notify
12 the department. ~~of human services.~~ While awaiting the arrival of
13 the department, ~~of human services,~~ the child shall not be held in a
14 detention facility.

15 (2) If a child taken into protective custody under this
16 section is not released, the officer or the department ~~of human~~
17 ~~services~~ shall immediately contact the designated judge or referee,
18 as provided in subsection (3), to seek a court order for placement
19 of the child pending a preliminary hearing.

20 (3) A judge or referee shall be designated as the contact when
21 a placement order is sought for a child in protective custody under
22 this section. In accordance with the provisions of section 14b of
23 this chapter, if the court is closed, the designated judge or
24 referee may, upon receipt electronically or otherwise of a petition
25 or affidavit of facts, order placement if the placement order is
26 communicated in writing, electronically or otherwise, to the
27 appropriate county department office and filed with the court the

1 next business day. When a placement order is issued by a designated
2 referee, the order shall take effect as an interim order pending a
3 preliminary hearing.

4 (4) As used in this section, "officer" means a local police
5 officer, sheriff or deputy sheriff, state police officer, or county
6 agent or probation officer of a court of record.

7 Sec. 14b. (1) Upon receipt electronically or otherwise of a
8 petition or affidavit of facts, a judge or referee may issue a
9 written ex parte order, electronically or otherwise, authorizing
10 the department ~~of human services~~ to immediately take a child into
11 protective custody and place the child pending the preliminary
12 hearing if the court finds all of the following:

13 (a) There is reasonable cause to believe that the child is at
14 substantial risk of harm or is in surroundings that present an
15 imminent risk of harm and the child's immediate removal from those
16 surroundings is necessary to protect the child's health and safety.

17 (b) The circumstances warrant issuing an ex parte order
18 pending the preliminary hearing.

19 (c) Consistent with the circumstances, reasonable efforts were
20 made to prevent or eliminate the need for removal of the child.

21 (d) No remedy other than protective custody is reasonably
22 available to protect the child.

23 (e) Continuing to reside in the home is contrary to the
24 child's welfare.

25 (2) The ex parte order shall be supported by written findings
26 of fact.

27 Sec. 16. (1) If a juvenile under the age of 17 years is taken

1 into custody or detained, the juvenile shall not be confined in any
2 police station, prison, jail, lock-up, or reformatory or
3 transported with, or compelled or permitted to associate or mingle
4 with, criminal or dissolute persons. However, except as otherwise
5 provided in section 15(3), (4), and (5) of this chapter, the court
6 may order a juvenile 15 years of age or older whose habits or
7 conduct are considered a menace to other juveniles, or who may not
8 otherwise be safely detained, placed in a jail or other place of
9 detention for adults, but in a room or ward separate from adults
10 and for not more than 30 days, unless longer detention is necessary
11 for the service of process.

12 (2) The county board of commissioners in each county or of
13 counties contracting together may provide for the diagnosis,
14 treatment, care, training, and detention of juveniles in a child
15 care home or facility conducted as an agency of the county if the
16 home or facility meets licensing standards established under 1973
17 PA 116, MCL 722.111 to 722.128. The court or a court-approved
18 agency may arrange for the boarding of juveniles in any of the
19 following:

20 (a) If a juvenile is within the court's jurisdiction under
21 section 2(a) of this chapter, a suitable foster care home subject
22 to the court's supervision. If a juvenile is within the court's
23 jurisdiction under section 2(b) of this chapter, the court shall
24 not place a juvenile in a foster care home subject to the court's
25 supervision.

26 (b) A child caring institution or child placing agency
27 licensed by the department ~~of consumer and industry services to~~

1 receive for care juveniles within the court's jurisdiction.

2 (c) If in a room or ward separate and apart from adult
3 criminals, the county jail for juveniles over 17 years of age
4 within the court's jurisdiction.

5 (3) If a detention home or facility is established as an
6 agency of the county, the judge may appoint a superintendent and
7 other necessary employees for the home or facility who shall
8 receive compensation as provided by the county board of
9 commissioners of the county. This section does not alter or
10 diminish the legal responsibility of the ~~family independence agency~~
11 **DEPARTMENT** or a county juvenile agency to receive juveniles
12 committed by the court.

13 (4) If the court under subsection (2) arranges for the board
14 of juveniles temporarily detained in private homes or in a child
15 caring institution or child placing agency, a reasonable sum fixed
16 by the court for their board shall be paid by the county treasurer
17 as provided in section 25 of this chapter.

18 (5) A court shall not provide foster care home services
19 subject to the court's supervision to juveniles within section 2(b)
20 of this chapter.

21 (6) A juvenile detention home described in subsection (3)
22 shall be operated under the direction of the county board of
23 commissioners or, in a county that has an elected county executive,
24 under the county executive's direction. ~~However, a~~ **A** different
25 method for directing the operation of a detention home may be
26 agreed to in any county by the chief judge of the circuit court in
27 that county and the county board of commissioners or, in a county

1 that has an elected county executive, the county executive.

2 Sec. 17. (1) The court may conduct a hearing other than a
3 criminal hearing in an informal manner. The court shall require
4 stenographic notes or another transcript to be taken of the
5 hearing. The court shall adjourn a hearing or grant a continuance
6 regarding a case under section 2(b) of this chapter only for good
7 cause with factual findings on the record and not solely upon
8 stipulation of counsel or for the convenience of a party. In
9 addition to a factual finding of good cause, the court shall not
10 adjourn the hearing or grant a continuance unless 1 of the
11 following is also true:

12 (a) The motion for the adjournment or continuance is made in
13 writing not less than 14 days before the hearing.

14 (b) The court grants the adjournment or continuance upon its
15 own motion after taking into consideration the child's best
16 interests. An adjournment or continuance granted under this
17 subdivision shall not last more than 28 days unless the court
18 states on the record the specific reasons why a longer adjournment
19 or continuance is necessary.

20 (2) Except as otherwise provided in this subsection, in a
21 hearing other than a criminal trial under this chapter, a person
22 interested in the hearing may demand a jury of 6 individuals, or
23 the court, on its own motion, may order a jury of 6 individuals to
24 try the case. In a proceeding under section 2(h) of this chapter, a
25 jury shall not be demanded or ordered on a supplemental petition
26 alleging a violation of a personal protection order. In a criminal
27 trial, a jury may be demanded as provided by law. The jury shall be

1 summoned and impaneled in accordance with chapter 13 of the revised
2 judicature act of 1961, 1961 PA 236, MCL 600.1300 to 600.1376, and,
3 in the case of a criminal trial, as provided in chapter VIII of the
4 code of criminal procedure, 1927 PA 175, MCL 768.1 to 768.36.

5 (3) A parent, guardian, or other custodian of a juvenile held
6 under this chapter has the right to give bond or other security for
7 the appearance of the juvenile at the hearing of the case.

8 (4) The prosecuting attorney shall appear for the people when
9 requested by the court, and in a proceeding under section 2(a)(1)
10 of this chapter, the prosecuting attorney shall appear if the
11 proceeding requires a hearing and the taking of testimony.

12 (5) In a proceeding under section 2(b) of this chapter, upon
13 request of the ~~family independence agency~~ **DEPARTMENT** or an agent of
14 the ~~family independence agency~~ **DEPARTMENT** under contract with the
15 ~~family independence agency,~~ **DEPARTMENT**, the prosecuting attorney
16 shall serve as a legal consultant to the ~~family independence agency~~
17 **DEPARTMENT** or its agent at all stages of the proceeding. If in a
18 proceeding under section 2(b) of this chapter the prosecuting
19 attorney does not appear on behalf of the ~~family independence~~
20 ~~agency~~ **DEPARTMENT** or its agent, the ~~family independence agency~~
21 **DEPARTMENT** may contract with an attorney of its choice for legal
22 representation.

23 (6) A member of a local foster care review board established
24 under 1984 PA 422, MCL 722.131 to 722.139a, shall be admitted to a
25 hearing under subsection (1).

26 (7) Upon motion of a party or a victim, the court may close
27 the hearing of a case brought under this chapter to members of the

1 general public during the testimony of a juvenile witness or the
2 victim if the court finds that closing the hearing is necessary to
3 protect the welfare of the juvenile witness or the victim. In
4 determining whether closing the hearing is necessary to protect the
5 welfare of the juvenile witness or the victim, the court shall
6 consider the following:

7 (a) The age of the juvenile witness or the victim.

8 (b) The nature of the proceeding.

9 (c) The desire of the juvenile witness, of the witness's
10 family or guardian, or of the victim to have the testimony taken in
11 a room closed to the public.

12 (8) As used in subsection (7), "juvenile witness" does not
13 include a juvenile against whom a proceeding is brought under
14 section 2(a)(1) of this chapter.

15 Sec. 17b. (1) As used in this section:

16 (a) "Custodian of the videorecorded statement" means the
17 ~~family independence agency, DEPARTMENT,~~ investigating law
18 enforcement agency, prosecuting attorney, or department of attorney
19 general or another person designated under the county protocols
20 established as required by section 8 of the child protection law,
21 1975 PA 238, MCL 722.628.

22 (b) "Developmental disability" means that term as defined in
23 section 100a of the mental health code, ~~1974 PA 258,~~ MCL 330.1100a,
24 except that, for the purposes of implementing this section,
25 developmental disability includes only a condition that is
26 attributable to a mental impairment or to a combination of mental
27 and physical impairments, and does not include a condition

1 attributable to a physical impairment unaccompanied by a mental
2 impairment.

3 (c) "Videorecorded statement" means a witness's statement
4 taken by a custodian of the videorecorded statement as provided in
5 subsection (5). Videorecorded statement does not include a
6 videorecorded deposition taken as provided in subsections (16) and
7 (17).

8 (d) "Witness" means an alleged victim of an offense listed
9 under subsection (2) who is either of the following:

10 (i) A person under 16 years of age.

11 (ii) A person 16 years of age or older with a developmental
12 disability.

13 (2) This section only applies to either of the following:

14 (a) A proceeding brought under section 2(a)(1) of this chapter
15 in which the alleged offense, if committed by an adult, would be a
16 felony under section 136b, 145c, 520b to 520e, or 520g of the
17 Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b
18 to 750.520e, and 750.520g, or under former section 136 or 136a of
19 the Michigan penal code, 1931 PA 328.

20 (b) A proceeding brought under section 2(b) of this chapter.

21 (3) If pertinent, the witness shall be permitted the use of
22 dolls or mannequins, including, but not limited to, anatomically
23 correct dolls or mannequins, to assist the witness in testifying on
24 direct and cross-examination.

25 (4) A witness who is called upon to testify shall be permitted
26 to have a support person sit with, accompany, or be in close
27 proximity to the witness during his or her testimony. A notice of

1 intent to use a support person shall name the support person,
2 identify the relationship the support person has with the witness,
3 and give notice to all parties to the proceeding that the witness
4 may request that the named support person sit with the witness when
5 the witness is called upon to testify during any stage of the
6 proceeding. The notice of intent to use a named support person
7 shall be filed with the court and shall be served upon all parties
8 to the proceeding. The court shall rule on a motion objecting to
9 the use of a named support person before the date at which the
10 witness desires to use the support person.

11 (5) A custodian of the videorecorded statement may take a
12 witness's videorecorded statement. The videorecorded statement
13 shall be admitted at all proceedings except the adjudication stage
14 instead of the live testimony of the witness. The videorecorded
15 statement shall state the date and time that the statement was
16 taken; shall identify the persons present in the room and state
17 whether they were present for the entire videorecording or only a
18 portion of the videorecording; and shall show a time clock that is
19 running during the taking of the statement.

20 (6) In a videorecorded statement, the questioning of the
21 witness should be full and complete; shall be in accordance with
22 the forensic interview protocol implemented as required by section
23 8 of the child protection law, 1975 PA 238, MCL 722.628; and, if
24 appropriate for the witness's developmental level, shall include,
25 but need not be limited to, all of the following areas:

26 (a) The time and date of the alleged offense or offenses.

27 (b) The location and area of the alleged offense or offenses.

1 (c) The relationship, if any, between the witness and the
2 respondent.

3 (d) The details of the offense or offenses.

4 (e) The names of other persons known to the witness who may
5 have personal knowledge of the offense or offenses.

6 (7) A custodian of the videorecorded statement may release or
7 consent to the release or use of a videorecorded statement or
8 copies of a videorecorded statement to a law enforcement agency, an
9 agency authorized to prosecute the criminal case to which the
10 videorecorded statement relates, or an entity that is part of
11 county protocols established under section 8 of the child
12 protection law, 1975 PA 238, MCL 722.628. Each respondent and, if
13 represented, his or her attorney has the right to view and hear the
14 videorecorded statement at a reasonable time before it is offered
15 into evidence. In preparation for a court proceeding and under
16 protective conditions, including, but not limited to, a prohibition
17 on the copying, release, display, or circulation of the
18 videorecorded statement, the court may order that a copy of the
19 videorecorded statement be given to the defense.

20 (8) If authorized by the prosecuting attorney in the county in
21 which the videorecorded statement was taken, a videorecorded
22 statement may be used for purposes of training the custodians of
23 the videorecorded statement in that county on the forensic
24 interview protocol implemented as required by section 8 of the
25 child protection law, 1975 PA 238, MCL 722.628.

26 (9) Except as provided in this section, an individual,
27 including, but not limited to, a custodian of the videorecorded

1 statement, the witness, or the witness's parent, guardian, guardian
2 ad litem, or attorney, shall not release or consent to release a
3 videorecorded statement or a copy of a videorecorded statement.

4 (10) A videorecorded statement that becomes part of the court
5 record is subject to a protective order of the court for the
6 purpose of protecting the privacy of the witness.

7 (11) A videorecorded statement shall not be copied or
8 reproduced in any manner except as provided in this section. A
9 videorecorded statement is exempt from disclosure under the freedom
10 of information act, 1976 PA 442, MCL 15.231 to 15.246, is not
11 subject to release under another statute, and is not subject to
12 disclosure under the Michigan court rules governing discovery. This
13 section does not prohibit the production or release of a transcript
14 of a videorecorded statement.

15 (12) Except as otherwise provided in subsection (15), if, upon
16 the motion of a party or in the court's discretion, the court finds
17 on the record that psychological harm to the witness would occur if
18 the witness were to testify in the presence of the respondent at a
19 court proceeding or in a videorecorded deposition taken as provided
20 in subsection (13), the court shall order that the witness during
21 his or her testimony be shielded from viewing the respondent in
22 such a manner as to enable the respondent to consult with his or
23 her attorney and to see and hear the testimony of the witness
24 without the witness being able to see the respondent.

25 (13) In a proceeding brought under section 2(b) of this
26 chapter, if, upon the motion of a party or in the court's
27 discretion, the court finds on the record that psychological harm

1 to the witness would occur if the witness were to testify at the
2 adjudication stage, the court shall order to be taken a
3 videorecorded deposition of a witness that shall be admitted into
4 evidence at the adjudication stage instead of the live testimony of
5 the witness. The examination and cross-examination of the witness
6 in the videorecorded deposition shall proceed in the same manner as
7 permitted at the adjudication stage.

8 (14) In a proceeding brought under section 2(a)(1) of this
9 chapter in which the alleged offense, if committed by an adult,
10 would be a felony under section 136b, 145c, 520b to 520e, or 520g
11 of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c,
12 750.520b to 750.520e, and 750.520g, or under former section 136 or
13 136a of the Michigan penal code, 1931 PA 328, if, upon the motion
14 of a party made before the adjudication stage, the court finds on
15 the record that the special arrangements specified in subsection
16 (15) are necessary to protect the welfare of the witness, the court
17 shall order 1 or both of those special arrangements. In determining
18 whether it is necessary to protect the welfare of the witness, the
19 court shall consider both of the following:

20 (a) The age of the witness.

21 (b) The nature of the offense or offenses.

22 (15) If the court determines on the record that it is
23 necessary to protect the welfare of the witness and grants the
24 motion made under subsection (14), the court shall order 1 or both
25 of the following:

26 (a) In order to protect the witness from directly viewing the
27 respondent, the courtroom shall be arranged so that the respondent

1 is seated as far from the witness stand as is reasonable and not
2 directly in front of the witness stand. The respondent's position
3 shall be located so as to allow the respondent to hear and see all
4 witnesses and be able to communicate with his or her attorney.

5 (b) A questioner's stand or podium shall be used for all
6 questioning of all witnesses by all parties, and shall be located
7 in front of the witness stand.

8 (16) In a proceeding brought under section 2(a)(1) of this
9 chapter in which the alleged offense, if committed by an adult,
10 would be a felony under section 136b, 145c, 520b to 520e, or 520g
11 of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c,
12 750.520b to 750.520e, and 750.520g, or under former section 136 or
13 136a of the Michigan penal code, 1931 PA 328, if, upon the motion
14 of a party or in the court's discretion, the court finds on the
15 record that the witness is or will be psychologically or
16 emotionally unable to testify at a court proceeding even with the
17 benefit of the protections afforded the witness in subsections (3),
18 (4), and (15), the court shall order that a videorecorded
19 deposition of a witness shall be taken to be admitted at the
20 adjudication stage instead of the witness's live testimony.

21 (17) For purposes of the videorecorded deposition under
22 subsection (16), the witness's examination and cross-examination
23 shall proceed in the same manner as if the witness testified at the
24 adjudication stage, and the court shall order that the witness,
25 during his or her testimony, shall not be confronted by the
26 respondent but shall permit the respondent to hear the testimony of
27 the witness and to consult with his or her attorney.

1 (18) This section is in addition to other protections or
2 procedures afforded to a witness by law or court rule.

3 (19) A person who intentionally releases a videorecorded
4 statement in violation of this section is guilty of a misdemeanor
5 punishable by imprisonment for not more than 93 days or a fine of
6 not more than \$500.00, or both.

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

14 (a) Warn the juvenile or the juvenile's parents, guardian, or
15 custodian and, except as provided in subsection (7), dismiss the
16 petition.

17 (b) Place the juvenile on probation, or under supervision in
18 the juvenile's own home or in the home of an adult who is related
19 to the juvenile. As used in this subdivision, "related" means an
20 individual who is not less than 18 years of age and related to the
21 child by blood, marriage, or adoption, as grandparent, great-
22 grandparent, great-great-grandparent, aunt or uncle, great-aunt or
23 great-uncle, great-great-aunt or great-great-uncle, sibling,
24 stepsibling, nephew or niece, first cousin or first cousin once
25 removed, and the spouse of any of the above, even after the
26 marriage has ended by death or divorce. A child may be placed with
27 the parent of a man whom the court has found probable cause to

1 believe is the putative father if there is no man with legally
2 established rights to the child. This placement of the child with
3 the parent of a man whom the court has found probable cause to
4 believe is the putative father is for the purposes of placement
5 only and is not to be construed as a finding of paternity or to
6 confer legal standing. The court shall order the terms and
7 conditions of probation or supervision, including reasonable rules
8 for the conduct of the parents, guardian, or custodian, if any, as
9 the court determines necessary for the physical, mental, or moral
10 well-being and behavior of the juvenile. The court may order that
11 the juvenile participate in a juvenile drug treatment court under
12 chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL
13 600.1060 to 600.1084. The court also shall order, as a condition of
14 probation or supervision, that the juvenile shall pay the minimum
15 state cost prescribed by section 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 chapter
18 for a supplemental petition, place the juvenile in a suitable
19 foster care home subject to the court's supervision. If a juvenile
20 is within the court's jurisdiction under section 2(b) of this
21 chapter, the court shall not place a juvenile in a foster care home
22 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 or
25 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-DEPARTMENT~~ or, if the county is a county juvenile agency, to
3 that county juvenile agency for placement in or commitment to ~~such~~
4 an institution or agency as the department ~~of human services~~ or
5 county juvenile agency determines is most appropriate, subject to
6 any 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, institution
9 operated as an agency of the court or county, or agency authorized
10 by law to receive juveniles of similar age, sex, and
11 characteristics. If the juvenile is not a ward of the court, the
12 court shall commit the juvenile to the department ~~of human services~~
13 or, if the county is a county juvenile agency, to that county
14 juvenile agency for placement in or commitment to ~~such~~ an
15 institution or facility as the department ~~of human services~~ or
16 county juvenile agency determines is most appropriate, subject to
17 any initial level of placement the court designates. If a child is
18 not less than 17 years of age and is in violation of a personal
19 protection order, the court may commit the child to a county jail
20 within the adult prisoner population. In a placement under
21 subdivision (d) or a commitment under this subdivision, except to a
22 state institution or a county juvenile agency institution, the
23 juvenile's religious affiliation shall be protected by placement or
24 commitment to a private child-placing or child-caring agency or
25 institution, if available. Except for commitment to the department
26 ~~of human services~~ or a county juvenile agency, an order of
27 commitment under this subdivision to a state institution or agency

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

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

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

22 (h) Appoint a guardian under section 5204 of the estates and
23 protected individuals code, 1998 PA 386, MCL 700.5204, in response
24 to a petition filed with the court by a person interested in the
25 juvenile's welfare. If the court appoints a guardian as authorized
26 by this subdivision, it may dismiss the petition under this
27 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
5 provided 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) If a juvenile is within the court's jurisdiction under
9 section 2(a)(1) of this chapter, order the juvenile's parent or
10 guardian to personally participate in treatment reasonably
11 available in the parent's or guardian's location.

12 (l) If a juvenile is within the court's jurisdiction under
13 section 2(a)(1) of this chapter, place the juvenile in and order
14 the juvenile to complete satisfactorily a program of training in a
15 juvenile boot camp established by the department ~~of human services~~
16 under the juvenile boot camp act, 1996 PA 263, MCL 400.1301 to
17 400.1309, as provided in that act. If the county is a county
18 juvenile agency, ~~however,~~ the court shall commit the juvenile to
19 that county juvenile agency for placement in the program under that
20 act. Upon receiving a report of satisfactory completion of the
21 program from the department, ~~of human services,~~ the court shall
22 authorize the juvenile's release from placement in the juvenile
23 boot camp. Following satisfactory completion of the juvenile boot
24 camp program, the juvenile shall complete an additional period of
25 not less than 120 days or more than 180 days of intensive
26 supervised community reintegration in the juvenile's local
27 community. To place or commit a juvenile under this subdivision,

1 the court shall determine all of the following:

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

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

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

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

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

11 (vi) If the court must commit the juvenile to a county
12 juvenile agency, the county juvenile agency is able to place the
13 juvenile in a juvenile boot camp program.

14 (m) If the court entered a judgment of conviction under
15 section 2d of this chapter, enter any disposition under this
16 section or, if the court determines that the best interests of the
17 public would be served, impose any sentence upon the juvenile that
18 could be imposed upon an adult convicted of the offense for which
19 the juvenile was convicted. If the juvenile is convicted of a
20 violation or conspiracy to commit a violation of section
21 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7403,
22 the court may impose the alternative sentence permitted under that
23 section if the court determines that the best interests of the
24 public would be served. The court may delay imposing a sentence of
25 imprisonment under this subdivision for a period not longer than
26 the period during which the court has jurisdiction over the
27 juvenile under this chapter by entering an order of disposition

1 delaying imposition of sentence and placing the juvenile on
2 probation upon the terms and conditions it considers appropriate,
3 including any disposition under this section. If the court delays
4 imposing sentence under this section, section 18i of this chapter
5 applies. If the court imposes sentence, it shall enter a judgment
6 of sentence. If the court imposes a sentence of imprisonment, the
7 juvenile shall receive credit against the sentence for time served
8 before sentencing. In determining whether to enter an order of
9 disposition or impose a sentence under this subdivision, the court
10 shall consider all of the following factors, giving greater weight
11 to the seriousness of the offense and the juvenile's prior record:

12 (i) The seriousness of the offense in terms of community
13 protection, including, but not limited to, the existence of any
14 aggravating factors recognized by the sentencing guidelines, the
15 use of a firearm or other dangerous weapon, and the impact on any
16 victim.

17 (ii) The juvenile's culpability in committing the offense,
18 including, but not limited to, the level of the juvenile's
19 participation in planning and carrying out the offense and the
20 existence of any aggravating or mitigating factors recognized by
21 the sentencing guidelines.

22 (iii) The juvenile's prior record of delinquency, including,
23 but not limited to, any record of detention, any police record, any
24 school record, or any other evidence indicating prior delinquent
25 behavior.

26 (iv) The juvenile's programming history, including, but not
27 limited to, the juvenile's past willingness to participate

1 meaningfully in available programming.

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

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

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

1 amounts collected under an order entered under this subsection
2 shall be credited to the appropriate fund of the county to offset
3 the administrative cost of collections. The balance of all amounts
4 collected under an order entered under this subsection shall be
5 divided in the same ratio in which the county, state, and federal
6 government participate in the cost of care outside the juvenile's
7 own home and under state, county juvenile agency, or court
8 supervision. The court may also collect from the government of the
9 United States benefits paid for the cost of care of a court ward.
10 Money collected for juveniles placed by the court with or committed
11 to the department ~~of human services~~ or a county juvenile agency
12 shall be accounted for and reported on an individual juvenile
13 basis. In cases of delinquent accounts, the court may also enter an
14 order to intercept state or federal tax refunds of a juvenile,
15 parent, guardian, or custodian and initiate the necessary offset
16 proceedings in order to recover the cost of care or service. The
17 court shall send to the person who is the subject of the intercept
18 order advance written notice of the proposed offset. The notice
19 shall include notice of the opportunity to contest the offset on
20 the grounds that the intercept is not proper because of a mistake
21 of fact concerning the amount of the delinquency or the identity of
22 the person subject to the order. The court shall provide for the
23 prompt reimbursement of an amount withheld in error or an amount
24 found to exceed the delinquent amount.

25 (3) An order of disposition placing a juvenile in the
26 juvenile's own home under subsection (1)(b) may contain a provision
27 for reimbursement by the juvenile, parent, guardian, or custodian

1 to the court for the cost of service. If an order is entered under
2 this subsection, an amount due shall be determined and treated in
3 the same manner provided for an order entered under subsection (2).

4 (4) An order directed to a parent or a person other than the
5 juvenile is not effective and binding on the parent or other person
6 unless opportunity for hearing is given by issuance of summons or
7 notice as provided in sections 12 and 13 of this chapter and until
8 a copy of the order, bearing the seal of the court, is served on
9 the parent or other person as provided in section 13 of this
10 chapter.

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

15 (6) The office of the state court administrator, under the
16 supervision and direction of the supreme court, shall create
17 guidelines that the court may use in determining the ability of the
18 juvenile, parent, guardian, or custodian to pay for care and any
19 costs of service ordered under subsection (2) or (3). The
20 guidelines shall take into account both the income and resources of
21 the juvenile, parent, guardian, or custodian.

22 (7) If the court finds that a juvenile comes under section 30
23 of this chapter, the court shall order the juvenile or the
24 juvenile's parent to pay restitution as provided in sections 30 and
25 31 of this chapter and in sections 44 and 45 of the crime victim's
26 rights act, 1985 PA 87, MCL 780.794 and 780.795.

27 (8) If the court imposes restitution as a condition of

1 probation, the court shall require the juvenile to do either of the
2 following as an additional condition of probation:

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

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

7 (9) If the court finds that the juvenile is in intentional
8 default of the payment of restitution, a court may, as provided in
9 section 31 of this chapter, revoke or alter the terms and
10 conditions of probation for nonpayment of restitution. If a
11 juvenile who is ordered to engage in community service
12 intentionally refuses to perform the required community service,
13 the court may revoke or alter the terms and conditions of
14 probation.

15 (10) The court shall not enter an order of disposition for a
16 juvenile offense as defined in section 1a of 1925 PA 289, MCL
17 28.241a, or a judgment of sentence for a conviction until the court
18 has examined the court file and has determined that the juvenile's
19 fingerprints have been taken and forwarded as required by section 3
20 of 1925 PA 289, MCL 28.243, and as required by the sex offenders
21 registration act, 1994 PA 295, MCL 28.721 to 28.736. If a juvenile
22 has not had his or her fingerprints taken, the court shall do
23 either of the following:

24 (a) Order the juvenile to submit himself or herself to the
25 police agency that arrested or obtained the warrant for the
26 juvenile's arrest so the juvenile's fingerprints can be taken and
27 forwarded.

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

3 (11) Upon final disposition, conviction, acquittal, or
4 dismissal of an offense within the court's jurisdiction under
5 section 2(a)(1) of this chapter, using forms approved by the state
6 court administrator, the clerk of the court entering the final
7 disposition, conviction, acquittal, or dismissal shall immediately
8 advise the department of state police of that final disposition,
9 conviction, acquittal, or dismissal as required by section 3 of
10 1925 PA 289, MCL 28.243. The report to the department of state
11 police shall include information as to the finding of the judge or
12 jury and a summary of the disposition or sentence imposed.

13 (12) If the court enters an order of disposition based on an
14 act that is a juvenile offense as defined in section 1 of 1989 PA
15 196, MCL 780.901, the court shall order the juvenile to pay the
16 assessment as provided in that act. If the court enters a judgment
17 of conviction under section 2d of this chapter for an offense that
18 is a felony, misdemeanor, or ordinance violation, the court shall
19 order the juvenile to pay the assessment as provided in that act.

20 (13) If the court has entered an order of disposition or a
21 judgment of conviction for a listed offense as defined in section 2
22 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the
23 court, **THE** department, ~~of human services,~~ or the county juvenile
24 agency shall register the juvenile or accept the juvenile's
25 registration as provided in the sex offenders registration act,
26 1994 PA 295, MCL 28.721 to 28.736.

27 (14) If the court enters an order of disposition placing a

1 juvenile in a juvenile boot camp program, or committing a juvenile
2 to a county juvenile agency for placement in a juvenile boot camp
3 program, and the court receives from the department ~~of human~~
4 ~~services~~ a report that the juvenile has failed to perform
5 satisfactorily in the program, that the juvenile does not meet the
6 program's requirements or is medically unable to participate in the
7 program for more than 25 days, that there is no opening in a
8 juvenile boot camp program, or that the county juvenile agency is
9 unable to place the juvenile in a juvenile boot camp program, the
10 court shall release the juvenile from placement or commitment and
11 enter an alternative order of disposition. A juvenile shall not be
12 placed in a juvenile boot camp under an order of disposition more
13 than once, except that a juvenile returned to the court for a
14 medical condition, because there was no opening in a juvenile boot
15 camp program, or because the county juvenile agency was unable to
16 place the juvenile in a juvenile boot camp program may be placed
17 again in the juvenile boot camp program after the medical condition
18 is corrected, an opening becomes available, or the county juvenile
19 agency is able to place the juvenile.

20 (15) If the juvenile is within the court's jurisdiction under
21 section 2(a)(1) of this chapter for an offense other than a listed
22 offense as defined in section 2 of the sex offenders registration
23 act, 1994 PA 295, MCL 28.722, the court shall determine if the
24 offense is a violation of a law of this state or a local ordinance
25 of a municipality of this state that by its nature constitutes a
26 sexual offense against an individual who is less than 18 years of
27 age. If so, the order of disposition is for a listed offense as

1 defined in section 2 of the sex offenders registration act, 1994 PA
2 295, MCL 28.722, and the court shall include the basis for that
3 determination on the record and include the determination in the
4 order of disposition.

5 (16) The court shall not impose a sentence of imprisonment in
6 the county jail under subsection (1)(m) unless the present county
7 jail facility for the juvenile's imprisonment would meet all
8 requirements under federal law and regulations for housing
9 juveniles. The court shall not impose the sentence until it
10 consults with the sheriff to determine when the sentence will begin
11 to ensure that space will be available for the juvenile.

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

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

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

1 Sec. 18f. (1) If, in a proceeding under section 2(b) of this
2 chapter, an agency advises the court against placing a child in the
3 custody of the child's parent, guardian, or custodian, the agency
4 shall report in writing to the court what efforts were made to
5 prevent the child's removal from his or her home or the efforts
6 made to rectify the conditions that caused the child's removal from
7 his or her home. The report shall include all of the following:

8 (a) If services were provided to the child and his or her
9 parent, guardian, or custodian, the services, including in-home
10 services, that were provided.

11 (b) If services were not provided to the child and his or her
12 parent, guardian, or custodian, the reasons why services were not
13 provided.

14 (c) Likely harm to the child if the child were to be separated
15 from his or her parent, guardian, or custodian.

16 (d) Likely harm to the child if the child were to be returned
17 to his or her parent, guardian, or custodian.

18 (2) Before the court enters an order of disposition in a
19 proceeding under section 2(b) of this chapter, the agency shall
20 prepare a case service plan that shall be available to the court
21 and all the parties to the proceeding.

22 (3) The case service plan shall provide for placing the child
23 in the most family-like setting available and in as close proximity
24 to the child's parents' home as is consistent with the child's best
25 interests and special needs. The case service plan shall include,
26 but is not limited to, the following:

27 (a) The type of home or institution in which the child is to

1 be placed and the reasons for the selected placement.

2 (b) Efforts to be made by the child's parent to enable the
3 child to return to his or her home.

4 (c) Efforts to be made by the agency to return the child to
5 his or her home.

6 (d) Schedule of services to be provided to the parent, child,
7 and if the child is to be placed in foster care, the foster parent,
8 to facilitate the child's return to his or her home or to
9 facilitate the child's permanent placement.

10 (e) Except as otherwise provided in this subdivision, unless
11 parenting time, even if supervised, would be harmful to the child
12 as determined by the court under section 13a of this chapter or
13 otherwise, a schedule for regular and frequent parenting time
14 between the child and his or her parent, which shall not be less
15 than once every 7 days.

16 (f) Conditions that would limit or preclude placement or
17 parenting time with a parent who is required by court order to
18 register under the sex offenders registration act.

19 (4) Before the court enters an order of disposition, the court
20 shall consider the case service plan; any written or oral
21 information offered concerning the child from the child's parent,
22 guardian, custodian, foster parent, child caring institution,
23 relative with whom the child is placed, lawyer-guardian ad litem,
24 attorney, or guardian ad litem; and any other evidence offered,
25 including the appropriateness of parenting time, which information
26 or evidence bears on the disposition. The order of disposition
27 shall state whether reasonable efforts have been made to prevent

1 the child's removal from his or her home or to rectify the
2 conditions that caused the child's removal from his or her home.
3 The court may order compliance with all or any part of the case
4 service plan as the court considers necessary.

5 (5) If a child continues in placement outside of the child's
6 home, the case service plan shall be updated and revised at 90-day
7 intervals as required by the rules promulgated under 1973 PA 116,
8 MCL 722.111 to 722.128. The agency shall consult with the foster
9 parents when it updates and revises the case service plan, and
10 shall attach a statement summarizing the information received from
11 the foster parents to the updated and revised case service plan.
12 Updated and revised case service plans shall be available to the
13 court and all the parties to the proceeding. Within 10 days after
14 receipt of a written request, the agency shall provide the person
15 who is providing the foster care with the information itemized in
16 section 13a(14) of this chapter.

17 (6) To ensure that the case service plan addresses the child's
18 medical needs in relation to abuse and neglect, the department of
19 ~~human services~~ shall review a child's case with the child's
20 attending physician of record during a hospitalization or with the
21 child's primary care physician, but only if a physician has
22 diagnosed the child's abuse or neglect as involving 1 or more of
23 the following:

24 (a) Failure to thrive.

25 (b) Munchausen syndrome by proxy.

26 (c) Shaken baby syndrome.

27 (d) A bone fracture that is diagnosed as being the result of

1 abuse or neglect.

2 (e) Drug exposure.

3 (7) If a child is placed outside of his or her home and the
4 department of ~~human services~~ is required to review the child's case
5 with a physician under subsection (6), then in a judicial
6 proceeding to determine if the child is to be returned to his or
7 her home, the court must allow the child's attending physician of
8 record during a hospitalization or the child's primary care
9 physician to testify regarding the case service plan. The court
10 shall notify each physician of the hearing's time and place.

11 Sec. 18k. (1) An individual shall provide samples for chemical
12 testing for DNA identification profiling or a determination of the
13 sample's genetic markers and shall provide samples for chemical
14 testing for a determination of his or her secretor status if any of
15 the following apply:

16 (a) The individual is arrested for committing or attempting to
17 commit an offense that would be a felony if committed by an adult.

18 (b) The individual is convicted of, or found responsible for,
19 a felony or attempted felony, or any of the following misdemeanors,
20 or local ordinances that are substantially corresponding to the
21 following misdemeanors:

22 (i) A violation of section 167(1)(c), (f), or (i) of the
23 Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by
24 window peeping, engaging in indecent or obscene conduct in public,
25 or loitering in a house of ill fame or prostitution.

26 (ii) A violation of section 335a(1) of the Michigan penal
27 code, 1931 PA 328, MCL 750.335a, indecent exposure.

1 (iii) A violation punishable under section 451(1) or (2) of
2 the Michigan penal code, 1931 PA 328, MCL 750.451, first and second
3 prostitution violations.

4 (2) Notwithstanding subsection (1), if at the time the
5 individual is arrested for the offense the investigating law
6 enforcement agency or the department of state police already has a
7 sample from the individual that meets the requirements of the DNA
8 identification profiling system act, 1990 PA 250, MCL 28.171 to
9 28.176, the individual is not required to provide another sample or
10 pay the assessment required under subsection (4).

11 (3) The samples required to be collected under this section
12 shall be collected by the investigating law enforcement agency and
13 transmitted by the investigating law enforcement agency to the
14 department of state police in the manner prescribed under the DNA
15 identification profiling system act, 1990 PA 250, MCL 28.171 to
16 28.176, when a petition is filed or the court issues a summons.

17 (4) The court shall order each individual found responsible
18 for or convicted of 1 or more crimes listed in subsection (1) to
19 pay an assessment of \$60.00. The assessment required under this
20 subsection is in addition to any fine, costs, or other assessments
21 imposed by the court.

22 (5) An assessment required under subsection (4) shall be
23 ordered upon the record, —and shall be listed separately in the
24 adjudication order, judgment of sentence, or order of probation.

25 (6) After reviewing a verified petition by an individual
26 against whom an assessment is imposed under subsection (4), the
27 court may suspend payment of all or part of the assessment if it

1 determines the individual is unable to pay the assessment.

2 (7) The court that imposes the assessment prescribed under
3 subsection (4) may retain 10% of all assessments or portions of
4 assessments collected for costs incurred under this section and
5 shall transmit that money to its funding unit. On the last day of
6 each month, the clerk of the court shall transmit the assessments
7 or portions of assessments collected under this section as follows:

8 (a) Twenty-five percent to the county sheriff or other
9 investigating law enforcement agency that collected the DNA sample
10 as designated by the court to defray the costs of collecting DNA
11 samples.

12 (b) Sixty-five percent to the state treasurer for deposit in
13 the justice system fund created in section 181 of the revised
14 judicature act of 1961, 1961 PA 236, MCL 600.181.

15 (8) The department ~~of human services~~ or a county juvenile
16 agency, investigating law enforcement agency, prosecuting agency,
17 or court that has in its possession a DNA identification profile
18 obtained from a sample of an individual arrested for an offense
19 described in subsection (1) shall forward the DNA identification
20 profile to the department of state police when a petition is filed
21 or the court issues a summons unless the department of state police
22 already has a DNA identification profile of the individual.

23 (9) As used in this section:

24 (a) "DNA identification profile" and "DNA identification
25 profiling" mean those terms as defined in section 2 of the DNA
26 identification profiling system act, 1990 PA 250, MCL 28.172.

27 (b) "Felony" means a violation of a penal law of this state

1 for which the offender may be punished by imprisonment for more
2 than 1 year or an offense expressly designated by law to be a
3 felony.

4 (c) "Investigating law enforcement agency" means the law
5 enforcement agency responsible for the investigation of the offense
6 for which the individual is arrested, convicted, or found
7 responsible. Investigating law enforcement agency does not include
8 a probation officer employed by the department of corrections.

9 (d) "Sample" means a portion of an individual's blood, saliva,
10 or tissue collected from the individual.

11 Sec. 18s. (1) If the juvenile is incompetent to proceed but
12 the court finds that the juvenile may be restored to competency in
13 the foreseeable future, 1 of the following applies:

14 (a) If the offense is a traffic offense or a misdemeanor other
15 than a serious misdemeanor, the matter shall be dismissed.

16 (b) If the offense is a serious misdemeanor, the court may
17 dismiss the matter or suspend the proceedings against the juvenile.

18 (c) If the offense is a felony, the proceedings against the
19 juvenile shall be further suspended.

20 (2) If proceedings are suspended because the juvenile is
21 incompetent to proceed but the court finds that the juvenile may be
22 restored to competency in the foreseeable future, all of the
23 following apply:

24 (a) Before issuing a restoration order, the court shall hold a
25 hearing to determine the least restrictive environment for
26 completion of the restoration.

27 (b) The court may issue a restoration order that is valid for

1 60 days from the date of the initial finding of incompetency or
2 until 1 of the following occurs, whichever occurs first:

3 (i) The qualified juvenile forensic mental health examiner,
4 based on information provided by the qualified restoration
5 provider, submits a report that the juvenile has regained
6 competency or that there is no substantial probability that the
7 juvenile will regain competency within the period of the order.

8 (ii) The charges are dismissed.

9 (iii) The juvenile reaches 18 years of age.

10 (c) Following issuance of the restoration order, the qualified
11 restoration provider shall submit a report to the court and the
12 qualified juvenile forensic mental health examiner that includes
13 the information required under section 18p of this chapter. The
14 report shall be submitted to the court and the qualified juvenile
15 forensic mental health examiner every 30 days, or sooner if and at
16 the time either of the following occurs:

17 (i) The qualified restoration provider determines that the
18 juvenile is no longer incompetent to proceed.

19 (ii) The qualified restoration provider determines that there
20 is no substantial probability that the juvenile will be competent
21 to proceed within the period of the order.

22 (3) Not later than 14 days before the expiration of the
23 initial 60-day order, the qualified restoration provider may
24 recommend to the court and the qualified juvenile forensic mental
25 health examiner that the restoration order be renewed by the court
26 for another 60 days, if there is a substantial probability that the
27 juvenile will not be incompetent to proceed within the period of

1 that renewed restoration order. The restoration order and any
2 renewed restoration order shall not exceed a total of 120 days.

3 (4) Except as otherwise provided in this section, upon receipt
4 of a report that there is a substantial probability that the
5 juvenile will remain incompetent to proceed for the foreseeable
6 future or within the period of the restoration order, the court
7 shall do both of the following:

8 (a) Determine custody of the juvenile as follows:

9 (i) The court may direct that civil commitment proceedings be
10 initiated, as allowed under section 498d of the mental health code,
11 MCL 330.1498d.

12 (ii) If the court determines that commitment proceedings are
13 inappropriate, the juvenile shall be released to the juvenile's
14 parent, legal guardian, or legal custodian under conditions
15 considered appropriate to the court.

16 (b) Dismiss the charges against the juvenile.

17 (5) Upon receipt of a report from a qualified juvenile
18 forensic mental health examiner that there is a substantial
19 probability that the juvenile is unable to be restored due to
20 serious emotional disturbance, the court may in its discretion,
21 except as provided under the youth rehabilitation services act,
22 1974 PA 150, MCL 803.301 to 803.309, order that mental health
23 services be provided to the juvenile by the department, ~~of~~
24 ~~community health,~~ subject to the availability of inpatient care, a
25 community mental health services program, ~~the department of human~~
26 ~~services,~~ a county department, ~~of human services,~~ or another
27 appropriate mental health services provider for a period not to

1 exceed 60 days. The court shall retain jurisdiction over the
2 juvenile throughout the duration of the order. The entity ordered
3 to provide services under this subsection shall continue to provide
4 services for the duration of the period of treatment ordered by the
5 court.

6 (6) Not later than 14 days before the expiration of an order
7 for treatment under this subsection or subsection (5), the entity
8 providing mental health services under that order shall submit a
9 report to the court and the qualified juvenile forensic mental
10 health examiner regarding the juvenile. Upon receipt of the report,
11 the court shall review the report and do either of the following:

12 (a) Renew the order for another period of treatment not to
13 exceed 60 days. The order for treatment and any renewed order shall
14 not exceed a total of 120 days.

15 (b) Determine custody of the juvenile and dismiss the charges
16 against the juvenile.

17 (7) The department ~~of community health~~ shall maintain a record
18 of the number of juveniles for whom the court ordered that mental
19 health services be provided under subsection (5) or (6).

20 Sec. 19a. (1) Subject to subsection (2), if a child remains in
21 foster care and parental rights to the child have not been
22 terminated, the court shall conduct a permanency planning hearing
23 within 12 months after the child was removed from his or her home.
24 Subsequent permanency planning hearings shall be held no later than
25 every 12 months after each preceding permanency planning hearing
26 during the continuation of foster care. If proper notice for a
27 permanency planning hearing is provided, a permanency planning

1 hearing may be combined with a review hearing held under section
2 19(2) to (4) of this chapter, but no later than 12 months from the
3 removal of the child from his or her home, from the preceding
4 permanency planning hearing, or from the number of days required
5 under subsection (2). A permanency planning hearing shall not be
6 canceled or delayed beyond the number of months required by this
7 subsection or days as required under subsection (2), regardless of
8 whether there is a petition for termination of parental rights
9 pending.

10 (2) The court shall conduct a permanency planning hearing
11 within 30 days after there is a judicial determination that
12 reasonable efforts to reunite the child and family are not
13 required. Reasonable efforts to reunify the child and family must
14 be made in all cases except if any of the following apply:

15 (a) There is a judicial determination that the parent has
16 subjected the child to aggravated circumstances as provided in
17 section 18(1) and (2) of the child protection law, 1975 PA 238, MCL
18 722.638.

19 (b) The parent has been convicted of 1 or more of the
20 following:

21 (i) Murder of another child of the parent.

22 (ii) Voluntary manslaughter of another child of the parent.

23 (iii) Aiding or abetting in the murder of another child of the
24 parent or voluntary manslaughter of another child of the parent,
25 the attempted murder of the child or another child of the parent,
26 or the conspiracy or solicitation to commit the murder of the child
27 or another child of the parent.

1 (iv) A felony assault that results in serious bodily injury to
2 the child or another child of the parent.

3 (c) The parent has had rights to the child's siblings
4 involuntarily terminated.

5 (d) The parent is required by court order to register under
6 the sex offenders registration act.

7 (3) A permanency planning hearing shall be conducted to review
8 the status of the child and the progress being made toward the
9 child's return home or to show why the child should not be placed
10 in the permanent custody of the court. The court shall obtain the
11 child's views regarding the permanency plan in a manner that is
12 appropriate to the child's age. In the case of a child who will not
13 be returned home, the court shall consider in-state and out-of-
14 state placement options. In the case of a child placed ~~out-of-~~
15 ~~state,~~ **OUT OF STATE**, the court shall determine whether the out-of-
16 state placement continues to be appropriate and in the child's best
17 interests. The court shall ensure that the agency is providing
18 appropriate services to assist a child who will transition from
19 foster care to independent living.

20 (4) Not less than 14 days before a permanency planning
21 hearing, written notice of the hearing and a statement of the
22 purposes of the hearing, including a notice that the hearing may
23 result in further proceedings to terminate parental rights, shall
24 be served upon all of the following:

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

27 (b) The foster parent or custodian of the child.

1 (c) If the parental rights to the child have not been
2 terminated, the child's parents.

3 (d) If the child has a guardian, the guardian for the child.

4 (e) If the child has a guardian ad litem, the guardian ad
5 litem for the child.

6 (f) If tribal affiliation has been determined, the elected
7 leader of the Indian tribe.

8 (g) The attorney for the child, the attorneys for each party,
9 and the prosecuting attorney if the prosecuting attorney has
10 appeared in the case.

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

12 (i) Other persons as the court may direct.

13 (5) If parental rights to the child have not been terminated
14 and the court determines at a permanency planning hearing that the
15 return of the child to his or her parent would not cause a
16 substantial risk of harm to the child's life, physical health, or
17 mental well-being, the court shall order the child returned to his
18 or her parent. In determining whether the return of the child would
19 cause a substantial risk of harm to the child, the court shall view
20 the failure of the parent to substantially comply with the terms
21 and conditions of the case service plan prepared under section 18f
22 of this chapter as evidence that return of the child to his or her
23 parent would cause a substantial risk of harm to the child's life,
24 physical health, or mental well-being. In addition to considering
25 conduct of the parent as evidence of substantial risk of harm, the
26 court shall consider any condition or circumstance of the child
27 that may be evidence that a return to the parent would cause a

1 substantial risk of harm to the child's life, physical health, or
2 mental well-being.

3 (6) If the court determines at a permanency planning hearing
4 that a child should not be returned to his or her parent, the court
5 may order the agency to initiate proceedings to terminate parental
6 rights. Except as otherwise provided in this subsection, if the
7 child has been in foster care under the responsibility of the state
8 for 15 of the most recent 22 months, the court shall order the
9 agency to initiate proceedings to terminate parental rights. The
10 court is not required to order the agency to initiate proceedings
11 to terminate parental rights if 1 or more of the following apply:

12 (a) The child is being cared for by relatives.

13 (b) The case service plan documents a compelling reason for
14 determining that filing a petition to terminate parental rights
15 would not be in the best interest of the child. Compelling reasons
16 for not filing a petition to terminate parental rights include, but
17 are not limited to, all of the following:

18 (i) Adoption is not the appropriate permanency goal for the
19 child.

20 (ii) No grounds to file a petition to terminate parental
21 rights exist.

22 (iii) The child is an unaccompanied refugee minor as defined
23 in 45 CFR 400.11.

24 (iv) There are international legal obligations or compelling
25 foreign policy reasons that preclude terminating parental rights.

26 (c) The state has not provided the child's family, consistent
27 with the time period in the case service plan, with the services

1 the state considers necessary for the child's safe return to his or
2 her home, if reasonable efforts are required.

3 (7) If the agency demonstrates under subsection (6) that
4 initiating the termination of parental rights to the child is
5 clearly not in the child's best interests, or the court does not
6 order the agency to initiate termination of parental rights to the
7 child under subsection (6), then the court shall order 1 or more of
8 the following alternative placement plans:

9 (a) If the court determines that other permanent placement is
10 not possible, the child's placement in foster care shall continue
11 for a limited period to be stated by the court.

12 (b) If the court determines that it is in the child's best
13 interests based upon compelling reasons, the child's placement in
14 foster care may continue on a long-term basis.

15 (c) Subject to subsection (9), if the court determines that it
16 is in the child's best interests, appoint a guardian for the child,
17 which guardianship may continue until the child is emancipated.

18 (8) A guardian appointed under subsection (7)(c) has all of
19 the powers and duties set forth under section 15 of the estates and
20 protected individuals code, 1998 PA 386, MCL 700.5215.

21 (9) If a child is placed in a guardian's or a proposed
22 guardian's home under subsection (7)(c), the court shall order the
23 department ~~of human services~~ to perform an investigation and file a
24 written report of the investigation for a review under subsection
25 (10) and the court shall order the department ~~of human services~~ to
26 do all of the following:

27 (a) Perform a criminal record check within 7 days.

1 (b) Perform a central registry clearance within 7 days.

2 (c) Perform a home study and file a copy of the home study
3 with the court within 30 days unless a home study has been
4 performed within the immediately preceding 365 days, under section
5 13a(10) of this chapter. If a home study has been performed within
6 the immediately preceding 365 days, a copy of that home study shall
7 be submitted to the court.

8 (10) The court's jurisdiction over a juvenile under section
9 2(b) of this chapter shall be terminated after the court appoints a
10 guardian under this section and conducts a review hearing under
11 section 19 of this chapter, unless the juvenile is released sooner
12 by the court.

13 (11) The court's jurisdiction over a guardianship created
14 under this section shall continue until released by court order.
15 The court shall review a guardianship created under this section
16 annually and may conduct additional reviews as the court considers
17 necessary. The court may order the department ~~of human services~~ or
18 a court employee to conduct an investigation and file a written
19 report of the investigation.

20 (12) In making the determinations under this section, the
21 court shall consider any written or oral information concerning the
22 child from the child's parent, guardian, custodian, foster parent,
23 child caring institution, relative with whom the child is placed,
24 or guardian ad litem in addition to any other evidence, including
25 the appropriateness of parenting time, offered at the hearing.

26 (13) The court may, on its own motion or upon petition from
27 the department ~~of human services~~ or the child's lawyer guardian ad

1 litem, hold a hearing to determine whether a guardianship appointed
2 under this section shall be revoked.

3 (14) A guardian may petition the court for permission to
4 terminate the guardianship. A petition may include a request for
5 appointment of a successor guardian.

6 (15) After notice and hearing on a petition for revocation or
7 permission to terminate the guardianship, if the court finds by a
8 preponderance of evidence that continuation of the guardianship is
9 not in the child's best interests, the court shall revoke or
10 terminate the guardianship and appoint a successor guardian or
11 restore temporary legal custody to the department. ~~of human~~
12 ~~services.~~

13 Sec. 19c. (1) Except as provided in section 19(4) of this
14 chapter and subject to subsection (14), if a child remains in
15 placement following the termination of parental rights to the
16 child, the court shall conduct a review hearing not more than 91
17 days after the termination of parental rights and no later than
18 every 91 days after that hearing for the first year following
19 termination of parental rights to the child. If a child remains in
20 a placement for more than 1 year following termination of parental
21 rights to the child, a review hearing shall be held no later than
22 182 days from the immediately preceding review hearing before the
23 end of the first year and no later than every 182 days from each
24 preceding review hearing thereafter until the case is dismissed. A
25 review hearing under this subsection shall not be canceled or
26 delayed beyond the number of days required in this subsection,
27 regardless of whether any other matters are pending. Upon motion by

1 any party or in the court's discretion, a review hearing may be
2 accelerated to review any element of the case. The court shall
3 conduct the first permanency planning hearing within 12 months from
4 the date that the child was originally removed from the home.
5 Subsequent permanency planning hearings shall be held within 12
6 months of the preceding permanency planning hearing. If proper
7 notice for a permanency planning hearing is provided, a permanency
8 planning hearing may be combined with a review hearing held under
9 section 19(2) to (4) of this chapter. A permanency planning hearing
10 under this section shall not be canceled or delayed beyond the
11 number of months required in this subsection, regardless of whether
12 any other matters are pending. At a hearing under this section, the
13 court shall review all of the following:

14 (a) The appropriateness of the permanency planning goal for
15 the child.

16 (b) The appropriateness of the child's placement.

17 (c) The reasonable efforts being made to place the child for
18 adoption or in other permanent placement in a timely manner.

19 (2) Subject to subsection (3), if the court determines that it
20 is in the child's best interests, the court may appoint a guardian
21 for the child.

22 (3) The court shall not appoint a guardian for the child
23 without the written consent of the MCI superintendent or his or her
24 designee. The MCI superintendent or his or her designee shall
25 consult with the child's lawyer guardian ad litem when considering
26 whether to grant written consent.

27 (4) If a person believes that the decision to withhold the

1 consent required in subsection (3) is arbitrary or capricious, the
2 person may file a motion with the court. A motion under this
3 subsection shall contain information regarding both of the
4 following:

5 (a) The specific steps taken by the person to obtain the
6 consent required and the results, if any.

7 (b) The specific reasons why the person believes that the
8 decision to withhold consent was arbitrary or capricious.

9 (5) If a motion is filed under subsection (4), the court shall
10 set a hearing date and provide notice to the MCI superintendent,
11 the foster parents, the prospective guardian, the child, and the
12 child's lawyer guardian ad litem.

13 (6) Subject to subsection (8), if a hearing is held under
14 subsection (5) and the court finds by clear and convincing evidence
15 that the decision to withhold consent was arbitrary or capricious,
16 the court may approve the guardianship without the consent of the
17 MCI superintendent.

18 (7) A guardian appointed under this section has all of the
19 powers and duties set forth under section 15 of the estates and
20 protected individuals code, 1998 PA 386, MCL 700.5215.

21 (8) If a child is placed in a guardian's or a proposed
22 guardian's home under subsection (2) or (6), the court shall order
23 the department ~~of human services~~ to perform an investigation and
24 file a written report of the investigation for a review under
25 subsection (10) and the court shall order the department ~~of human~~
26 ~~services~~ to do all of the following:

27 (a) Perform a criminal record check within 7 days.

1 (b) Perform a central registry clearance within 7 days.

2 (c) Perform a home study and file a copy of the home study
3 with the court within 30 days unless a home study has been
4 performed within the immediately preceding 365 days, under section
5 13a(10) of this chapter. If a home study has been performed within
6 the immediately preceding 365 days, a copy of that home study shall
7 be submitted to the court.

8 (9) The court's jurisdiction over a juvenile under section
9 2(b) of this chapter and the jurisdiction of the Michigan
10 children's institute under section 3 of 1935 PA 220, MCL 400.203,
11 shall be terminated after the court appoints a guardian under this
12 section and conducts a review hearing under section 19 of this
13 chapter, unless the juvenile is released sooner by the court.

14 (10) The court's jurisdiction over a guardianship created
15 under this section shall continue until released by court order.
16 The court shall review a guardianship created under this section
17 annually and may conduct additional reviews as the court considers
18 necessary. The court may order the department ~~of human services~~ or
19 a court employee to conduct an investigation and file a written
20 report of the investigation.

21 (11) The court may, on its own motion or upon petition from
22 the department ~~of human services~~ or the child's lawyer guardian ad
23 litem, hold a hearing to determine whether a guardianship appointed
24 under this section shall be revoked.

25 (12) A guardian may petition the court for permission to
26 terminate the guardianship. A petition may include a request for
27 appointment of a successor guardian.

1 (13) After notice and hearing on a petition for revocation or
2 permission to terminate the guardianship, if the court finds by a
3 preponderance of evidence that continuation of the guardianship is
4 not in the child's best interests, the court shall revoke or
5 terminate the guardianship and appoint a successor guardian or
6 commit the child to the Michigan children's institute under section
7 3 of 1935 PA 220, MCL 400.203.

8 (14) This section applies only to a child's case in which
9 parental rights to the child were either terminated as the result
10 of a proceeding under section 2(b) of this chapter or a similar law
11 of another state or terminated voluntarily following the initiation
12 of a proceeding under section 2(b) of this chapter or a similar law
13 of another state. This section applies as long as the child is
14 subject to the jurisdiction, control, or supervision of the court
15 or of the Michigan children's institute or other agency.

16 Sec. 28. (1) Before June 1, 1988, the court shall maintain
17 records of all cases brought before it and as provided in the
18 juvenile diversion act. The records shall be open only by court
19 order to persons having a legitimate interest, except that
20 diversion records shall be open only as provided in the juvenile
21 diversion act.

22 (2) Beginning June 1, 1988, the court shall maintain records
23 of all cases brought before it and as provided in the juvenile
24 diversion act. Except as otherwise provided in this subsection,
25 records of a case brought before the court shall be open to the
26 general public. Diversion records shall be open only as provided in
27 the juvenile diversion act. Except as otherwise provided in section

1 49 of the crime victim's rights act, 1985 PA 87, MCL 780.799, if
2 the hearing of a case brought before the court is closed under
3 section 17 of this chapter, the records of that hearing shall be
4 open only by court order to persons having a legitimate interest.

5 (3) If the court issues an order in respect to payments by a
6 parent under section 18(2) of this chapter, a copy shall be mailed
7 to the department of treasury. Action taken against parents or
8 adults shall not be released for publicity unless the parents or
9 adults are found guilty of contempt of court. The court shall
10 furnish the ~~family independence agency~~ **DEPARTMENT** and a county
11 juvenile agency with reports of the administration of the court in
12 a form recommended by the Michigan association of probate and
13 juvenile court judges. Copies of these reports shall, upon request,
14 be made available to other state departments by the ~~family~~
15 ~~independence agency~~ **DEPARTMENT**.

16 (4) As used in this section:

17 (a) "Juvenile diversion act" means the juvenile diversion act,
18 1988 PA 13, MCL 722.821 to 722.831.

19 (b) "Persons having a legitimate interest" includes a member
20 of a local foster care review board established under 1984 PA 422,
21 MCL 722.131 to 722.139a.

22 Enacting section 1. This amendatory act takes effect 90 days
23 after the date it is enacted into law.