

HOUSE BILL NO. 5393

January 16, 2024, Introduced by Rep. Hope and referred to the Committee on Criminal Justice.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 2f of chapter XIIA (MCL 712A.2f), as amended by
2023 PA 301.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XIIA
2 Sec. 2f. (1) Subject to subsection (2), if the court
3 determines that formal jurisdiction should not be acquired over a
4 juvenile, the court may proceed in an informal manner referred to

1 as a consent calendar. The court shall not consider restitution
2 when determining if the case should be placed on the consent
3 calendar under this section.

4 (2) A case must not be placed on the consent calendar unless
5 all of the following apply:

6 (a) The juvenile and the parent, guardian, or legal custodian
7 and the prosecutor agree to have the case placed on the consent
8 calendar.

9 (b) The court considers the results of the risk screening tool
10 and mental health screening tool conducted on the juvenile by a
11 designated individual or agency that is trained in those screening
12 tools.

13 (c) The court determines that the case should proceed on the
14 consent calendar in compliance with section 11(1) of this chapter.

15 (3) A risk screening tool and a mental health screening tool
16 under subsection (2) must meet both of the following requirements:

17 (a) Be research based and nationally validated for use with
18 juveniles.

19 (b) Comply with the guidelines created under subsection (4).

20 (4) The state court administrative office, under the
21 supervision and direction of the supreme court, shall create
22 guidelines on the use of risk screening tools and mental health
23 screening tools described in subsection (2).

24 (5) Subject to subsection (2), the court may transfer a case
25 from the formal calendar to the consent calendar at any time before
26 disposition. A case involving the alleged commission of an offense
27 as that term is defined in section 31 of the William Van
28 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.781,
29 must only be placed on the consent calendar upon compliance with

1 the procedures set forth in section 36b of the William Van
2 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.786b.

3 (6) After a case is placed on the consent calendar, the
4 prosecutor shall provide the victim with notice as required by
5 article 2 of the William Van Regenmorter crime victim's rights act,
6 1985 PA 87, MCL 780.781 to 780.802.

7 (7) Consent calendar cases must be maintained in the following
8 nonpublic manner:

9 (a) Access to consent calendar case records must be provided
10 to the juvenile, the juvenile's parents, guardian, or legal
11 custodian, the guardian ad litem, counsel for the juvenile, the
12 department ~~of health and human services~~ if related to an
13 investigation of neglect and abuse, law enforcement personnel,
14 prosecutor, and other courts. However, consent calendar case
15 records must not be disclosed to federal agencies or military
16 recruiters. As used in this subdivision, "case records" includes
17 the pleadings, motions, authorized petitions, notices, memoranda,
18 briefs, exhibits, available transcripts, findings of the court,
19 register of actions, consent calendar case plan, risk screening
20 tool and mental health screening tool results, and court orders
21 related to the case placed on the consent calendar.

22 (b) The contents of the confidential file must continue to be
23 maintained confidentially. As used in this subdivision,
24 "confidential file" means that term as defined in MCR 3.903.

25 (c) A risk screening tool and a mental health screening tool
26 conducted as part of a proceeding under this section and any
27 information obtained from a juvenile in the course of those
28 screenings or provided by the juvenile in order to participate in a
29 consent calendar case plan, including, but not limited to, any

1 admission, confession, or incriminating evidence, are not
2 admissible into evidence in any adjudicatory hearing in which the
3 juvenile is accused and are not subject to subpoena or any other
4 court process for use in any other proceeding or for any other
5 purpose.

6 (8) The court shall conduct a consent calendar conference with
7 the juvenile, the juvenile's attorney, if any, and the juvenile's
8 parent, guardian, or legal custodian to discuss the allegations.
9 The prosecuting attorney and victim may be, but are not required to
10 be, present.

11 (9) If it appears to the court that the juvenile has engaged
12 in conduct that would subject the juvenile to the jurisdiction of
13 the court, the court shall issue a written consent calendar case
14 plan. All of the following apply to a consent calendar case plan:

15 (a) The plan must include a requirement that the juvenile pay
16 restitution under the William Van Regenmorter crime victim's rights
17 act, 1985 PA 87, MCL 780.751 to 780.834. The court shall not order
18 the juvenile or the juvenile's parent, guardian, or legal custodian
19 to pay for fees or costs associated with consent calendar services.

20 (b) A consent calendar case plan must not contain a provision
21 removing the juvenile from the custody of the juvenile's parent,
22 guardian, or legal custodian.

23 (c) The period for a juvenile to complete the terms of a
24 consent calendar case plan must not exceed ~~3~~6 months, unless the
25 court determines that a longer period is needed for the juvenile to
26 complete a specific treatment program and includes this
27 determination as part of the consent calendar case record.

28 (d) The consent calendar case plan is not an order of the
29 court, but must be included as a part of the case record.

1 (e) Violation of the terms of the consent calendar case plan
2 may result in the court's returning the case to the formal calendar
3 for further proceedings consistent with subsection (12).

4 (10) The court shall not enter an order of disposition in a
5 case while it is on the consent calendar.

6 (11) Upon the juvenile's successful completion of the consent
7 calendar case plan, the court shall close the case and shall
8 destroy all records of the proceeding in accordance with the
9 records management policies and procedures of the state court
10 administrative office, established in accordance with supreme court
11 rules.

12 (12) If it appears to the court at any time that proceeding on
13 the consent calendar is not in the best interest of either the
14 juvenile or the public, the court shall proceed as follows:

15 (a) If the court did not authorize the original petition, the
16 court may, without hearing, transfer the case from the consent
17 calendar to the formal calendar on the charges contained in the
18 original petition to determine whether the petition should be
19 authorized.

20 (b) If the court authorized the original petition, the court
21 may transfer the case from the consent calendar to the formal
22 calendar on the charges contained in the original petition only
23 after a hearing. After transfer to the formal calendar, the court
24 shall proceed with the case from where it left off before being
25 placed on the consent calendar.

26 (13) Statements made by the juvenile during the proceeding on
27 the consent calendar must not be used against the juvenile at a
28 trial on the formal calendar on the same charge.

29 (14) Upon a judicial determination that the juvenile has

1 completed the terms of the consent calendar case plan, the court
2 shall report the successful completion of the consent calendar to
3 the juvenile and the department of state police. The department of
4 state police shall maintain a nonpublic record of the case. This
5 record is open to the courts of this state, another state, or the
6 United States, the department of corrections, law enforcement
7 personnel, and prosecutors for use only in the performance of their
8 duties or to determine whether an employee of the court,
9 department, law enforcement agency, or prosecutor's office has
10 violated conditions of employment or whether an applicant meets
11 criteria for employment with the court, department, law enforcement
12 agency, or prosecutor's office.

13 Enacting section 1. This amendatory act takes effect October
14 1, 2024.