

HOUSE BILL No. 5716

March 30, 2004, Introduced by Reps. Meisner, Tobocman and Law and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 6 and 18 of chapter XIIA (MCL 712A.6 and 712A.18), section 6 as amended by 1996 PA 409 and section 18 as amended by 2003 PA 71.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER XIIA

Sec. 6. The court has jurisdiction over adults as provided in this chapter **and as provided in chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082,** and may make orders affecting adults as in the opinion of the court are necessary for the physical, mental, or moral well-being of a particular juvenile or juveniles under its jurisdiction. However, those orders shall be incidental to the jurisdiction of the court over the juvenile or juveniles.

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

9 (a) Warn the juvenile or the juvenile's parents, guardian, or
10 custodian and, except as provided in subsection (7), dismiss the
11 petition.

12 (b) Place the juvenile on probation, or under supervision in
13 the juvenile's own home or in the home of an adult who is related
14 to the juvenile. As used in this subdivision, "related" means
15 being a parent, grandparent, brother, sister, stepparent,
16 stepsister, stepbrother, uncle, or aunt by marriage, blood, or
17 adoption. The court shall order the terms and conditions of
18 probation or supervision, including reasonable rules for the
19 conduct of the parents, guardian, or custodian, if any, as the
20 court determines necessary for the physical, mental, or moral
21 well-being and behavior of the juvenile. **The court may order**
22 **that the juvenile participate in a juvenile drug treatment court**
23 **under chapter 10A of the revised judicature act of 1961, 1961 PA**
24 **236, MCL 600.1060 to 600.1082.** The court also shall order, as a
25 condition of probation or supervision, that the juvenile shall
26 pay the minimum state cost prescribed by section 18m of this
27 chapter.

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

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

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

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

26 (f) Provide the juvenile with medical, dental, surgical, or
27 other health care, in a local hospital if available, or

1 elsewhere, maintaining as much as possible a local
2 physician-patient relationship, and with clothing and other
3 incidental items the court determines are necessary.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 juvenile in a juvenile boot camp program.

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

1 record:

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

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

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

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

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

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

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

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

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

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

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

1 court, is served on the parent or other person as provided in
2 section 13 of this chapter.

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

7 (6) The office of the state court administrator, under the
8 supervision and direction of the supreme court and in
9 consultation with the family independence agency and the Michigan
10 probate judges association, shall create guidelines and a model
11 schedule the court may use in determining the ability of the
12 juvenile, parent, guardian, or custodian to pay for care and any
13 costs of service ordered under subsection (2) or (3). The
14 guidelines and model schedule shall take into account both the
15 income and resources of the juvenile, parent, guardian, or
16 custodian.

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

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

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

27 (b) Seek and maintain paid employment and pay restitution to

1 the victim from the earnings of that employment.

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

10 (10) The court shall not enter an order of disposition for a
11 juvenile offense as defined in section 1a of 1925 PA 289, MCL
12 28.241a, or a judgment of sentence for a conviction until the
13 court has examined the court file and has determined that the
14 juvenile's fingerprints have been taken and forwarded as required
15 by section 3 of 1925 PA 289, MCL 28.243, and as required by the
16 sex offenders registration act, 1994 PA 295, MCL 28.721 to
17 28.732. If a juvenile has not had his or her fingerprints taken,
18 the court shall do either of the following:

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

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

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

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

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

18 (13) If the court has entered an order of disposition or a
19 judgment of conviction for a listed offense as defined in section
20 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722,
21 the court, the family independence agency, or the county juvenile
22 agency shall register the juvenile or accept the juvenile's
23 registration as provided in the sex offenders registration act,
24 1994 PA 295, MCL 28.721 to 28.732.

25 (14) If the court enters an order of disposition placing a
26 juvenile in a juvenile boot camp program, or committing a
27 juvenile to a county juvenile agency for placement in a juvenile

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

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

1 section 2(e)(x) 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
11 begin 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
14 personal 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
17 juvenile to pay costs as provided in section 18m of this
18 chapter.

19 Enacting section 1. This amendatory act does not take
20 effect unless Senate Bill No. 998 of the 92nd Legislature is
21 enacted into law.