

Agenda
Public Policy Committee
April 27, 2023 – 12:00 p.m. to 1:30 p.m.
Via Zoom Meetings

Public Policy Committee.....Daniel D. Quick, Chairperson

A. Reports

1. Approval of January 19, 2023 minutes
2. Approval of February 8, 2023 minutes

B. Legislation

1. HB 4173 (Aiyash) Criminal procedure: sentencing; criminal justice policy commission; create. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding secs. 34a & 34b to ch. IX.

Status: 03/02/23 Referred to the House Committee on Judiciary.

Referrals: 03/06/23 Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Criminal Law Section.

Comments: Criminal Jurisprudence & Practice Committee; Criminal Law Section.

Liaison: Takura N. Nyamfukudza

2. SB 73 (Shink) Civil rights: public records; identity of parties proceeding anonymously in civil actions alleging sexual misconduct; exempt from disclosure under freedom of information act. Amends sec. 13 of 1976 PA 442 (MCL 15.243).

Status: 04/25/23 Reported Out of the Senate Committee on Civil Rights, Judiciary & Public Safety Without Amendment.

Referrals: 03/06/23 Access to Justice Policy Committee; Civil Procedure & Courts Committee.

Comments: Access to Justice Policy Committee; Civil Procedure & Courts Committee.

Liaison: Aaron V. Burrell

3. Interlock Devices and Specialty Court Authorization

SB 134 (Johnson) Courts: drug court; specialty court authorization to issue a restricted license requiring an ignition interlock device; modify. Amends secs. 1084 & 1091 of 1961 PA 236 (MCL 600.1084 & 600.1091).

SB 135 (Hertel) Vehicles: registration; issuance of a restricted license requiring the installation of ignition interlock device and specialty court admission; modify. Amends secs. 83 & 304 of 1949 PA 300 (MCL 257.83 & 257.304).

Status: 03/02/23 Referred to the Senate Committee on Civil Rights, Judiciary & Public Safety.

Referrals: 03/06/23 Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Criminal Law Section.

Comments: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Criminal Law Section.

Liaison: Nicholas M. Ohanesian

4. SB 150 (Chang) Property tax: tax tribunal; methods for tax tribunal to hold small claims hearings; expand to include telephonically or by videoconferencing. Amends sec. 62 of 1973 PA 186 (MCL 205.762).

Status: 03/08/23 Referred to the Senate Committee on Finance, Insurance & Consumer Protection.

Referrals: 03/14/23 Access to Justice Policy Committee; Civil Procedure & Courts Committee; Taxation Section.

Comments: Access to Justice Policy Committee; Civil Procedure & Courts Committee.

Liaison: Brian D. Shekell

5. Bill Package Implementing the Task Force on Juvenile Justice Reform Recommendations

Referrals: 04/10/23 Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee.
Comments: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee.
Liaison: Valerie R. Newman

6. Revised Pretrial Reform Bill Package

Referrals: 04/10/23 Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee.
Comments: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee.
Liaison: Takura N. Nyamfukudza

7. Executive Budgets: Michigan Indigent Defense Commission for the 2023-2024 Fiscal Year Department of the Judiciary for the 2023-2024 Fiscal Year

Referrals: 02/06/23 Access to Justice Policy Committee; Civil Procedure & Courts Committee; Criminal Jurisprudence & Practice Committee.
Comments: Criminal Jurisprudence & Practice Committee.
Liaison: Suzanne C. Larsen

C. Court Rule Amendments

1. ADM File No. 2022-16: Proposed Amendment of MCR 7.211

The proposed amendment of MCR 7.211(C)(7) would modify the Court of Appeals process for handling confessions of error.

Status: 05/01/23 Comment Period Expires.
Referrals: 01/23/23 Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Appellate Practice Section; Criminal Law Section.
Comments: Access to Justice Policy Committee; Criminal Jurisprudence & Practice Committee; Criminal Law Section.
Liaison: Judge Cynthia D. Stephens (Ret.)

2. ADM File No. 2022-13: Proposed Amendment of MCR 9.123

The proposed amendment of MCR 9.123(D)(3) would clarify that a disbarred attorney who was sentenced to incarceration following a felony conviction and who wants to be reinstated to the bar must wait until six months after completing the sentence.

Status: 05/01/23 Comment Period Expires.
Referrals: 01/23/23 Access to Justice Policy Committee; Civil Procedure & Courts Committee.
Comments: Access to Justice Policy Committee; Civil Procedure & Courts Committee.
Comment submitted to the Court is included in the materials.
Liaison: David C. Anderson

3. ADM File No. 2021-30: Proposed Amendments of MCR 9.220, 9.221, 9.223, 9.232, and 9.261

The proposed amendments of MCR 9.220, 9.221, 9.223, 9.232, and 9.261 would help protect the confidentiality of a grievant who submits a request for investigation to the Judicial Tenure Commission.

Status: 05/01/23 Comment Period Expires.
Referrals: 01/23/23 Civil Procedure & Courts Committee.
Comments: Civil Procedure & Courts Committee.
Comments submitted to the Court are included in the materials.
Liaison: David C. Anderson

4. ADM File No. 2022-03: Proposed Amendment of MCR 1.109

The proposed amendment of MCR 1.109(D)(1)(b) would allow attorneys to provide personal pronouns in document captions and require courts to use those personal pronouns when addressing the party or attorney, either verbally or in writing, unless doing so would result in an unclear record. The Court is interested in receiving comments addressing the constitutional implications of this proposal.

Status: 05/01/23 Comment Period Expires.

Referrals: 01/23/23 Access to Justice Policy Committee; Civil Procedure & Courts Committee; Criminal Jurisprudence & Practice Committee; All Sections.

Comments: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Criminal Jurisprudence & Practice Committee; Justice Initiatives Committee; Appellate Practice Section; Children’s Law Section; Criminal Law Section; Family Law Section; LGBTQA Law Section; Prisons & Corrections Section; Religious Liberty Law Section.
Comments submitted to the Court are included in the materials.

Liaison: Valerie R. Newman

D. Consent Agenda

To allow the Criminal Jurisprudence & Practice Committee and Criminal Law Section to submit their positions on each of the following items:

M Crim JI 1.9(3) and 3.2(3)

The Committee proposes amending the Reasonable Doubt instructions found in M Crim JI 1.9(3) and 3.2(3) to add the sentence, “Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant’s guilt.” The amendment was prompted by research showing that the clear-and-convincing standard was considered by the general public to be higher than the beyond-a-reasonable-doubt standard. The Model Jury Instruction Committee proposes the additional sentence to impress upon the jurors the level of certainty required for a criminal conviction. A number of Committee members preferred not to make any change to the instruction, but agreed to publication of the proposal for public consideration. Comments suggesting other wording for the reasonable-doubt instructions are welcome, but the Committee is only considering whether to adopt the change proposed, or wording substantially similar to the proposal. The added language is underlined. There is an extended comment period for this proposal.

M Crim JI 4.11a

The Committee proposes amending jury instruction M Crim JI 4.11a, the “Other Acts” jury instruction, to add acts of sexual assault per the language of MCL 768.27b, which includes acts of sexual assault with acts of domestic assault as other acts that a jury can consider. Additionally, a few linguistic changes were made to improve readability and understandability of the instruction. The instruction’s Use Note was also amended. Deletions are in strike-through, and new language is underlined.

M Crim JI 7.26

The Committee proposes a jury instruction, M Crim JI 7.26, for the defense to parental kidnapping (M Crim JI 19.6) found in MCL 750.350a(7) – protecting the child from an immediate and actual threat of physical or mental harm. The instruction is entirely new.

M Crim JI 13.19b

The Committee proposes a jury instruction, M Crim JI 13.19b, for the offense of using a 9-1-1 service for a prohibited purpose, contrary to MCL 484.1605. The instruction is entirely new.

M Crim JI 33.2

The Committee proposes a jury instruction, M Crim JI 33.2, for the offense of cruel and inhumane treatment of an animal, contrary to MCL 750.50. The instruction is entirely new.

M Crim JI 33.4, 33.4a, 33.4b, and 33.4c

The Committee proposes jury instructions, M Crim JI 33.4, 33.4a and 33.4b for the offenses involving killing or torturing animals, contrary to MCL 750.50b(2) to (7), and M Crim JI 33.4c for a “just cause” defense to such charges. These instructions are entirely new.

MINUTES
Public Policy Committee
January 19, 2023 – 12:00 p.m. to 1:30 p.m.
Via Zoom Meetings

Committee Members: David C. Anderson, Lori A. Buiteweg, Aaron V. Burrell, Suzanne C. Larsen, Valerie R. Newman, Nicholas M. Ohanesian, Daniel D. Quick, Brian D. Shekell, Danielle Walton (9)
SBM Staff: Carrie Sharlow, Nathan Triplett
GCSI Staff: Marcia Hune, Samantha Zandee

A. Reports

1. Approval of November 9, 2022 minutes – The minutes were unanimously approved with a correction of attendance.
2. Public Policy Report – Nathan Triplett offered a verbal report.

B. Court Rule Amendments

1. ADM File No. 2021-50: Proposed Addition of MCR 2.421

The proposed addition of MCR 2.421 would address notice of a bankruptcy proceeding that affects a pending state court action.

The following entities offered recommendations: Civil Procedure & Courts Committee.

The committee voted unanimously (9) to support the proposed addition of MCR 2.421 and to recommend that the Court give consideration to the amendments proposed by Trent Collier in his letter dated December 16, 2022.

2. ADM File No. 2022-34: Proposed Amendments of Rules 3.913, 3.943, 3.977, and 3.993 and Proposed Addition of MCR 3.937

The proposed amendments of MCR 3.913 and 3.943 and proposed addition of MCR 3.937 would provide greater due process protections for juveniles in the justice system by ensuring that they are fully advised of their appellate rights at appropriate times and in a manner that is designed to ensure understanding of those rights. The proposed amendments of MCR 3.977 and 3.993 would extend the timeframe for requesting appointment of appellate counsel to 21 days, which mirrors the timeframe for filing a claim of appeal in cases subject to those rules.

The following entities offered recommendations: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Criminal Jurisprudence & Practice Committee; Appellate Practice Section; Children's Law Section.

The committee voted unanimously (9) to support the ADM File No. 2022-34 with the additional following amendment to Rule 3.993(F) as presented below:

"If a party was denied the right to appellate review or the appointment of appellate counsel due to errors by the party's prior attorney or the court, or other factors outside the party's control, the trial court must issue an order restating the time in which to file an appeal or request counsel, except that the court must not issue any order which would extend the time for appealing an order terminating parental rights beyond 63 days from entry of the order terminating rights."

3. ADM File No. 2022-05: Proposed Amendments of MCR 3.977, 3.993, 7.311, and 7.316

The proposed amendments of MCR 3.977, 3.993, 7.311, and 7.316 would establish a procedure for assessing whether a respondent in a termination of parental rights case was denied the effective assistance of appellate counsel, and if so, provide relief.

The following entities offered recommendations: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Children's Law Section.

The committee voted unanimously (9) to support ADM File No. 2022-05 as written.

4. ADM File No. 2022-32: Proposed Amendments of MCR 7.201, 7.202, 7.203, 7.204, 7.205, 7.206, 7.207, 7.208, 7.209, 7.210, 7.211, 7.212, 7.213, 7.215, 7.216, 7.217, and 7.219

The proposed amendments of subchapter 7.200 would make technical amendments of the COA rules in an effort to modernize them and ensure they reflect the COA's established practices.

The following entities offered recommendations: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Criminal Jurisprudence & Practice Committee; Appellate Practice Section.

The committee voted unanimously (9) to support ADM File No. 2022-32 as written.

C. Report and Recommendations of the Michigan Task Force on Juvenile Justice Reform

The following entities offered recommendations: Access to Justice Policy Committee; Civil Procedure & Courts Committee; Criminal Jurisprudence & Practice Committee.

The committee agreed unanimously that the following Task Force recommendations are not *Keller* permissible: 4, 5, 20, 21, 22, 23, 25, 26, 27, and 28.

Further, the committee voted 8 to 1 that Recommendation 6 is not *Keller* permissible, and 7 to 2 that Recommendation 24 is not *Keller* permissible.

The committee agreed unanimously that Recommendations 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 29, 30, 31, and 32 are each reasonably related to the functioning of the courts. Some of these recommendations are also reasonably related to the availability of legal services.

The committee voted to support Recommendations 1, 2, 9, 11, 12, 13, 14, 15, 16, 18, 19, 29, 30, 31, and 32 as drafted.

The committee voted to support Recommendation 3, with an additional recommendation of (a) a broader definition of the youth defense mandate and (b) establishing appellate attorney fee incentives consistent with the MIDC Act and a requirement for the state to reimburse local systems for these fees. The committee recommended that specialized juvenile justice training for all attorneys (i.e., both prosecutors and juvenile defenders) be required.

The committee voted to support Recommendations 7, 8, 10, and 17, with an additional recommendation that any statements made during an assessment must not be admitted as evidence at an adjudicative hearing. Additionally, risk assessment tools must be peer validated and free from bias. Any information, written policies, data, etc. used to develop or validate such tools must be open to public inspection, auditing, and testing. Any case party to review the calculations and data of the pretrial risk assessment.

D. Consent Agenda

To allow the Criminal Jurisprudence & Practice Committee to submit its positions on each of the following items:

M Crim JI 7.16 and 7.19

The Committee proposes amending and combining M Crim JI 7.16 and 7.19, which address conditions for the use of force or deadly force in self-defense or the defense of others in different contexts. The combination and amendments are an effort to reduce confusion in the use of the self-defense instructions involving the duty to retreat. Deletions are in strike-through, and new language is underlined.

M Crim JI 37.1b, 37.2b

The Committee proposes two new instructions, M Crim JI 37.1b and M Crim JI 37.2b, for the crimes of offering bribes to employees or agents or the acceptance of bribes by employees or agents in violation of MCL 750.125(1) and (2), respectively. These instructions are entirely new.

M Crim JI 37.3b, 37.4, 37.4a, 37.4b, 37.5b, 37.6, 37.8b, and 37.9a

The Committee proposes amending M Crim JI 37.3b, 37.4, 37.4a, 37.4b, 37.5b, 37.6, 37.8b and 37.9a, which address bribery and intimidation of witnesses under MCL 750.122. The published Court of Appeals case of *People v Arthur Johnson, Jr.* (MCOA # 353825) held that “true threat” instructional language was required to avoid infringement of the First Amendment right to free speech where the crime is carried out by the use of threats. The amendments add that language to the current jury instructions for these offenses. Deletions are in strike-through, and new language is underlined.

M Crim JI 40.5

The Committee proposes a new jury instruction, M Crim JI 40.5, for the offense of public intoxication found at MCL 750.167(e). The instruction is entirely new.

M Crim JI 41.2

The Committee proposes a new jury instruction, M Crim JI 41.2, for the crime of eavesdropping on a private conversation found at MCL 750.539c. The instruction is entirely new.

The committee approved the consent agenda.

MINUTES
Public Policy Committee
February 8, 2023 – 10:00 a.m. to 11:00 a.m.
Via Zoom Meetings

Committee Members: David C. Anderson, Lori A. Buiteweg, Aaron V. Burrell, Suzanne C. Larsen, Takura N. Nyamfukudza, Nicholas M. Ohanesian, Daniel D. Quick
SBM Staff: Peter Cunningham, Nathan A. Triplett, Carrie Sharlow
GCSI Staff: Marcia Hune

A. Court Rule Amendments

1. ADM File No. 2022-37: Proposed Administrative Order No. 2022-X

This administrative order would create a vendor-neutral citation system for Michigan appellate decisions. This new system would allow for permanent citations to be available immediately upon release of a court opinion or order, eliminating the waiting period for a permanent citation.

Recommendations were received from the following entities: Civil Procedure & Courts Committee; Criminal Law Section; Litigation Section.

The committee voted unanimously (7) to oppose the proposed administrative order number. The committee was not persuaded that a vendor-neutral citation system was necessary and was concerned that the purported benefits of such a system would be outweighed by the burdens adapting to the new system would place on attorneys.

2. ADM File No. 2021-35: Proposed Amendment of MCR 7.202

The proposed amendments of MCR 7.202 and MCR 7.209 offer an alternative to the proposal published for comment on June 22, 2022. The proposed amendments would eliminate certain orders denying governmental immunity to a governmental party from the definition of a “final judgment” or “final order” for purposes of subchapter 7.200 of the Michigan Court Rules, thereby eliminating the need for a stay of proceedings in those cases under MCR 7.209(E)(7).

Recommendations were received from the following entities: Civil Procedure & Courts Committee; Government Law Section; Negligence Law Section.

The committee voted unanimously (7) to take no position and allow the Sections to advocate their positions.

HOUSE BILL NO. 4173

March 02, 2023, Introduced by Reps. Aiyash, Hope, McKinney, Young, McFall, Brabec, Breen, Wilson and Meerman and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding sections 34a and 34b to chapter IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IX

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Sec. 34a. (1) The criminal justice policy commission is created in the legislative council. Before June 1, 2023, the governor shall appoint the commission members described in subdivisions (d) to (m). The commission consists of all of the

1 following members:

2 (a) Two individuals who are members of the senate, consisting
3 of the chairperson and the minority vice-chairperson of the senate
4 judiciary committee or the chairperson's or minority vice-
5 chairperson's designee, who must be members of that committee.

6 (b) Two individuals who are members of the house of
7 representatives, consisting of the chairperson and the minority
8 vice-chairperson of the house of representatives judiciary
9 committee or the chairperson's or minority vice-chairperson's
10 designee, who must be members of that committee.

11 (c) The attorney general, or the attorney general's designee,
12 representing crime victims.

13 (d) One individual who is a circuit court judge, appointed
14 from a list of 3 names submitted by the Michigan judges
15 association.

16 (e) One individual who is a district court judge, appointed
17 from a list of 3 names submitted by the Michigan district judges
18 association.

19 (f) One individual who represents the prosecuting attorneys of
20 this state, appointed from a list of 3 names submitted by the
21 prosecuting attorneys association of Michigan.

22 (g) One individual who represents criminal defense attorneys,
23 appointed from a list of 3 names submitted by the criminal defense
24 attorneys of Michigan.

25 (h) One individual appointed from a list of 3 names submitted
26 by the Michigan sheriffs' association.

27 (i) One individual appointed from a list of 3 names submitted
28 by the director of the Michigan department of corrections.

29 (j) One individual who was previously incarcerated.

1 (k) Two individuals who are criminologists.

2 (l) One individual appointed from a list of 3 names submitted
3 by the Michigan association of counties.

4 (m) One individual who represents community corrections
5 agencies.

6 (2) The governor shall designate 1 member of the criminal
7 justice policy commission as chairperson. The individual selected
8 as chairperson must have a professional background in criminal law
9 and experience with the legislative process.

10 (3) Except as otherwise provided in this subsection, the
11 commission members must be appointed for terms of 4 years. Of the
12 members first appointed under subsection (1)(c) to (m), 5 members
13 shall serve for 2 years, 4 members shall serve for 3 years, and 3
14 members shall serve for 4 years. The members of the commission
15 appointed under subsection (1)(a) and (b) must be appointed for
16 terms of 2 years.

17 (4) A vacancy on the commission caused by the expiration of a
18 term or a resignation or death must be filled in the same manner as
19 the original appointment. A member appointed to fill a vacancy
20 caused by a resignation or death must be appointed for the balance
21 of the unexpired term.

22 (5) Except for the chairperson, who shall also serve as chief
23 of staff under subsection (10), a commission member must not
24 receive a salary for being a commission member but must be
25 reimbursed for the member's reasonable, actual, and necessary
26 expenses incurred in the performance of the member's duties as a
27 commission member.

28 (6) The commission may establish subcommittees that may
29 consist of individuals who are not members of the commission,

1 including, but not limited to, experts in matters of interest to
2 the commission.

3 (7) The commission's business must be conducted at public
4 meetings held in compliance with the open meetings act, 1976 PA
5 267, MCL 15.261 to 15.275.

6 (8) A quorum consists of a majority of the members of the
7 sentencing commission. All commission business must be conducted by
8 not less than a quorum.

9 (9) A writing prepared, owned, used, in the possession of, or
10 retained by the commission in the performance of an official
11 function must be made available to the public in compliance with
12 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

13 (10) The legislative council shall provide the commission with
14 suitable office space, staff, and necessary equipment.

15 Sec. 34b. (1) The criminal justice policy commission shall do
16 all of the following:

17 (a) Collect, prepare, analyze, and disseminate information
18 regarding state and local sentencing and release policies and
19 practices for felonies and the use of prisons and jails.

20 (b) Collect and analyze information concerning how misdemeanor
21 sentences and the detention of defendants pending trial affect
22 local jails.

23 (c) Conduct ongoing research regarding the effectiveness of
24 the sentencing guidelines in achieving the purposes set forth in
25 subdivision (f).

26 (d) In cooperation with the department of corrections,
27 collect, analyze, and compile data and make projections regarding
28 the populations and capacities of state and local correctional
29 facilities, the impact of the sentencing guidelines and other laws,

1 rules, and policies on those populations and capacities, and the
2 effectiveness of efforts to reduce recidivism. Measurement of
3 recidivism must include, as applicable, analysis of all of the
4 following:

5 (i) Rearrest rates, resentence rates, and return-to-prison
6 rates.

7 (ii) One-, 2-, and 3-year intervals after exiting prison or
8 jail and after entering probation.

9 (iii) The statewide level, and by locality and discrete program,
10 to the extent practicable.

11 (e) In cooperation with the state court administrator,
12 collect, analyze, and compile data regarding the effect of
13 sentencing guidelines on the caseload, docket flow, and case
14 backlog of the trial and appellate courts of this state.

15 (f) Develop modifications to the sentencing guidelines. Any
16 modifications to the sentencing guidelines must accomplish all of
17 the following:

18 (i) Provide for the protection of the public.

19 (ii) Consider offenses involving violence against a person or
20 serious and substantial pecuniary loss as more severe than other
21 offenses.

22 (iii) Be proportionate to the seriousness of the offense and the
23 offender's prior criminal record.

24 (iv) Reduce sentencing disparities based on factors other than
25 offense characteristics and ensure that offenders with similar
26 offense characteristics receive substantially similar sentences.

27 (v) Specify the circumstances under which a term of
28 imprisonment is proper and the circumstances under which
29 intermediate sanctions are proper.

1 (vi) Establish sentence ranges for imprisonment that are within
2 the minimum and maximum sentences allowed by law for the offenses
3 to which the ranges apply.

4 (vii) Establish sentence ranges that the commission considers
5 appropriate.

6 (viii) Consider the necessity for local corrections system
7 capacity and maintain funding to ensure that capacity.

8 (g) Consider the suitability and impact of offense variable
9 scoring with regard to victims and victims' families and victim
10 input and advice regarding sentences.

11 (2) In developing modifications to the sentencing guidelines,
12 the commission shall submit to the legislature a prison and jail
13 impact report relating to any modifications to the sentencing
14 guidelines. The report must include the projected impact on total
15 capacity of state and local correctional facilities.

16 (3) Modifications to sentencing guidelines must include
17 recommended intermediate sanctions for each case in which the upper
18 limit of the recommended minimum sentence range is 18 months or
19 less.

20 (4) The commission may recommend modifications to any law,
21 administrative rule, or policy that affects sentencing or the use
22 and length of incarceration. The recommendations must reflect all
23 of the following policies:

24 (a) To render sentences in all cases within a range of
25 severity proportionate to the gravity of offenses, victim input,
26 and the blameworthiness of an offender.

27 (b) When reasonably feasible, to achieve offender
28 rehabilitation, general deterrence, incapacitation of dangerous
29 offenders, restoration of crime victims and communities, and

1 reintegration of offenders into the law-abiding community.

2 (c) To render sentences no more severe than necessary to
3 achieve the applicable purposes in subdivisions (a) and (b).

4 (d) To preserve judicial discretion to individualize sentences
5 within a framework of law.

6 (e) To produce sentences that are uniform in their reasoned
7 pursuit of the purposes in subsection (1).

8 (f) To eliminate inequities in sentencing and length of
9 incarceration across population groups.

10 (g) To encourage the use of intermediate sanctions.

11 (h) To ensure that adequate resources are available for
12 carrying out sentences imposed and that rational priorities are
13 established for the use of those resources.

14 (i) To promote research on sentencing policy and practices,
15 including assessments of the effectiveness of criminal sanctions as
16 measured against their purposes.

17 (j) To increase the transparency of the sentencing and
18 corrections system, its accountability to the public, and the
19 legitimacy of its operations.

20 (5) The commission shall submit any recommended modifications
21 to the sentencing guidelines or to other laws, administrative
22 rules, or policies to the senate majority leader, the speaker of
23 the house of representatives, and the governor.

24 (6) By December of each year, the commission shall submit to
25 the legislature, the governor, and the Michigan supreme court a
26 report on the implementation of legislative policies adopted in the
27 current legislative session affecting the criminal justice system.
28 The report must include, but need not be limited to, all of the
29 following:

1 (a) Education of practitioners on changes in legislative
2 policy, including changes in criminal statutes and an analysis of
3 the expected impact of those changes on prison and jail populations
4 and the average length of the sentences imposed.

5 (b) The length of probation supervision terms imposed.

6 (c) The number of noncompliance, risk, and major risk
7 sanctions imposed on the probation population.

8 (d) Noncompliance and risk sanctions imposed on the parole
9 supervision population.

10 (e) Parole guideline decisions.

11 (f) Implementation of revisions to the community corrections
12 act, 1988 PA 511, MCL 791.401 to 791.414.

SUBSTITUTE FOR
HOUSE BILL NO. 4173

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding sections 34a and 34b to chapter IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IX

1
2 Sec. 34a. (1) The Michigan sentencing commission is created in
3 the legislative council. Before June 1, 2023, the governor shall
4 appoint the commission members described in subdivisions (d) to
5 (p). The commission consists of all of the following members:

6 (a) Two individuals who are members of the senate, consisting
7 of the chairperson and the minority vice-chairperson of the senate
8 judiciary committee or the chairperson's or minority vice-
9 chairperson's designee, who must be members of that committee.



1 (b) Two individuals who are members of the house of
2 representatives, consisting of the chairperson and the minority
3 vice-chairperson of the house of representatives judiciary
4 committee or the chairperson's or minority vice-chairperson's
5 designee, who must be members of that committee.

6 (c) The attorney general or the attorney general's designee.

7 (d) One individual who is a circuit court judge, serving in a
8 county other than Wayne County, appointed from a list of 3 names
9 submitted by the Michigan Judges Association.

10 (e) One individual who is a circuit court judge, serving in
11 Wayne County, appointed from a list of 3 names submitted by the
12 Michigan Judges Association.

13 (f) One individual who is a district court judge, appointed
14 from a list of 3 names submitted by the Michigan District Judges
15 Association.

16 (g) One individual who represents the prosecuting attorneys of
17 this state, appointed from a list of 3 names submitted by the
18 Prosecuting Attorneys Association of Michigan.

19 (h) One individual who represents criminal defense attorneys,
20 appointed from a list of 3 names submitted by the Criminal Defense
21 Attorneys of Michigan.

22 (i) One individual appointed from a list of 3 names submitted
23 by the Michigan Sheriffs' Association.

24 (j) One individual representing police chiefs, appointed from
25 a list of 3 names submitted by the Michigan Association of Police
26 Chiefs. Each individual submitted for consideration under this
27 subdivision must be currently serving as a police chief in a
28 locality with a population of more than 50,000.

29 (k) One individual appointed from a list of 3 names submitted



1 by the director of the Michigan department of corrections.

2 (l) One individual who was previously incarcerated.

3 (m) One individual who is a criminologist.

4 (n) One individual who represents community corrections
5 agencies.

6 (o) One individual who works in the mental or behavioral
7 health field.

8 (p) One individual who is a member of an advocacy group
9 focused on victim needs.

10 (2) The governor shall appoint 1 additional member to the
11 Michigan sentencing commission who must serve as chairperson. The
12 chairperson must be appointed for a term of 4 years. The individual
13 appointed as chairperson must have a professional background in
14 criminal law and experience with the legislative process.

15 (3) Except as otherwise provided in this subsection, the
16 commission members must be appointed for terms of 4 years. Of the
17 members first appointed under subsection (1) (c) to (p), 3 members
18 shall serve for 2 years, 5 members shall serve for 3 years, and 6
19 members shall serve for 4 years. The members of the commission
20 appointed under subsection (1) (a) and (b) must be appointed for
21 terms of 2 years.

22 (4) A vacancy on the commission caused by the expiration of a
23 term or a resignation or death must be filled in the same manner as
24 the original appointment. A member appointed to fill a vacancy
25 caused by a resignation or death must be appointed for the balance
26 of the unexpired term.

27 (5) Except for the chairperson, who shall also serve as chief
28 of staff under subsection (10), a commission member must not
29 receive a salary for being a commission member but must be



1 reimbursed for the member's reasonable, actual, and necessary
2 expenses incurred in the performance of the member's duties as a
3 commission member.

4 (6) The commission may establish subcommittees that may
5 consist of individuals who are not members of the commission,
6 including, but not limited to, experts in matters of interest to
7 the commission.

8 (7) The commission's business must be conducted at public
9 meetings held in compliance with the open meetings act, 1976 PA
10 267, MCL 15.261 to 15.275.

11 (8) A quorum consists of a majority of the members of the
12 commission. All commission business must be conducted by not less
13 than a quorum.

14 (9) A writing prepared, owned, used, in the possession of, or
15 retained by the commission in the performance of an official
16 function must be made available to the public in compliance with
17 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

18 (10) The legislative council shall provide the commission with
19 suitable office space, staff, and necessary equipment.

20 Sec. 34b. (1) The Michigan sentencing commission shall do all
21 of the following:

22 (a) Collect, prepare, analyze, and disseminate information
23 regarding state and local sentencing and release policies.

24 (b) Conduct ongoing research regarding the effectiveness of
25 the sentencing guidelines in achieving the purposes set forth in
26 subdivision (e).

27 (c) In cooperation with the department of corrections,
28 collect, analyze, and compile data and make projections regarding
29 the populations and capacities of state correctional facilities,



1 the impact of the sentencing guidelines, and the effectiveness of
2 efforts to reduce recidivism. Measurement of recidivism must
3 include, as applicable, analysis of both of the following:

4 (i) Resentence rates and return-to-prison rates.

5 (ii) 1-, 2-, and 3-year intervals after exiting prison or jail
6 and after entering probation.

7 (d) In cooperation with the state court administrator,
8 collect, analyze, and compile data regarding the effect of
9 sentencing guidelines on the caseload, docket flow, and case
10 backlog of the trial and appellate courts of this state.

11 (e) Develop modifications to the sentencing guidelines. Any
12 modifications to the sentencing guidelines must accomplish all of
13 the following:

14 (i) Provide for the protection of the public.

15 (ii) Consider offenses involving violence against a person or
16 serious and substantial pecuniary loss as more severe than other
17 offenses.

18 (iii) Be proportionate to the seriousness of the offense and the
19 offender's prior criminal record.

20 (iv) Reduce sentencing disparities based on factors other than
21 offense characteristics and ensure that offenders with similar
22 offense characteristics receive substantially similar sentences.

23 (v) Specify the circumstances under which a term of
24 imprisonment is proper and the circumstances under which
25 intermediate sanctions are proper.

26 (vi) Establish sentence ranges for imprisonment that are within
27 the minimum and maximum sentences allowed by law for the offenses
28 to which the ranges apply.

29 (vii) Establish sentence ranges that the commission considers



1 appropriate.

2 (viii) Consider the necessity for local corrections system
3 capacity.

4 (f) Consider the suitability and impact of offense variable
5 scoring with regard to victims and victims' families and victim
6 input and advice regarding sentences.

7 (2) In developing modifications to the sentencing guidelines,
8 the commission shall submit to the legislature a prison and jail
9 impact report relating to any modifications to the sentencing
10 guidelines. The report must include the projected impact on total
11 capacity of state and local correctional facilities.

12 (3) Modifications to sentencing guidelines must include
13 recommended intermediate sanctions for each case in which the upper
14 limit of the recommended minimum sentence range is 18 months or
15 less.

16 (4) Subject to this subsection, the commission may recommend
17 modifications to any law, administrative rule, or policy that
18 affects sentencing or the use and length of incarceration. The
19 commission shall not make a recommendation for any policy
20 implementing any behavioral or programming credits. The commission
21 shall not make a recommendation that would retroactively change
22 existing sentences already imposed on an individual. The
23 recommendations must reflect all of the following policies:

24 (a) To render sentences in all cases within a range of
25 severity proportionate to the gravity of offenses, victim input,
26 and the blameworthiness of an offender.

27 (b) When reasonably feasible, to achieve offender
28 rehabilitation, general deterrence, incapacitation of dangerous
29 offenders, restoration of crime victims and communities, and



1 reintegration of offenders into the law-abiding community.

2 (c) To render sentences no more severe than necessary to
3 achieve the applicable purposes in subdivisions (a) and (b).

4 (d) To preserve judicial discretion to individualize sentences
5 within a framework of law.

6 (e) To produce sentences that are uniform in their reasoned
7 pursuit of the purposes in subsection (1).

8 (f) To eliminate inequities in sentencing and length of
9 incarceration across population groups.

10 (g) To ensure that adequate resources are available for
11 carrying out sentences imposed and that rational priorities are
12 established for the use of those resources.

13 (h) To promote research on sentencing policy and practices,
14 including assessments of the effectiveness of criminal sanctions as
15 measured against their purposes.

16 (i) To increase the transparency of the sentencing and
17 corrections system, its accountability to the public, and the
18 legitimacy of its operations.

19 (5) The commission shall submit any recommended modifications
20 to the sentencing guidelines or to other laws, administrative
21 rules, or policies to the senate majority leader, the speaker of
22 the house of representatives, and the governor.

23 (6) By December of each year, the commission shall submit to
24 the legislature, the governor, and the Michigan supreme court a
25 report on the implementation of legislative policies adopted in the
26 current legislative session affecting the criminal justice system.
27 The report must include, but need not be limited to, all of the
28 following:

29 (a) Education of practitioners on changes in legislative



1 policy, including changes in criminal statutes and an analysis of
2 the expected impact of those changes on prison and jail populations
3 and the average length of the sentences imposed.

4 (b) The length of probation supervision terms imposed.

5 (c) The number of noncompliance, risk, and major risk
6 sanctions imposed on the probation population.



Legislative Analysis



CRIMINAL JUSTICE POLICY COMMISSION

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4173 as introduced
Sponsor: Rep. Abraham Aiyash
Committee: Criminal Justice
Complete to 4-11-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4173 amend the Code of Criminal Procedure to create the Criminal Justice Policy Commission in the Legislative Council. The commission would, among other things, analyze corrections-related data and develop modifications to the sentencing guidelines.

The commission would consist of the following members:

- The chair and minority vice-chair of the Senate judiciary committee, or members of that committee respectively designated by the chair or minority vice-chair.
- The chair and minority vice-chair of the House judiciary committee, or members of that committee respectively designated by the chair or minority vice-chair.
- The attorney general, or their designee, representing crime victims.
- The following members appointed by the governor before June 1, 2023:
 - One circuit judge, appointed from a list of three names submitted by the Michigan Judges Association.
 - One district court judge, appointed from a list of three names submitted by the Michigan District Judges Association.
 - One individual representing prosecuting attorneys, appointed from a list of three names submitted by the Prosecuting Attorneys Association of Michigan.
 - One individual representing criminal defense attorneys, appointed from a list of three names submitted by the Criminal Defense Attorneys of Michigan.
 - One individual appointed from a list of three names submitted by the Michigan Sheriff's Association.
 - One individual appointed from a list of three names submitted by the director of the Department of Corrections.
 - One individual appointed from a list of three names submitted by the Michigan Association of Counties.
 - One individual who was previously incarcerated.
 - Two individuals who are criminologists.
 - One individual who represents community corrections agencies.

The governor would have to designate as chairperson a member of the commission who has a professional background in criminal law and experience with the legislative process. Except for the chairperson, who also would serve as chief of staff, commission members would not receive a salary but would be reimbursed for reasonable, actual, and necessary expenses.

Members would serve for four years, with the exception of the initial members, who would serve terms of staggered years. Vacancies would be filled in the same manner as the original appointment. A member appointed to fill a vacancy caused by a resignation or death would be appointed for the balance of the unexpired term.

The Legislative Council would have to provide the commission with office space, staff, and necessary equipment.

The commission would be required to conduct its business in accordance with the Open Meetings Act and make written documents used in official commission business available in compliance with the Freedom of Information Act.

The commission could establish subcommittees that may consist of individuals who are not members of the commission, such as experts in matters of interest to the commission.

Duties of the commission

The commission would have to do all of the following:

- Collect, prepare, analyze, and disseminate information regarding state and local sentencing and release policies and practices for felonies and the use of prisons and jails.
- Collect and analyze information concerning how misdemeanor sentences and the detention of defendants pending trial affect local jails.
- In cooperation with the Department of Corrections, collect, analyze, and compile data and make projections regarding the populations and capacities of state and local correctional facilities; the impact of the sentencing guidelines and other laws, rules, and policies on those populations and capacities; and the effectiveness of efforts to reduce recidivism. Measurement of recidivism would have to include, as applicable, analysis of all of the following:
 - Rearrest rates, resentence rates, and return to prison rates.
 - One-, two-, and three-year intervals after exiting prison or jail and after entering probation.
 - The statewide level, and by locality and discrete program, to the extent practicable.
- In cooperation with the state court administrator, collect, analyze, and compile data regarding the effect of sentencing guidelines on the caseload, docket flow, and case backlog of the trial and appellate courts of this state.
- Conduct ongoing research regarding the effectiveness of the sentencing guidelines in developing modifications to the guidelines as described below.
- Develop modifications to the sentencing guidelines. Any modifications to the sentencing guidelines would have to accomplish all of the following:
 - Provide for the protection of the public.
 - Consider offenses involving violence against a person or serious and substantial pecuniary loss as more severe than other offenses.
 - Be proportionate to the seriousness of the offense and the offender's prior criminal record.
 - Reduce sentencing disparities based on factors other than offense characteristics and offender characteristics and ensure that offenders with similar offense characteristics receive substantially similar sentences.
 - Specify the circumstances under which a term of imprisonment is proper and the circumstances under which intermediate sanctions are proper.
 - Establish sentence ranges for imprisonment that are within the minimum and maximum sentences allowed by law for the offenses to which the ranges apply.
 - Establish sentence ranges that the commission considers appropriate.

- Consider the necessity for local corrections system capacity and maintain funding to ensure that capacity.
- Consider the suitability and impact of offense variable scoring with regard to victims and victims' families and victim input and advice regarding sentences.

Commission recommendations and modifications

In developing recommendations, the commission would have to issue a prison and jail impact report to the legislature relating to any modifications to the sentencing guidelines. The projected impact on total capacity of state and local correctional facilities would have to be included in the report.

Modifications to the sentencing guidelines would have to include recommended intermediate sanctions for each case in which the upper limit of the recommended minimum sentence range is 18 months or less.

The commission could recommend modifications to any law, administrative rule, or policy that affects sentencing or the use and length of incarceration. Recommendations would have to reflect all of the following policies:

- To render sentences in all cases within a range of severity proportionate to the gravity of offenses, victim input, and the blameworthiness of an offender.
- When reasonably feasible, to achieve offender rehabilitation, general deterrence, incapacitation of dangerous offenders, restoration of crime victims and communities, and reintegration of offenders into the law-abiding community.
- To render sentences no more severe than necessary to achieve the applicable purposes described above.
- To preserve judicial discretion to individualize sentences within a framework of law.
- To produce uniform sentencing in accordance with commission duties.
- To eliminate inequities in sentencing and length of incarceration across population groups.
- To encourage the use of intermediate sanctions.
- To ensure that adequate resources are available for carrying out sentences imposed and that rational priorities are established for the use of those resources.
- To promote research on sentencing policy and practices, including assessments of the effectiveness of criminal sanctions as measured against their purposes.
- To increase the transparency of the sentencing and corrections system, its accountability to the public, and the legitimacy of its operations.

Any recommended modifications to the sentencing guidelines or to other laws, administrative rules, or policies would have to be submitted to the Senate Majority Leader, the Speaker of the House, and the governor.

Annual report

By December of each year, the commission would have to submit to the legislature, governor, and the Michigan Supreme Court a report on the implementation of legislative policies adopted in the current (2023-24) legislative session affecting the criminal justice system. The report would have to include at least all of the following:

- Education of practitioners on changes in legislative policy, including changes in criminal statutes and an analysis of the expected impact of those changes on prison and jail populations and the average length of sentences imposed.

- The length of probation supervision terms imposed.
- The number of noncompliance, risk, and major risk sanctions imposed on the probation population.
- Noncompliance and risk sanctions imposed on the parole supervision population.
- Parole guideline decisions.
- Implementation of revisions to the Community Corrections Act.

BACKGROUND:

The Michigan Sentencing Commission existed from 1994 to 2002. In addition, 2014 PA 465 created an almost identical Criminal Justice Policy Commission that served from 2015 to 2019 but was disbanded when its enabling statute expired.

FISCAL IMPACT:

House Bill 4173 would increase costs for the Legislative Council by an indeterminate amount and would have no fiscal impact on local units of government. Any increased costs would result from staff salaries, benefits, office space, office supplies, necessary equipment, and any other operating costs that might be incurred by the committee. According to the Legislative Council, in 2018 the annual cost for the operations of the Criminal Justice Policy Commission was approximately \$150,000. In addition, a one-time appropriation of \$500,000 GF/GP was appropriated in 2016 PA 268 for a Criminal Justice Policy Commission study concerning the costs of redirecting 17-year-olds from the adult court and correctional systems into the family court and juvenile justice systems.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Viola Wild

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

**Public Policy Position
HB 4173**

Support with Amendments

Explanation:

The Committee voted to support HB 4173, specifically the (H-1) substitute, with the following amendments:

- that the Chair of the Commission should not be the Commission’s “chief of staff” nor should the Chair be a paid position.
- that the Commission determine the extent to which guidelines should or should not apply to habitual offenders.
- that the commission determine the extent to which guidelines should apply to probation violations or be modified if applied to probation violations.

In addition, the Committee expressed concerns about whether the new composition of the Commission was balanced, and representative of the interests and stakeholders involved in sentencing policy.

Position Vote:

Voted For position: 17

Voted against position: 1

Abstained from vote: 0

Did not vote (absent): 8

Keller Permissibility Explanation

The Committee took note of the Board of Commissioner’s previous support for legislation creating the Michigan Sentencing Commission in 2004 and the Michigan Criminal Justice Policy Commission in 2014 and concurred that legislation creating a commission charged with conducting research and analysis related to sentencing in Michigan, and making recommendations regarding sentencing policy writ large, was reasonably related to the functioning of Michigan courts and therefore *Keller*-permissible.

Contact Persons:

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Public Policy Position HB 4173

Support with Recommended Amendments

Explanation

The Criminal Law Section supports the legislation in general and agrees that the Criminal Justice Commission should undoubtedly be reestablished. However, the Section is concerned about the scope of the Commission's work and the proposed composition of the body.

It seems the authority of the commission has been eroded since the first one was disbanded.

The chair should not be paid. It piqued the interest of several members that the chair of the commission will be paid. Also, the fact that the chair will be a Chief of Staff who is appointed by the Governor and paid by the legislature did not sit well with the majority. It seemed as though the designee for that position has already been selected.

There are too many seats on there for police and prosecutors. It should look more like the Joint Taskforce on Jail and Pretrial Incarceration. Not all defense attorneys are members of CDAM. So, important points of view will be missed if there are no public defenders on there. Currently, most of CDAM's members are people in private practice. Additionally, victims rights representatives should be included.

The Commission should address the habitual offender statute and applicability of guidelines to probation violations. Both are important facets of sentencing and both today are probably exacerbating higher sentences than are warranted.

We recommend the following amendments:

The Chair of the Commission should not be the Commission's "chief of staff" nor should the Chair be a paid position;

The Commission should determine the extent to which guidelines should or should not apply to habitual offenders; and

The Commission should determine the extent to which guidelines should apply to probation violations or be modified if applied to probation violations.

Position Vote:

Voted for position: 13

Voted against position: 0

Abstained from vote: 0

Did not vote: 0

Keller Permissibility Explanation:

Sentences meted out by judges in Michigan are some of the highest in the nation. Still, most people who are sent to prison will eventually return to the outside world. Any term of imprisonment has a



CRIMINAL LAW SECTION

life-altering impact on the defendant and society at large. It cannot be argued that this legislation does not address the functioning of the courts or services provided to people who pass through them.

Contact Person: Takura N. Nyamfukudza

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SENATE BILL NO. 73

February 16, 2023, Introduced by Senators SHINK, GEISS, CHANG, LAUWERS, BELLINO, BAYER, WOJNO, MCCANN, CAVANAGH and POLEHANKI and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1976 PA 442, entitled
"Freedom of information act,"
by amending section 13 (MCL 15.243), as amended by 2021 PA 33.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) A public body may exempt from disclosure as a
2 public record under this act any of the following:

3 (a) Information of a personal nature if public disclosure of
4 the information would constitute a clearly unwarranted invasion of
5 an individual's privacy.

1 (b) Investigating records compiled for law enforcement
2 purposes, but only to the extent that disclosure as a public record
3 would do any of the following:

4 (i) Interfere with law enforcement proceedings.

5 (ii) Deprive a person of the right to a fair trial or impartial
6 administrative adjudication.

7 (iii) Constitute an unwarranted invasion of personal privacy.

8 (iv) Disclose the identity of a confidential source, or if the
9 record is compiled by a law enforcement agency in the course of a
10 criminal investigation, disclose confidential information furnished
11 only by a confidential source.

12 (v) Disclose law enforcement investigative techniques or
13 procedures.

14 (vi) Endanger the life or physical safety of law enforcement
15 personnel.

16 (vii) Disclose the identity of a party who, as described in
17 subdivision (cc), proceeds anonymously in a civil action in which
18 the party alleges that the party was the victim of sexual
19 misconduct. For the purpose of securing the party's anonymity, that
20 party or the party's designee may provide written notification of
21 the civil action and the party's wish to remain anonymous to any
22 law enforcement agency that has investigating records subject to
23 this subparagraph, and the law enforcement agency shall retain a
24 copy of that notification in its files with those investigating
25 records.

26 (c) A public record that if disclosed would prejudice a public
27 body's ability to maintain the physical security of custodial or
28 penal institutions occupied by persons arrested or convicted of a
29 crime or admitted because of a mental disability, unless the public

1 interest in disclosure under this act outweighs the public interest
2 in nondisclosure.

3 (d) Records or information specifically described and exempted
4 from disclosure by statute.

5 (e) A public record or information described in this section
6 that is furnished by the public body originally compiling,
7 preparing, or receiving the record or information to a public
8 officer or public body in connection with the performance of the
9 duties of that public officer or public body, if the considerations
10 originally giving rise to the exempt nature of the public record
11 remain applicable.

12 (f) Trade secrets or commercial or financial information
13 voluntarily provided to an agency for use in developing
14 governmental policy if:

15 (i) The information is submitted upon a promise of
16 confidentiality by the public body.

17 (ii) The promise of confidentiality is authorized by the chief
18 administrative officer of the public body or by an elected official
19 at the time the promise is made.

20 (iii) A description of the information is recorded by the public
21 body within a reasonable time after it has been submitted,
22 maintained in a central place within the public body, and made
23 available to a person upon request. This subdivision does not apply
24 to information submitted as required by law or as a condition of
25 receiving a governmental contract, license, or other benefit.

26 (g) Information or records subject to the attorney-client
27 privilege.

28 (h) Information or records subject to the physician-patient
29 privilege, the psychologist-patient privilege, the minister,

1 priest, or Christian Science practitioner privilege, or other
2 privilege recognized by statute or court rule.

3 (i) A bid or proposal by a person to enter into a contract or
4 agreement, until the time for the public opening of bids or
5 proposals, or if a public opening is not to be conducted, until the
6 deadline for submission of bids or proposals has expired.

7 (j) Appraisals of real property to be acquired by the public
8 body until either of the following occurs:

9 (i) An agreement is entered into.

10 (ii) Three years have elapsed since the making of the
11 appraisal, unless litigation relative to the acquisition has not
12 yet terminated.

13 (k) Test questions and answers, scoring keys, and other
14 examination instruments or data used to administer a license,
15 public employment, or academic examination, unless the public
16 interest in disclosure under this act outweighs the public interest
17 in nondisclosure.

18 (l) Medical, counseling, or psychological facts or evaluations
19 concerning an individual if the individual's identity would be
20 revealed by a disclosure of those facts or evaluation, including
21 protected health information, as defined in 45 CFR 160.103.

22 (m) Communications and notes within a public body or between
23 public bodies of an advisory nature to the extent that they cover
24 other than purely factual materials and are preliminary to a final
25 agency determination of policy or action. This exemption does not
26 apply unless the public body shows that in the particular instance
27 the public interest in encouraging frank communication between
28 officials and employees of public bodies clearly outweighs the
29 public interest in disclosure. This exemption does not constitute

1 an exemption under state law for purposes of section 8(h) of the
2 open meetings act, 1976 PA 267, MCL 15.268. As used in this
3 subdivision, "determination of policy or action" includes a
4 determination relating to collective bargaining, unless the public
5 record is otherwise required to be made available under 1947 PA
6 336, MCL 423.201 to 423.217.

7 (n) Records of law enforcement communication codes, or plans
8 for deployment of law enforcement personnel, that if disclosed
9 would prejudice a public body's ability to protect the public
10 safety unless the public interest in disclosure under this act
11 outweighs the public interest in nondisclosure in the particular
12 instance.

13 (o) Information that would reveal the exact location of
14 archaeological sites. The department of natural resources may
15 promulgate rules in accordance with the administrative procedures
16 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the
17 disclosure of the location of archaeological sites for purposes
18 relating to the preservation or scientific examination of sites.

19 (p) Testing data developed by a public body in determining
20 whether bidders' products meet the specifications for purchase of
21 those products by the public body, if disclosure of the data would
22 reveal that only 1 bidder has met the specifications. This
23 subdivision does not apply after 1 year has elapsed from the time
24 the public body completes the testing.

25 (q) Academic transcripts of an institution of higher education
26 established under section 5, 6, or 7 of article VIII of the state
27 constitution of 1963, if the transcript pertains to a student who
28 is delinquent in the payment of financial obligations to the
29 institution.

1 (r) Records of a campaign committee including a committee that
2 receives money from a state campaign fund.

3 (s) Unless the public interest in disclosure outweighs the
4 public interest in nondisclosure in the particular instance, public
5 records of a law enforcement agency, the release of which would do
6 any of the following:

7 (i) Identify or provide a means of identifying an informant.

8 (ii) Identify or provide a means of identifying a law
9 enforcement undercover officer or agent or a plain clothes officer
10 as a law enforcement officer or agent.

11 (iii) Disclose the personal address or telephone number of
12 active or retired law enforcement officers or agents or a special
13 skill that they may have.

14 (iv) Disclose the name, address, or telephone numbers of family
15 members, relatives, children, or parents of active or retired law
16 enforcement officers or agents.

17 (v) Disclose operational instructions for law enforcement
18 officers or agents.

19 (vi) Reveal the contents of staff manuals provided for law
20 enforcement officers or agents.

21 (vii) Endanger the life or safety of law enforcement officers
22 or agents or their families, relatives, children, parents, or those
23 who furnish information to law enforcement departments or agencies.

24 (viii) Identify or provide a means of identifying a person as a
25 law enforcement officer, agent, or informant.

26 (ix) Disclose personnel records of law enforcement agencies.

27 (x) Identify or provide a means of identifying residences that
28 law enforcement agencies are requested to check in the absence of
29 their owners or tenants.

1 (t) Except as otherwise provided in this subdivision, records
2 and information pertaining to an investigation or a compliance
3 conference conducted by the department under article 15 of the
4 public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before
5 a complaint is issued. This subdivision does not apply to records
6 or information pertaining to 1 or more of the following:

7 (i) The fact that an allegation has been received and an
8 investigation is being conducted, and the date the allegation was
9 received.

10 (ii) The fact that an allegation was received by the
11 department; the fact that the department did not issue a complaint
12 for the allegation; and the fact that the allegation was dismissed.

13 (u) Records of a public body's security measures, including
14 security plans, security codes and combinations, passwords, passes,
15 keys, and security procedures, to the extent that the records
16 relate to the ongoing security of the public body.

17 (v) Records or information relating to a civil action in which
18 the requesting party and the public body are parties.

19 (w) Information or records that would disclose the Social
20 Security number of an individual.

21 (x) Except as otherwise provided in this subdivision, an
22 application for the position of president of an institution of
23 higher education established under section 4, 5, or 6 of article
24 VIII of the state constitution of 1963, materials submitted with
25 such an application, letters of recommendation or references
26 concerning an applicant, and records or information relating to the
27 process of searching for and selecting an individual for a position
28 described in this subdivision, if the records or information could
29 be used to identify a candidate for the position. However, after 1

1 or more individuals have been identified as finalists for a
2 position described in this subdivision, this subdivision does not
3 apply to a public record described in this subdivision, except a
4 letter of recommendation or reference, to the extent that the
5 public record relates to an individual identified as a finalist for
6 the position.

7 (y) Records or information of measures designed to protect the
8 security or safety of persons or property, or the confidentiality,
9 integrity, or availability of information systems, whether public
10 or private, including, but not limited to, building, public works,
11 and public water supply designs to the extent that those designs
12 relate to the ongoing security measures of a public body,
13 capabilities and plans for responding to a violation of the
14 Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan
15 penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency
16 response plans, risk planning documents, threat assessments,
17 domestic preparedness strategies, and cybersecurity plans,
18 assessments, or vulnerabilities, unless disclosure would not impair
19 a public body's ability to protect the security or safety of
20 persons or property or unless the public interest in disclosure
21 outweighs the public interest in nondisclosure in the particular
22 instance.

23 (z) Information that would identify or provide a means of
24 identifying a person that may, as a result of disclosure of the
25 information, become a victim of a cybersecurity incident or that
26 would disclose a person's cybersecurity plans or cybersecurity-
27 related practices, procedures, methods, results, organizational
28 information system infrastructure, hardware, or software.

29 (aa) Research data on road and attendant infrastructure

1 collected, measured, recorded, processed, or disseminated by a
2 public agency or private entity, or information about software or
3 hardware created or used by the private entity for such purposes.

4 (bb) Records or information that would reveal the specific
5 location or GPS coordinates of game, including, but not limited to,
6 records or information of the specific location or GPS coordinates
7 of game obtained by the department of natural resources during any
8 restoration, management, or research project conducted under
9 section 40501 of the natural resources and environmental protection
10 act, 1994 PA 451, MCL 324.40501, or in connection with the
11 expenditure of money under section 43553 of the natural resources
12 and environmental protection act, 1994 PA 451, MCL 324.43553. As
13 used in this subdivision, "game" means that term as defined in
14 section 40103 of the natural resources and environmental protection
15 act, 1994 PA 451, MCL 324.40103.

16 (cc) **Information that would reveal the identity of a party who**
17 **proceeds anonymously in a civil action in which the party alleges**
18 **that the party was the victim of sexual misconduct. As used in this**
19 **subdivision, "sexual misconduct" means the conduct described in**
20 **section 90, 136, 145a, 145b, 145c, 520b, 520c, 520d, 520e, or 520g**
21 **of the Michigan penal code, 1931 PA 328, MCL 750.90, 750.136,**
22 **750.145a, 750.145b, 750.145c, 750.520b, 750.520c, 750.520d,**
23 **750.520e, and 750.520g, regardless of whether the conduct resulted**
24 **in a criminal conviction.**

25 (2) A public body shall exempt from disclosure information
26 that, if released, would prevent the public body from complying
27 with 20 USC 1232g, commonly referred to as the family educational
28 rights and privacy act of 1974. A public body that is a local or
29 intermediate school district or a public school academy shall

1 exempt from disclosure directory information, as defined by 20 USC
2 1232g, commonly referred to as the family educational rights and
3 privacy act of 1974, requested for the purpose of surveys,
4 marketing, or solicitation, unless that public body determines that
5 the use is consistent with the educational mission of the public
6 body and beneficial to the affected students. A public body that is
7 a local or intermediate school district or a public school academy
8 may take steps to ensure that directory information disclosed under
9 this subsection is not used, rented, or sold for the purpose of
10 surveys, marketing, or solicitation. Before disclosing the
11 directory information, a public body that is a local or
12 intermediate school district or a public school academy may require
13 the ~~requester~~**requestor** to execute an affidavit stating that
14 directory information provided under this subsection will not be
15 used, rented, or sold for the purpose of surveys, marketing, or
16 solicitation.

17 (3) This act does not authorize the withholding of information
18 otherwise required by law to be made available to the public or to
19 a party in a contested case under the administrative procedures act
20 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

21 (4) Except as otherwise exempt under subsection (1), this act
22 does not authorize the withholding of a public record in the
23 possession of the executive office of the governor or lieutenant
24 governor, or an employee of either executive office, if the public
25 record is transferred to the executive office of the governor or
26 lieutenant governor, or an employee of either executive office,
27 after a request for the public record has been received by a state
28 officer, employee, agency, department, division, bureau, board,
29 commission, council, authority, or other body in the executive

1 branch of government that is subject to this act.

Senate Bill 73 (as introduced 2-16-23)
Sponsor: Senator Stephanie Chang
Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 4-12-23

CONTENT

The bill would amend the Freedom of Information Act (FOIA) to exempt from disclosure information that would reveal the identity of an anonymous party in a civil action alleging sexual misconduct and investigating records compiled for law enforcement purposes to the extent that disclosure as a public record would disclose the identity of a party who proceeded anonymously in a civil action in which the party alleged that he or she was the victim of sexual misconduct.

Under the Act, after providing a public body's FOIA coordinator with a written request that describes a public record sufficiently to enable the public body to find the public record, a person has a right to inspect, copy, or receive copies of the requested public record of the public body. A public body may exempt a public record from disclosure under a number of exemptions in the Act.

The bill would allow a public body to exempt from disclosure information that would reveal the identity of a party who proceeded anonymously in a civil action in which the party alleged that the party was the victim of sexual misconduct.

"Sexual misconduct" would mean conduct described in Section 90, 136, 145a, 145b, 145c, 520b, 520c, 520d, 520e, or 520g of the Michigan Penal Code, regardless of whether the conduct resulted in a criminal conviction. (Those sections prohibit the following conduct, respectively: sexual intercourse under the pretext of medical treatment, female genital mutilation, contributing to the neglect or delinquency of a minor, accosting or soliciting a minor for immoral purposes, accosting or soliciting a minor for immoral purposes after a prior conviction, child sexually abusive activity, first-, second-, third-, and fourth-degree criminal sexual conduct (CSC), and assault with intent to commit CSC.)

The Act also allows a public body to exempt from disclosure investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:

- Interfere with law enforcement proceedings.
- Deprive a person of the right to a fair trial or impartial administrative adjudication.
- Constitute an unwarranted invasion of personal property.
- Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the court of a criminal investigation, disclose confidential information furnished only by a confidential source.
- Disclose law enforcement investigative techniques.
- Endanger the life or physical safety of law enforcement personnel.

Under the bill, a public body also could exempt from disclosure investigating records compiled for law enforcement purposes only to the extent that disclosure as a public record would

disclose the identity of a party who, as described above, proceeded anonymously in a civil action in which the party alleged that he or she was the victim of sexual misconduct. For the purpose of securing his or her anonymity, that party or his or her designee could provide written notification of the civil action and his or her wish to remain anonymous to any law enforcement agency that had investigating records subject to this provision, and the law enforcement agency would have to retain a copy of the notification in its files with those investigating records.

MCL 15.243

PREVIOUS LEGISLATION

(Please note: The information in this summary provides a cursory overview of previous legislation and its progress. It does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

The bill is a reintroduction of House Bill 4378 of the 2019-2020 Legislative Session. The House Bill passed the House and was reported by the Senate Committee on Judiciary and Public Safety but received no further action.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker
Joe Carrasco, Jr.
Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

**Public Policy Position
SB 73**

Support in Concept

Explanation:

The Committee voted unanimously to support SB 73 in concept. However, the Committee recommends that the bill not be limited to solely to investigating records “compiled for law enforcement purposes,” but rather to all public bodies subject to FOIA. The Committee also believes that the disclosure exemption should be mandatory when a victim has submitted notification, not permissive. The Committee also recommends that the legislation include a broader exemption for information that if disclosed would make it possible to identify the victim, not just the victim’s identity itself.

Position Vote:

Voted For position: 15

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 12

Keller-Permissibility Explanation:

The Committee voted 12 in favor, 2 opposed, and with 1 abstention that SB 73 is *Keller*-permissible for the reasoning expressed by the Civil Procedure & Courts Committee:

A party’s ability to proceed anonymously in a civil action is undermined when the identity of that party can be easily obtained via a records request to an investigating law enforcement agency. Prohibiting disclosure of the party’s identity preserves the anonymous nature of the civil proceeding and its integrity. The absence of reasonable assurances that the anonymity of such a court proceeding can be maintained is a significant barrier to some parties seeking redress through the courts. As such, SB 73 is reasonably related to both the functioning of the courts and access to legal services.

Contact Persons:

Katherine L. Marcuz kmarcuz@sado.org

Lore A. Rogers rogersl4@michigan.gov

**Public Policy Position
SB 0073****Support in Concept****Explanation**

The Committee supported Senate Bill 73 in concept, but declined to adopt a position on the specific language of the bill. While the Committee recognized the importance of a party being able to proceed anonymously in a civil action concerning sexual misconduct, it did not feel it was suited to assess how the proposed disclosure exemption would work in practice.

Position Vote:

Voted For position: 19

Voted against position: 2

Abstained from vote: 0

Did not vote (absence): 12

Keller-Permissibility Explanation:

A party's ability to proceed anonymously in a civil action is undermined when the identify of that party can be easily obtained via a records request to an investigating law enforcement agency. Prohibiting disclosure of the party's identity preserves the anonymous nature of the civil proceeding and its integrity. The absence of reasonable assurances that the anonymity of such a court proceeding can be maintained is a significant barrier to some parties seeking redress through the courts. As such, SB 73 is reasonably related to both the functioning of the courts and access to legal services.

Contact Person:

Lori J. Frank lori@markofflaw.com

SENATE BILL NO. 134

March 02, 2023, Introduced by Senators JOHNSON, WOJNO, CHANG, HERTEL, MCBROOM, BELLINO, POLEHANKI and SINGH and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 1084 and 1091 (MCL 600.1084 and 600.1091), section 1084 as amended by 2017 PA 161 and section 1091 as amended by 2018 PA 591.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1084. (1) The DWI/sobriety **court and the specialty** court
- 2 interlock program ~~is~~**are** created under this section.
- 3 (2) All DWI/sobriety courts ~~that participate in the program~~

1 shall comply with the 10 guiding principles of DWI courts as
2 promulgated by the National Center for DWI Courts.

3 (3) ~~Beginning January 1, 2018, a~~ A DWI/sobriety court
4 operating in this state, or a circuit court in any judicial circuit
5 or the district court in any judicial district seeking to adopt or
6 institute a DWI/sobriety court, must be certified by the state
7 court administrative office in the same manner as required for a
8 drug treatment court under section 1062(5). A DWI/sobriety court
9 shall not perform any of the functions of a DWI/sobriety court,
10 including, but not limited to, the functions of a drug treatment
11 court described in section 1062(5) ~~after January 1, 2018~~ unless the
12 court has been certified by the state court administrative office
13 as provided in section 1062(5).

14 (4) In order to be considered for placement in the program, an
15 individual must have been convicted of either of the following:

16 (a) Two or more convictions for violating section 625(1) or
17 (3) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, or a
18 local ordinance of this state substantially corresponding to
19 section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300,
20 MCL 257.625.

21 (b) One conviction for violating section 625(1) or (3) of the
22 Michigan vehicle code, 1949 PA 300, MCL 257.625, or a local
23 ordinance of this state substantially corresponding to section
24 625(1) or (3) of the Michigan vehicle code, 1949 PA 300, MCL
25 257.625, preceded by 1 or more convictions for violating a local
26 ordinance or law of another state substantially corresponding to
27 section 625(1), (3), or (6) of the Michigan vehicle code, 1949 PA
28 300, MCL 257.625, or a law of the United States substantially
29 corresponding to section 625(1), (3), or (6) of the Michigan

1 vehicle code, 1949 PA 300, MCL 257.625.

2 (5) Each year, all ~~DWI/sobriety~~ **specialty** courts that
3 participate in the **specialty court interlock** program, in
4 cooperation with the state court administrative office, shall
5 provide to the legislature, the secretary of state, and the supreme
6 court documentation as to participants' compliance with court
7 ordered conditions. Best practices available must be used in the
8 research in question, as resources allow, so as to provide
9 statistically reliable data as to the impact of the program on
10 public safety and the improvement of life conditions for
11 participants. The topics documented must include, but not be
12 limited to, all of the following:

13 (a) The percentage of those participants ordered to place
14 interlock devices on their vehicles who actually comply with the
15 order.

16 (b) The percentage of participants who remove court-ordered
17 interlocks from their vehicles without court approval.

18 (c) The percentage of participants who consume alcohol or
19 controlled substances.

20 (d) The percentage of participants found to have tampered with
21 court-ordered interlocks.

22 (e) The percentage of participants who operated a motor
23 vehicle not equipped with an interlock.

24 (f) Relevant treatment information as to participants.

25 (g) The percentage of participants convicted of a new offense
26 under section 625(1) or (3) of the Michigan vehicle code, 1949 PA
27 300, MCL 257.625.

28 (h) Any other information found to be relevant.

29 (6) Before the secretary of state issues a restricted license

1 to a program participant under section 304 of the Michigan vehicle
2 code, 1949 PA 300, MCL 257.304, the ~~DWI/sobriety~~**specialty** court
3 judge shall certify to the secretary of state that the individual
4 seeking the restricted license has been admitted into the program
5 and that an interlock device has been ~~placed~~**installed** on each
6 motor vehicle owned or operated, or both, by the individual.

7 (7) If any of the following occur, the ~~DWI/sobriety~~**specialty**
8 court judge shall immediately inform the secretary of state of that
9 occurrence:

10 (a) The court orders that a program participant be removed
11 from the ~~DWI/sobriety~~**specialty** court program before he or she
12 successfully completes it.

13 (b) The court becomes aware that a program participant
14 operates a motor vehicle that is not equipped with an interlock
15 device or that a program participant tampers with, circumvents, or
16 removes a court-ordered interlock device without prior court
17 approval.

18 (c) A program participant is charged with a new violation of
19 section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

20 (8) The receipt of notification by the secretary of state
21 under subsection (7) must result in summary revocation or
22 suspension of the restricted license under section 304 of the
23 Michigan vehicle code, 1949 PA 300, MCL 257.304.

24 (9) As used in this section:

25 (a) "DWI/sobriety court" means the specialized court docket
26 and programs established within judicial circuits and districts
27 throughout this state that are designed to reduce recidivism among
28 alcohol offenders and that comply with the 10 guiding principles of
29 DWI courts as promulgated by the National Center for DWI Courts.

1 (b) "Ignition interlock device" means that term as defined in
2 section 20d of the Michigan vehicle code, 1949 PA 300, MCL 257.20d.

3 (c) "Program" means the ~~DWI/sobriety~~**specialty** court interlock
4 program created under this section.

5 (d) **"Specialty court" means any of the following:**

6 (i) **A drug treatment court.**

7 (ii) **A DWI/sobriety court.**

8 (iii) **A hybrid of the programs under subparagraphs (i) and (ii).**

9 (iv) **A mental health court, as that term is defined in section**
10 **1090.**

11 (v) **A veterans treatment court, as that term is defined in**
12 **section 1200.**

13 Sec. 1091. (1) The circuit court or the district court in any
14 judicial circuit or a district court in any judicial district may
15 adopt or institute a mental health court pursuant to statute or
16 court rules. However, if the mental health court will include in
17 its program individuals who may be eligible for discharge and
18 dismissal of an offense, delayed sentence, or deviation from the
19 sentencing guidelines, the circuit or district court shall not
20 adopt or institute the mental health court unless the circuit or
21 district court enters into a memorandum of understanding with each
22 participating prosecuting attorney in the circuit or district court
23 district, a representative or representatives of the community
24 mental health services programs, a representative of the criminal
25 defense bar, and a representative or representatives of community
26 treatment providers. The memorandum of understanding also may
27 include other parties considered necessary, including, but not
28 limited to, a representative or representatives of the local court
29 funding unit or a domestic violence service provider program that

1 receives funding from the Michigan domestic and sexual violence
2 prevention and treatment board. The memorandum of understanding
3 must describe the role of each party.

4 (2) A court that has adopted a mental health court under this
5 section may accept participants from any other jurisdiction in this
6 state based upon the residence of the participant in the receiving
7 jurisdiction, the nonavailability of a mental health court in the
8 jurisdiction where the participant is charged, and the availability
9 of financial resources for both operations of the mental health
10 court program and treatment services. A mental health court may
11 refuse to accept participants from other jurisdictions.

12 (3) ~~Beginning January 1, 2018, a~~ A mental health court
13 operating in this state, or a circuit court in any judicial circuit
14 or the district court in any judicial district seeking to adopt or
15 institute a mental health court, must be certified by the state
16 court administrative office. The state court administrative office
17 shall establish the procedure for certification. Approval and
18 certification under this subsection of a mental health court is
19 required to begin or to continue the operation of a mental health
20 court under this chapter. The state court administrative office
21 shall not recognize and include a mental health court that is not
22 certified under this subsection on the statewide official list of
23 mental health courts. The state court administrative office shall
24 include a mental health court certified under this subsection on
25 the statewide official list of mental health courts. A mental
26 health court that is not certified under this subsection shall not
27 perform any of the functions of a mental health court, including,
28 but not limited to, any of the following functions:

29 (a) Charging a fee under section 1095.

1 (b) Discharging and dismissing a case as provided in section
2 1098.

3 (c) Receiving funding under section 1099a.

4 (d) **Certifying to the secretary of state that an individual is**
5 **eligible to receive a restricted license under section 1084 of this**
6 **act and section 304 of the Michigan vehicle code, 1949 PA 300, MCL**
7 **257.304.**

8 Enacting section 1. This amendatory act does not take effect
9 unless Senate Bill No. 135 of the 102nd Legislature is enacted into
10 law.

SENATE BILL NO. 135

March 02, 2023, Introduced by Senators HERTEL, JOHNSON, WOJNO, CHANG, MCBROOM, BELLINO, POLEHANKI and SINGH and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 83 and 304 (MCL 257.83 and 257.304), section 83 as added by 2020 PA 383 and section 304 as amended by 2020 PA 376.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1** Sec. 83. **As used in this act:**
- 2** **(a)** "Specialty court" or "specialty court program" means a

1 ~~program under~~ any of the following:

2 *(i)* ~~(a)~~—A drug treatment court, as that term is defined in
3 section 1060 of the revised judicature act of 1961, 1961 PA 236,
4 MCL 600.1060, in which the participant is an adult.

5 *(ii)* ~~(b)~~—A DWI/sobriety court, as that term is defined in
6 section 1084 of the revised judicature act of 1961, 1961 PA 236,
7 MCL 600.1084.

8 *(iii)* ~~(c)~~—A hybrid of the programs under ~~subdivisions (a)~~
9 **subparagraphs (i) and (b)**.~~(ii)~~.

10 *(iv)* ~~(d)~~—A mental health court, as that term is defined in
11 section 1090 of the revised judicature act of 1961, 1961 PA 236,
12 MCL 600.1090.

13 *(v)* ~~(e)~~—A veterans treatment court, as that term is defined in
14 section 1200 of the revised judicature act of 1961, 1961 PA 236,
15 MCL 600.1200.

16 **(b) "Specialty court interlock program" means a program as**
17 **that term is defined in section 1084 of the revised judicature act**
18 **of 1961, 1961 PA 236, MCL 600.1084.**

19 Sec. 304. (1) Except as provided in subsection (3), the
20 secretary of state shall issue a restricted license to an
21 individual whose license was suspended or restricted under section
22 319 or revoked or denied under section 303 based on either of the
23 following:

24 (a) Two or more convictions for violating section 625(1) or
25 (3) or a local ordinance of this state that substantially
26 corresponds to section 625(1) or (3).

27 (b) One conviction for violating section 625(1) or (3) or a
28 local ordinance of this state that substantially corresponds to
29 section 625(1) or (3), preceded by 1 or more convictions for

1 violating a local ordinance or law of another state that
2 substantially corresponds to section 625(1), (3), or (6), or a law
3 of the United States that substantially corresponds to section
4 625(1), (3), or (6).

5 (2) A restricted license issued under subsection (1) must not
6 be issued until after the individual's operator's or chauffeur's
7 license has been suspended or revoked for 45 days and the judge
8 assigned to a ~~DWI/sobriety~~ **specialty** court certifies to the
9 secretary of state that both of the following conditions have been
10 met:

11 (a) The individual has been admitted into a ~~DWI/sobriety~~
12 **specialty** court **interlock** program.

13 (b) An ignition interlock device approved, certified, and
14 installed as required under sections 625k and 625l has been
15 installed on each motor vehicle owned or operated, or both, by the
16 individual.

17 (3) A restricted license must not be issued under subsection
18 (1) if the individual is otherwise ineligible for an operator's or
19 chauffeur's license under this act, unless the individual's
20 ineligibility is based on 1 or more of the following:

21 (a) Section 303(1)(i) or (k).

22 (b) Section 303(2)(c)(i) or (iii).

23 (c) Section 303(2)(g)(i) or (iii).

24 (d) Section 319(4), (5), (6), (7), (8)(a) to (e), or (9).

25 (e) Section 320(1)(d).

26 (f) Section 321a(1) or (2).

27 (g) Section 323c.

28 (h) Section 625f.

29 (i) Section 732a(5).

1 (j) Section 904(10).

2 (k) Section 82105a(2) of the natural resources and
3 environmental protection act, 1994 PA 451, MCL 324.82105a.

4 (l) Section 3177 of the insurance code of 1956, 1956 PA 218,
5 MCL 500.3177.

6 (m) Section 10 of the motor vehicle accident claims act, 1965
7 PA 198, MCL 257.1110.

8 (4) A restricted license issued under subsection (1) permits
9 the individual to whom it is issued to operate only the vehicle
10 equipped with an ignition interlock device described in subsection
11 (2)(b), to take any driving skills test required by the secretary
12 of state, and to drive to and from any combination of the following
13 locations or events:

14 (a) In the course of the individual's employment or occupation
15 if the employment or occupation does not require a commercial
16 driver license.

17 (b) To and from any combination of the following:

18 (i) The individual's residence.

19 (ii) The individual's work location.

20 (iii) An alcohol, drug, or mental health education and treatment
21 as ordered by the court.

22 (iv) Alcoholics Anonymous, Narcotics Anonymous, or other court-
23 ordered self-help programs.

24 (v) Court hearings and probation appointments.

25 (vi) Court-ordered community service.

26 (vii) An educational institution at which the individual is
27 enrolled as a student.

28 (viii) A place of regularly occurring medical treatment for a
29 serious condition or medical emergency for the individual or a

1 member of the individual's household or immediate family.

2 (ix) Alcohol or drug testing as ordered by the court.

3 (x) An ignition interlock service provider as required.

4 (xi) At the discretion of the judge, the custodian of a minor
5 child may drive to and from the facilities of a provider of day
6 care services at which the custodian's minor child is enrolled, or
7 an educational institution at which the custodian's minor child is
8 enrolled as a student for the purposes of classes, academic
9 meetings or conferences, and athletic or other extracurricular
10 activities sanctioned by the educational institution in which the
11 minor child is a participant. As used in this subparagraph, "minor
12 child" means an individual who is less than 18 years of age.

13 (5) While driving with a restricted license, the individual
14 shall carry proof of his or her destination and the hours of any
15 employment, class, or other reason for traveling and shall display
16 that proof on a peace officer's request.

17 (6) Except as otherwise provided in this section, a restricted
18 license issued under subsection (1) is effective until a hearing
19 officer orders an unrestricted license under section 322. Subject
20 to subsection (7), the hearing officer shall not order an
21 unrestricted license until the later of the following events
22 occurs:

23 (a) The court notifies the secretary of state that the
24 individual has successfully completed the ~~DWI/sobriety~~ **specialty**
25 court program.

26 (b) The minimum period of license sanction that would have
27 been imposed under section 303 or 319 but for this section has been
28 completed.

29 (c) The individual demonstrates that he or she has operated

1 with an ignition interlock device for not less than 1 year.

2 (d) The individual satisfies the requirements of section 303
3 and R 257.313 of the Michigan Administrative Code.

4 (7) A hearing officer shall not issue an unrestricted license
5 for at least 1 year if either of the following applies:

6 (a) The hearing officer determines that the individual
7 consumed any alcohol during the period that his or her license was
8 restricted under this section, as determined by breath, blood,
9 urine, or transdermal testing unless a second test, administered
10 within 5 minutes after administering the first test, showed an
11 absence of alcohol.

12 (b) The hearing officer determines that the individual
13 consumed or otherwise used any controlled substance during the
14 period that his or her license was restricted under this section,
15 except as lawfully prescribed.

16 (8) In determining whether to order an unrestricted license
17 under subsection (6), the successful completion of the ~~DWI/sobriety~~
18 **specialty** court program and a certificate from the ~~DWI/sobriety~~
19 **specialty** court judge must be considered positive evidence of the
20 petitioner's abstinence while the petitioner participated in the
21 ~~DWI/sobriety~~ **specialty** court program. This subsection does not
22 apply to a determination made under subsection (7). As used in this
23 subsection, "certificate" includes, but is not limited to, a
24 statement that the participant has maintained a period of
25 abstinence from alcohol for not less than 6 months at the time the
26 participant completed the ~~DWI/sobriety~~ **specialty** court program.

27 (9) If the secretary of state receives a notification from ~~the~~
28 ~~DWI/sobriety court under section 1084(7) of the revised judiciary~~
29 ~~act of 1961, 1961 PA 236, MCL 600.1084, a specialty court, the~~

1 secretary of state shall summarily impose 1 of the following
2 license sanctions, as applicable:

3 (a) Suspension for the full length of time provided under
4 section 319(8). However, a restricted license must not be issued as
5 provided under section 319(8). This subdivision applies if the
6 underlying conviction or convictions would have subjected the
7 individual to a license sanction under section 319(8) if this
8 section did not apply.

9 (b) A license revocation and denial for the full length of
10 time provided under section 303. The minimum period of license
11 revocation and denial imposed must be the same as if this section
12 did not apply. This subdivision applies if the underlying
13 conviction or convictions would have caused a license revocation
14 and denial under section 303 if this section did not apply.

15 (10) After the individual completes the ~~DWI/sobriety~~ **specialty**
16 court program, the following apply:

17 (a) The secretary of state shall postpone considering the
18 issuance of an unrestricted license under section 322 for a period
19 of 3 months for each act that would be a minor violation if the
20 individual's license had been issued under section 322(6). As used
21 in this subdivision, "minor violation" means that term as defined
22 in R 257.301a of the Michigan Administrative Code.

23 (b) The restricted license issued under this section must be
24 suspended or revoked or denied as provided in subsection (9),
25 unless set aside under section 322(5), if any of the following
26 events occur:

27 (i) The individual operates a motor vehicle without an ignition
28 interlock device that meets the criteria under subsection (2)(b).

29 (ii) The individual removes, or causes to be removed, an

1 ignition interlock device from a vehicle he or she owns or operates
2 unless the secretary of state has authorized its removal under
3 section 322a.

4 (iii) The individual commits any other act that would be a major
5 violation if the individual's license had been issued under section
6 322(6). As used in this subparagraph, "major violation" means that
7 term as defined in R 257.301a of the Michigan Administrative Code.

8 (iv) The individual is arrested for a violation of any of the
9 following:

10 (A) Section 625.

11 (B) A local ordinance of this state or another state that
12 substantially corresponds to section 625.

13 (C) A law of the United States that substantially corresponds
14 to section 625.

15 (c) If the individual is convicted of or found responsible for
16 any offense that requires the suspension, revocation, denial, or
17 cancellation of the individual's operator's or chauffeur's license,
18 the restricted license issued under this section must be suspended
19 until the requisite period of license suspension, revocation,
20 denial, or cancellation, as appropriate, has elapsed.

21 (d) If the individual has failed to pay any court-ordered
22 fines or costs that resulted from the operation of a vehicle, the
23 restricted license issued under this section must be suspended
24 pending payment of those fines and costs.

25 ~~(11) All driver responsibility fees required to be assessed by~~
26 ~~the secretary of state under section 732a for the conviction or~~
27 ~~convictions that led to the restricted license under this section~~
28 ~~must be held in abeyance as follows:~~

29 ~~(a) The fees must be held in abeyance during the time the~~

1 ~~individual has a restricted license under this section and is~~
2 ~~participating in the DWI/sobriety court program.~~

3 ~~(b) Except as otherwise provided in this subdivision, at the~~
4 ~~end of the individual's participation in the DWI/sobriety court~~
5 ~~program, the driver responsibility fees must be assessed and paid~~
6 ~~under the payment schedule described in section 732a. If the~~
7 ~~individual's participation in the DWI/sobriety court program is~~
8 ~~completed on or after October 1, 2018, the driver responsibility~~
9 ~~fees are waived and must not be collected.~~

10 ~~(11) (12)~~ The vehicle of an individual admitted to the
11 ~~DWI/sobriety~~ **specialty** court **interlock** program whose vehicle would
12 otherwise be subject to immobilization or forfeiture under this act
13 is exempt from both immobilization and forfeiture under sections
14 625n and 904d if both of the following apply:

15 (a) The individual is a ~~DWI/sobriety~~ **specialty** court **interlock**
16 program participant in good standing or the individual successfully
17 satisfactorily completes the ~~DWI/sobriety~~ **specialty** court **interlock**
18 program.

19 (b) The individual does not subsequently violate a law of this
20 state for which vehicle immobilization or forfeiture is a sanction.

21 ~~(12) (13)~~ This section only applies to individuals arrested
22 for a violation of section 625 on or after January 1, 2011.

23 ~~(14) As used in this section:~~

24 ~~(a) "DWI/sobriety court" means that term as defined in section~~
25 ~~1084 of the revised judiciary act of 1961, 1961 PA 236, MCL~~
26 ~~600.1084. Beginning January 1, 2018, DWI/sobriety court includes~~
27 ~~only a DWI/sobriety court that is certified by the state court~~
28 ~~administrative office as provided in section 1084(3) of the revised~~
29 ~~judiciary act of 1961, 1961 PA 236, MCL 600.1084.~~

1 ~~(b) "DWI/sobriety court program" means "program" as that term~~
2 ~~is defined in section 1084 of the revised judicature act of 1961,~~
3 ~~1961 PA 236, MCL 600.1084.~~

4 Enacting section 1. This amendatory act does not take effect
5 unless Senate Bill No. 134 of the 102nd Legislature is enacted into
6 law.

**Public Policy Position
SB 134 and SB 135**

Support

Explanation:

The Committee voted unanimously to support Senate Bills 134 and 135. The bills are consistent with SBM's long-standing support for problem solving courts. They expand the availability of the successful ignition interlock program currently used in DWI/sobriety courts to other specialty courts. Additionally, the restriction under SB 134 requiring court certification provides protection for specialty court participants by regulating which courts can restrict licenses under the statute, while SB 135 removes the requirement to hold fees in abeyance or waive them if the program participant completes the program. The bills do not appear to overly burden a party or target any class within those who appear before the court.

Position Vote:

Voted For position: 17

Voted against position: 0

Abstained from vote: 1

Did not vote (absent): 9

Keller-Permissibility Explanation:

SB 134 is reasonable related to improvement in the functioning of the courts, judicial efficacy, and efficiency because it establishes the criteria needed for court use of ignition interlock systems in certain court programs and specialty courts. SB 135 is a tie-barred technical trailer that is necessary to effectuate the provisions of SB 134. Both bills, taken together, are therefore *Keller*-permissible.

Contact Persons:

Katherine L. Marcuz kmarcuz@sado.org

Lore A. Rogers rogersl4@michigan.gov

Public Policy Position
SB 0134 – SB 0135

Support

Explanation:

The committee voted unanimously (18) to support the legislation with the caveat that the underlining alcohol problem which required the interlock device be addressed in the appropriate specialty court.

Position Vote:

Voted For position: 18

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 8

Keller Permissibility Explanation

SB 134 is reasonable related to improvement in the functioning of the courts, judicial efficacy, and efficiency because it establishes the criteria needed for court use of ignition interlock systems in certain court programs and specialty courts. SB 135 is a tie-barred technical trailer that is necessary to effectuate the provisions of SB 134. Both bills, taken together, are therefore *Keller*-permissible.

Contact Persons:

Nimish R. Ganatra ganatran@washtenaw.org

Sofia V. Nelson snelson@sado.org

**Public Policy Position
SB 134 and SB 135**

Support

Position Vote:

Voted for position: 10

Voted against position: 2

Abstained from vote: 0

Did not vote: 1

Keller Permissibility Explanation:

The ability to attend court and complete court-ordered treatment is made exponentially easier by having a restricted license. Particularly in places where there is little or no reliable public transportation. Specialty courts help reduce recidivism and it is in the best interests of society to ensure that people who come before the court for engaging in such behavior receive all the resources that they need to successfully complete the programs.

Contact Person: Takura N. Nyamfukudza

Email: takura@cndefenders.com

SENATE BILL NO. 150

March 08, 2023, Introduced by Senator CHANG and referred to the Committee on Finance, Insurance, and Consumer Protection.

A bill to amend 1973 PA 186, entitled
"Tax tribunal act,"
by amending section 62 (MCL 205.762), as amended by 2008 PA 128.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 62. (1) The residential property and small claims
2 division created in section 61 has jurisdiction over a proceeding,
3 otherwise cognizable by the tribunal, in which residential property
4 is exclusively involved. Property other than residential property
5 may be included in a proceeding before the residential property and

1 small claims division if the amount of that property's taxable
2 value or state equalized valuation in dispute is not more than
3 \$100,000.00. The residential property and small claims division
4 also has jurisdiction over a proceeding involving an appeal of any
5 other tax over which the tribunal has jurisdiction if the amount of
6 the tax in dispute is \$20,000.00 or less, adjusted annually by the
7 inflation rate. As used in this subsection, "inflation rate" means
8 the ratio of the general price level for the state fiscal year
9 ending in the calendar year immediately preceding the current year
10 divided by the general price level for the state fiscal year ending
11 in the calendar year before the year immediately preceding the
12 current year.

13 (2) A person or legal entity entitled to proceed under section
14 31, and whose proceeding meets the jurisdictional requirements of
15 subsection (1), may elect to proceed before either the residential
16 property and small claims division or the entire tribunal. A formal
17 record of residential property and small claims division
18 proceedings is not required. Within 20 days after a hearing officer
19 or referee issues a proposed order, a party may file exceptions to
20 the proposed order. The tribunal shall review the exceptions to
21 determine if the proposed order ~~shall~~**should** be adopted as a final
22 order. Upon a showing of good cause or at the tribunal's
23 discretion, the tribunal may modify the proposed order and issue a
24 final order or hold a rehearing by a tribunal member. A rehearing
25 is not limited to the evidence presented before the hearing officer
26 or referee.

27 (3) ~~Except as otherwise provided in this subsection, the~~**The**
28 residential property and small claims division **may conduct hearings**
29 **and rehearings telephonically, by videoconferencing, or in person.**

1 **For in-person hearings, the tribunal** shall meet in the county in
 2 which the property in question is located or in a county contiguous
 3 to the county in which the property in question is located. A
 4 petitioner-appellant ~~shall must~~ not be required to travel more than
 5 100 miles from the location of the property in question to the **in-**
 6 **person** hearing site, except that ~~a~~ **an in-person** rehearing by a
 7 tribunal member ~~shall must~~ be at a site determined by the tribunal.
 8 ~~By leave of the tribunal and with the mutual consent of all~~
 9 ~~parties, a residential property and small claims division~~
 10 ~~proceeding~~ **Upon request by 1 of the parties, an in-person hearing**
 11 may take place at a location mutually agreed upon by all parties.
 12 ~~or may take place by the use of amplified telephonic or video~~
 13 ~~conferencing equipment.~~

14 (4) The tribunal shall make a short form for the simplified
 15 filing of residential property and small claims appeals.

16 (5) In a proceeding before the residential property and small
 17 claims division for property other than residential property, if
 18 the amount of taxable value or state equalized valuation in dispute
 19 is greater than \$20,000.00, or in nonproperty matters if the amount
 20 in dispute is greater than \$1,000.00, the filing fee is the amount
 21 that would have been paid if the proceeding was brought before the
 22 entire tribunal and not the residential property and small claims
 23 division.

24 (6) As used in this chapter, "residential property" means any
 25 of the following:

26 (a) Real property exempt under section 7cc of the general
 27 property tax act, 1893 PA 206, MCL 211.7cc.

28 (b) Real property classified as residential real property
 29 under section 34c of the general property tax act, 1893 PA 206, MCL

1 211.34c.

2 (c) Real property with ~~less~~**fewer** than 4 rental units.

3 (d) Real property classified as agricultural real property
4 under section 34c of the general property tax act, 1893 PA 206, MCL

5 211.34c.

**Public Policy Position
SB 150****Support****Explanation:**

The Committee voted unanimously to support Senate Bill 150. Permitting the Michigan Tax Tribunal's Residential Property and Small Claims Division to conduct hearings telephonically or by videoconferencing will expand access to justice by reducing barriers to participation. This is especially important in this Division where the amounts in controversy are smaller. Previously, virtual participation was only permitted by leave of the Tribunal.

Position Vote:

Voted For position: 15

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 12

Keller-Permissibility Explanation:

The question of how parties are permitted to access (and under what conditions) the quasi-judicial proceedings of the Tax Tribunal are necessarily related to the functioning of the tribunal, which has exclusive and original jurisdiction over tax matters committed to it by state statute. The bill is therefore *Keller*-permissible.

Contact Persons:

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**Public Policy Position
SB 0150**

Support

Explanation

The Committee voted unanimously to support Senate Bill 150. The Committee believes that permitting the Residential Property and Small Claims Division of the Michigan Tax Tribunal to conduct hearings and rehearings telephonically and by videoconferencing will improve access to justice (and efficiency) by making such hearings more easily accessible to both parties and counsel.

Position Vote:

Voted For position: 21

Voted against position: 0

Abstained from vote: 0

Did not vote (absence): 12

Keller-Permissibility Explanation:

Whether a Tribunal hearing may take place by virtual means is a question necessarily related to the functioning of the Tribunal. Additionally, the option of virtual appearance makes it easier for both parties and counsel to participate in hearings and therefore improves access to legal services. On both of these bases, SB 150 is *Keller*-permissible.

Contact Person:

Lori J. Frank lori@markofflaw.com

1. Childcare Fund 00605'23

Human services: children's services; county child care fund reimbursement rate; increase.

Human services: children's services; Human services: county services; Children: child care;

HOUSE BILL NO. _____

A bill to amend 1939 PA 280, entitled
"The social welfare act,"
by amending section 117a (MCL 400.117a), as amended by 2019 PA 114.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 117a. (1) As used in this section and sections 117b to
2 117h:

3 (a) "County juvenile agency" means that term as defined in
4 section 2 of the county juvenile agency act, 1998 PA 518, MCL
5 45.622.



LTB



H00605'23

1 (b) "County juvenile agency services" means all juvenile
2 justice services for a juvenile who is within the court's
3 jurisdiction under section 2(a) or (d) of chapter XIIA of the
4 probate code of 1939, 1939 PA 288, MCL 712A.2, or within the
5 jurisdiction of the court of general jurisdiction under section 606
6 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, if
7 that court commits the juvenile to a county or court juvenile
8 facility under section 27a of chapter IV of the code of criminal
9 procedure, 1927 PA 175, MCL 764.27a. If a juvenile who comes within
10 the court's jurisdiction under section 2(a) or (d) of chapter XIIA
11 of the probate code of 1939, 1939 PA 288, MCL 712A.2, is at that
12 time subject to a court order in connection with a proceeding for
13 which the court acquired jurisdiction under section 2(b) or (c) of
14 chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,
15 juvenile justice services provided to the juvenile before the court
16 enters an order in the subsequent proceeding are not county
17 juvenile agency services, except for juvenile justice services
18 related to detention.

19 (c) "Donated funds" means any gifts of money made available to
20 the county child care fund for services for child welfare or
21 delinquency matters, including juvenile justice services.

22 (d) "Donor" means the entity, person, or persons providing the
23 donated funds.

24 (e) "Gross expenditure" means the total adjusted expenditures
25 included in a county's monthly expenditure report and submitted to
26 the department.

27 (f) "In-home care" means expenditure of child care fund money
28 for services and items listed in this section to be an alternative
29 to out-of-home care or to provide an early return home for a child



1 placed out of his or her home.

2 (g) "Juvenile detention facility" means a county-operated or
3 court-operated juvenile facility that houses and provides group
4 care, shelter care, or detention administered and staffed by county
5 or court employees.

6 (h) "Juvenile justice service" means a service, exclusive of
7 judicial functions, provided by a county for juveniles who are
8 within or likely to come within the court's jurisdiction under
9 section 2 of chapter XIIA of the probate code of 1939, 1939 PA 288,
10 MCL 712A.2, or within the jurisdiction of the court of general
11 criminal jurisdiction under section 606 of the revised judicature
12 act of 1961, 1961 PA 236, MCL 600.606, if that court commits the
13 juvenile to a county or court juvenile facility under section 27a
14 of chapter IV of the code of criminal procedure, 1927 PA 175, MCL
15 764.27a. A service includes intake, detention, detention
16 alternatives, probation, foster care, diagnostic evaluation and
17 treatment, shelter care, or any other service approved by the
18 office or county juvenile agency, as applicable, including
19 preventive, diversionary, or protective care services. A juvenile
20 justice service approved by the office or county juvenile agency
21 must meet all applicable state and local government licensing
22 standards.

23 (i) "Out-of-home care" means placement outside of the
24 residence of the child's parent, legal guardian, or, except as
25 provided in this subdivision, relative where the child is found,
26 from which the child was removed by the authority of the court, or
27 in which the child will be placed on a permanent basis.

28 (j) "Technology and software" means risk and needs assessment
29 software or software directly related to treatment or services



1 provided within a reimbursable in-home care program. Technology and
2 software does not include the purchase of new equipment or
3 hardware, or maintenance of equipment or hardware for the
4 reimbursable in-home care program. Technology and software also
5 does not include new equipment cost, maintenance of equipment,
6 technology, or software used exclusively for general support for
7 the court.

8 (2) A juvenile justice funding system for counties that are
9 not county juvenile agencies, including a child care fund, is
10 established and shall be administered under the department's
11 superintending control.

12 (3) The department shall promulgate rules under the
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
14 24.328, to monitor juvenile justice services money and to prescribe
15 child care fund accounting, reporting, and authorization controls
16 and procedures and child care fund expenditure classifications. For
17 counties required to have a child care fund, the department shall
18 fund services that conform to the child care rules promulgated
19 under this act. **The child care fund may be used for programs and
20 practices from prearrest diversion starting at the point of law
21 enforcement contact through residential placement and reentry,
22 excluding general prevention services for all youth at risk of
23 juvenile justice system involvement. The department must align
24 child care fund policies, budget requirements, and oversight
25 practices to support these goals as well as to ensure the
26 appropriate use of funding.**

27 (4) The department shall distribute money appropriated by the
28 legislature to counties for the cost of juvenile justice services
29 as follows:



1 (a) Payment for expenditures for children placed with the
2 department for care, supervision, or placement, including children
3 who are within the court's jurisdiction under section 2(a) and (b)
4 of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
5 712A.2, shall be paid by the department and reimbursed by the
6 county for all undisputed charges. Implementation of this
7 subdivision takes effect on October 1 of the fiscal year following
8 the appropriation to support new payment processes and the
9 implementation of technological changes to the statewide automated
10 child welfare information system.

11 (b) Payment for expenditures for children not placed with the
12 department for care, supervision, or placement, including children
13 who are within the court's jurisdiction under section 2(a) and (b)
14 of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
15 712A.2, shall be paid by a county and be reimbursed by the
16 department for all undisputed charges. Expenditures described in
17 this subdivision include the following:

18 (i) Direct expenditures for out-of-home care, including all of
19 the following:

20 (A) Salaries of county- or court-operated detention center,
21 shelter care, or group care facility specific employees, including,
22 but not limited to, all of the following:

23 (I) Management staff of a facility.

24 (II) Direct service staff of a facility.

25 (III) Mental health staff of a facility.

26 (IV) Support staff including clerical staff of a facility.

27 (V) Janitorial, maintenance, or ground staff of a facility, or
28 any combination of these.

29 (VI) Kitchen staff of a facility.



1 (VII) Security staff of a facility.

2 (VIII) Circuit court employees who support the child care fund
3 county- or court-operated detention center, shelter care, or group
4 care facility.

5 (B) Fringe benefits, including payroll taxes, medical, vision
6 and dental insurance, group life insurance, disability insurance,
7 accident insurance, health savings accounts, retirement
8 contributions, worker's compensation, and accrued severance
9 benefits of county- or court-operated detention center, shelter
10 care, or group care facility specific employees and circuit court
11 administration who administrate and support the child care fund
12 county- or court-operated detention center, shelter care, or group
13 care facility.

14 (C) Clothing for children.

15 (D) Food for children.

16 (E) Meals furnished to staff who are on duty at a county- or
17 court-operated detention center, shelter care, or group care
18 facility and assigned responsibilities for the supervision and care
19 of the youth during facility mealtime.

20 (F) Hygiene supplies for children, including shampoo, soap, or
21 toothpaste.

22 (G) Education costs for children who are temporary residents
23 in a county- or court-operated detention center, shelter care, or
24 group care facility and for whom attendance in a public school
25 system or local education agency is not an option.

26 (H) Utilities of a county- or court-operated detention center,
27 shelter care, or group care facility, including water, gas,
28 electric, trash, and sewer.

29 (I) Janitorial supplies of a county- or court-operated



1. Childcare Fund 00605'23

1 detention center, shelter care, or group care facility.

2 (J) Kitchen supplies of a county- or court-operated detention
3 center, shelter care, or group care facility.

4 (K) Laundry supplies or service of a county- or court-operated
5 detention center, shelter care, or group care facility.

6 (L) Linen supplies or service of a county- or court-operated
7 detention center, shelter care, or group care facility, including
8 towels and bedding.

9 (M) Office supplies that are dedicated solely to the county-
10 or court-operated detention center, shelter care, or group care
11 facility.

12 (N) Cellular telephones, landline telephones, and 2-way radios
13 used for communication that are dedicated solely to the county- or
14 court-operated detention center, shelter care, or group care
15 facility.

16 (O) Copy machine charges that are dedicated to the county- or
17 court-operated detention center, shelter care, or group care
18 facility.

19 (P) Mattress, box spring, or bed frame used in a county- or
20 court-operated detention center, shelter care, or group care
21 facility.

22 (Q) Medical, dental, psychological, and psychiatric services,
23 including medication, for children who are not covered by another
24 source which services are not to determine competency.

25 (R) Periodicals and books of a county- or court-operated
26 detention center, shelter care, or group care facility.

27 (S) Recreational supplies, programs, and television in a
28 county- or court-operated detention center, shelter care, or group
29 care facility.



1 (T) Training for child care fund-funded staff and in-service
2 education directly related to the out-of-home program, excluding
3 tuition grants or scholarships for college credit.

4 (U) Mileage reimbursement rate costs for transporting children
5 of a county- or court-operated detention center, shelter care, or
6 group care facility. Mileage reimbursement rates used must adhere
7 to the county or tribe published rates. Mileage reimbursement rates
8 cover all costs of operating a vehicle, including maintenance,
9 repairs, taxes, gas, insurance, and registration fees.

10 (V) Drug testing for children.

11 (W) Birth certificates for children.

12 (X) Incentives for youth.

13 (Y) Interpreter fees for nonjudicial processes.

14 (Z) Printing, binding, and postage for materials relating to
15 the education or correspondence relating to children in the county-
16 or court-operated detention center, shelter care, or group care
17 facility.

18 (AA) Membership dues or fees for professional credential
19 maintenance of staff who provide or support a service to children
20 under the child care fund, or professional staff for whom
21 professional licensure is required in their respective job
22 description.

23 (BB) Contracted personnel, programming, or services, or any
24 combination of these.

25 (CC) Nonscheduled payments.

26 (DD) New services that the department may agree with counties
27 and tribes to include that are not identified in this section that
28 support eligible children and families.

29 (ii) Administrative or indirect expenditures for out-of-home



1 care. An administrative or indirect cost payment equal to 10% of a
2 county's total monthly gross expenditures will automatically be
3 distributed to the county on a monthly basis. A county is not
4 required to submit documentation to the department for any of the
5 expenditures that are covered under the 10% payment.

6 (iii) Direct expenditures for in-home care, including the
7 following:

8 (A) Salaries of circuit court employees who support the child
9 care fund in-home care program.

10 (B) Fringe benefits, including payroll taxes, medical and
11 dental insurance, group life insurance, disability insurance,
12 accident insurance, health savings accounts, retirement
13 contributions, and accrued severance benefits of circuit court
14 employees who support the child care fund in-home care program. For
15 a county that receives the juvenile court officer grant and the
16 appointed juvenile court officer works within an approved program,
17 the proportional fringe benefits for the juvenile court officer may
18 be reimbursable.

19 (C) Mileage reimbursement rate costs associated with the child
20 care fund in-home care program. Mileage reimbursement rates used
21 must adhere to the county or tribe published rates. Mileage
22 reimbursement rates cover all costs of operating a vehicle,
23 including maintenance, repairs, taxes, gas, insurance, and
24 registration fees.

25 (D) Program supplies and materials, including, but not limited
26 to, all of the following:

27 (I) Program-specific supplies, including risk or needs
28 assessments, recognition plaques, and educational or program
29 licenses.

1 (II) Office supplies related to program activities and pro-
2 social activities.

3 (III) Food related to program activities and pro-social
4 activities.

5 (IV) Drug test kits.

6 (V) Tethers and other forms of electronic monitoring.

7 (E) Other costs, including all of the following:

8 (I) Cellular telephones and other safety tracking technology
9 for child care fund-funded staff.

10 (II) Training for child care fund-funded staff and in-service
11 education related to the in-home care component, excluding tuition
12 grants or scholarships for college credit.

13 (III) Education costs for children who are prohibited from
14 school attendance in a public school system or the local education
15 agency or have severe educational issues and have been court
16 ordered into a child care fund-funded educational program.

17 (IV) Printing, binding, or postage for materials relating to
18 the education or correspondence on behalf of children in the in-
19 home care program.

20 (V) Membership dues or fees - professional credential
21 maintenance of staff who provide or support a service to children
22 under the child care fund or professional staff for whom
23 professional licensure is required in their respective job
24 descriptions.

25 (VI) Business cards.

26 (F) Other program-specific activities costs, including
27 entrance fees for programs.

28 (G) Conference travel costs for other non-child-care-fund-
29 related training, including evidence-based and promising practices

1 training.

2 (H) Contracted personnel, programming, or services, or any
3 combination of these.

4 (I) Unit cost contracts, including all of the following:

5 (I) Contracted - drug testing - lab (per "drug test" basis).

6 (II) Contracted - counselor fees - (per "hour" basis).

7 (III) Contracted - group session dollar per session (per
8 "session" basis). Group roster documentation required.

9 (IV) Contracted - psychological evaluations, excluding
10 competency examinations - (per "evaluation" basis).

11 (V) Contracted - service providers (per "service" basis).

12 (J) Closed-end contracts. Closed-end contracts include, but
13 are not limited to, all of the following:

14 (I) University contracts, including "program evaluation".

15 (II) Private agency services contracts.

16 (III) Educational services contracts.

17 (IV) Court appointed special advocate (CASA) and wraparound
18 contracts.

19 (V) Other contracts identifiable to the program.

20 (K) Nonscheduled payments or case services payments. A
21 nonscheduled payment is a payment to an individual or organization
22 for items specified and defined in the child care fund handbook
23 that are not included in the state-established per diem rate. A
24 nonscheduled payment may include the following list:

25 (I) Emergency costs, including immediate food, clothing,
26 medical, or dental needs that are not covered by another source.

27 (II) Gymnasium or other pro-social activity requiring a
28 membership per child related to program activities.

29 (III) Rewards or incentive pay for youth related to program



1 activities.

2 (IV) Bus tokens or gas cards related to program activities.

3 (V) Mentor costs - meals, mileage, movies, or social costs
4 related to program activities.

5 (VI) Noncontracted service provider related to program
6 activities.

7 (VII) Noncontracted group session related to program
8 activities.

9 (VIII) Noncontracted psychological evaluations, excluding
10 competency examinations.

11 (IX) Family assessment or evaluations.

12 (X) Noncontracted counselor fees.

13 (XI) Noncontracted drug testing - labs.

14 (XII) Camps or field trips.

15 (XIII) Birth certificates for children.

16 (L) New services that the department may agree with counties
17 and tribes to include that are not identified in this section that
18 support eligible children and families.

19 (M) Technology and software.

20 (iv) Administrative or indirect expenditures for in-home care.

21 An administrative or indirect cost payment equal to 10% of a
22 county's total monthly gross expenditures will automatically be
23 distributed to the county on a monthly basis. A county is not
24 required to submit documentation to the department for any of the
25 expenditures that are covered under the 10% payment.

26 (c) Except as provided in subdivision (j), the county amount
27 distributed shall equal 50% of the annual expenditures from the
28 child care fund of the county established under section 117c **for**
29 **residential services of detention and long-term residential**



1 **placements**, except that expenditures under section 117c(3) and
2 expenditures that exceed the amount of a budget approved under
3 section 117c shall not be included. **Except as provided in**
4 **subdivision (j), the county amount distributed shall equal 75% of**
5 **the annual expenditures from the child care fund of the county**
6 **established under section 117c for in-home expenses including**
7 **community-based supervision, services, and related practices, and**
8 **per diem rates for the use of respite care and shelter for less**
9 **than 30 days.** A distribution under this subdivision shall not be
10 made to a county that does not comply with the requirements of this
11 act. Subject to a county's approval, the department may reduce the
12 amount distributed to a county by the amount owed to the state for
13 care received in a state operated facility or for care received
14 under 1935 PA 220, MCL 400.201 to 400.214, or under the youth
15 rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

16 (d) For a county that is a county juvenile agency, a county's
17 block grant amount as determined under section 117g in equal
18 distributions on October 1, January 1, April 1, and July 1 of each
19 state fiscal year.

20 (e) Notwithstanding the provisions in subdivision (a), subject
21 to appropriations, the department shall pay 100% of the costs of
22 the \$9.20 increase to the administrative rate for providers of
23 foster care services provided in the annual appropriation for the
24 department budget. For the purposes of this subdivision only,
25 "foster care" means 24-hour substitute care for children placed
26 away from their parents or guardians, as a result of a court order
27 under section 2(b) of chapter XIIIA of the probate code of 1939,
28 1939 PA 288, MCL 712A.2, in placements supervised by the department
29 or a private child placing agency under contract with the



1 department for foster care services. Foster care services include
2 supervision of placements in foster family homes, foster family
3 group homes, and preadoptive placements.

4 (f) Notwithstanding the provisions of subdivision (c), the
5 department shall pay 100% of the administrative rate that is in
6 effect on September 26, 2018 for providers of treatment foster care
7 services and foster care services provided in the annual
8 appropriation for the department budget. For the purposes of this
9 subdivision only, "foster care" means 24-hour substitute care for
10 children placed away from their parents or guardians, as a result
11 of a court order under section 2(b) of chapter XIIIA of the probate
12 code of 1939, 1939 PA 288, MCL 712A.2, in placements supervised by
13 the department or a private child placing agency under contract
14 with the department for foster care services. Foster care services
15 include supervision of placements in foster family homes, foster
16 family group homes, treatment foster care, preadoptive placements,
17 and supervision of children reunified with the parent with whom the
18 child lived at the time of removal.

19 (g) Notwithstanding the provisions in subdivision (c), the
20 department shall pay 100% of the costs of any rate increase that is
21 in effect on September 26, 2018 to the providers of residential
22 foster care services under contract with the department, as
23 provided in the annual appropriation for the department budget.

24 (h) Notwithstanding the provisions in subdivision (c) and
25 subject to appropriations, the department shall implement a
26 prospective payment system as part of a state-administered
27 performance-based child welfare system in a county with a
28 population of not less than 575,000 or more than 750,000, for
29 foster care case management in accordance with section 503 of



1 article X of 2014 PA 252. The county is only required to contribute
2 to foster care services payments in an amount that does not exceed
3 the average of the annual net contribution made by the county for
4 cases received under section 2(b) of chapter XIIIA of the probate
5 code of 1939, 1939 PA 288, MCL 712A.2, in the 5 previous fiscal
6 years before October 1, 2015. The prospective payment system as
7 part of the state-administered performance-based child welfare
8 system shall be implemented as described in this subdivision but
9 shall not include in-home care service funding.

10 (i) Subdivision (h) only impacts child abuse and child neglect
11 services and not juvenile justice program funding.

12 (j) Beginning October 1, 2021 **and ending September 30, 2024,**
13 the state shall pay 100% of the cost to provide juvenile justice
14 services when a court exercises jurisdiction over a juvenile who is
15 17 years of age, but under the age of 18 at the time of the
16 offense. The costs must include all expenditures under subdivision
17 (b) until jurisdiction is terminated, for youth under section 2(a)
18 and (d) of chapter XIIIA of the probate code of 1939, 1939 PA 288,
19 MCL 712A.2. There shall be no change in funding provided for
20 juveniles who are under 17 years old at the time of the offense.

21 ~~(5) Beginning October 1, 2025, the rate of reimbursement paid~~
22 ~~by the state for all juveniles is equal to the quotient of the~~
23 ~~following, expressed as a percentage, using actual expenditures for~~
24 ~~the fiscal years ending September 30, 2022, September 30, 2023, and~~
25 ~~September 30, 2024:~~

26 ~~(a) The sum of both of the following:~~

27 ~~(i) Total state expenditures under the reimbursement rate~~
28 ~~established under subsection (4) (c) for juveniles under 17 years of~~
29 ~~age at the time of offense.~~



1 ~~(ii) Total expenditures for juveniles 17 years of age under~~
2 ~~this section.~~

3 ~~(b) The sum from subdivision (a) divided by total expenditures~~
4 ~~under this section for all eligible juveniles.~~

5 (5) ~~(6)~~—The purposes for which funding under this section
6 shall be distributed as provided under subsection (4) may be
7 allowed unless otherwise accessible and available by other public
8 assistance programs necessary to achieve the goals and outcomes for
9 in-home care or out-of-home care. Reimbursement shall not be made
10 for costs associated with an otherwise eligible child or family, or
11 both, if the reason for the unavailability of public assistance is
12 due to intentional program violations and disqualification of any
13 public assistance.

14 (6) ~~(7)~~—All service providers shall submit a request for
15 payment within 1 calendar year of the date of service. A request
16 for payment submitted after 1 calendar year from the date of
17 service requires the provider to submit an exception request to the
18 county or the department for approval or denial.

19 (7) ~~(8)~~—The county or the department is not subject to an
20 offset, chargeback, or reimbursement liability when a child care
21 fund cost is approved by the county or the department for payment
22 after 1 year from the date of service.

23 (8) ~~(9)~~—The county is not subject to an offset, chargeback, or
24 reimbursement liability for prior expenditures resulting from an
25 error in foster care fund source determinations.

26 (9) ~~(10)~~—The department is liable for the costs of all
27 juvenile justice services in a county that is a county juvenile
28 agency other than county juvenile agency services.

29 (10) ~~(11)~~—The department shall establish guidelines for the



1 development of county juvenile justice service plans in counties
2 that are not county juvenile agencies.

3 (11) ~~(12)~~—A county that is not a county juvenile agency and
4 receives state funds for in-home or out-of-home care of children
5 ~~shall~~**must** submit reports to the department at least quarterly or
6 as the department otherwise requires. The reports ~~shall~~**must** be
7 submitted on forms provided by the executive director and ~~shall~~
8 **must** include the number of children receiving foster care services
9 and the number of days of care provided.

10 (12) ~~(13)~~—The department shall maintain a reporting system
11 providing that reimbursement under subsection (4)(c) shall be made
12 only on submission of billings based on care given to a specific,
13 individual child.

14 (13) From the funds received in subsection (4)(c), a county
15 must do all of the following:

16 (a) Adopt a validated risk screening tool to guide diversion
17 and consent calendar decisions.

18 (b) Adopt a validated risk assessment tool to use before
19 disposition.

20 (c) Adopt a detention screening tool to inform the use of
21 secure detention.

22 (d) Utilize research-based juvenile-specific probation
23 standards as developed and approved by the state court
24 administrative office.

25 (e) Employ a local quality assurance specialist to support the
26 county with implementing research-based practices, excluding
27 counties or tribes receiving the basic grant.

28 (14) The department shall promulgate rules, policies, and
29 practices to implement the requirements of subsection (13) and to



1 oversee compliance with these requirements by counties and tribes.

2 (15) The department, in consultation with the state court
3 administrative office, must establish performance measures for
4 evaluating county adherence to requirements set forth in subsection
5 (13) and for evaluating the goals of the child care fund more
6 generally. Beginning October 1, 2025, the department must prepare
7 and submit an annual report to the legislature on yearly child care
8 fund juvenile justice expenditures and related performance
9 measures.



10. Children's Ombudsman 01940'23

Children: services; powers and duties of the child advocate;
modify.

Children: services; Children: protection; Children: child abuse or
child neglect;

HOUSE BILL NO. _____

A bill to amend 1994 PA 204, entitled
"The children's ombudsman act,"
by amending the title and sections 1, 2, 3, 4, 5, 5a, 6, 7, 8, 9,
10, 11, and 12 (MCL 722.921, 722.922, 722.923, 722.924, 722.925,
722.925a, 722.926, 722.927, 722.928, 722.929, 722.930, 722.931, and
722.932), the title and sections 3, 5, and 11 as amended by 2004 PA
560, sections 2 and 6 as amended by 2020 PA 186, sections 4 and 10
as amended by 2014 PA 243, section 5a as amended by 2014 PA 455,
sections 7 and 8 as amended by 2013 PA 38, and section 9 as amended



by 2020 PA 185.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to establish the ~~children's ombudsman~~ office of the
3 **child advocate**; and to prescribe the powers and duties of the
4 ~~children's ombudsman~~, **child advocate**, certain state departments and
5 officers, and certain county and private agencies serving children,
6 **and certain residential facilities providing juvenile justice**
7 **services**; and to provide remedies from certain administrative acts.

8 Sec. 1. This act ~~shall be known and may be cited as "the~~
9 ~~children's ombudsman~~ **the "office of the child advocate act"**.

10 Sec. 2. As used in this act:

11 (a) "Administrative act" includes an action, omission,
12 decision, recommendation, practice, or other procedure of the
13 department, an adoption attorney, ~~or~~ a child placing agency, **or a**
14 **residential facility**, with respect to a particular child related to
15 adoption, foster care, ~~or~~ protective services, **or juvenile justice**
16 **services**.

17 (b) "Adoption attorney" means that term as defined in section
18 22 of the adoption code, MCL 710.22.

19 (c) "Adoption code" means the Michigan adoption code, chapter
20 X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

21 (d) "Central registry" means that term as defined in section 2
22 of the child protection law, MCL 722.622.

23 (e) "Child" means an individual under the age of 18.

24 (f) "Child abuse" and "child neglect" mean those terms as
25 defined in section 2 of the child protection law, MCL 722.622.

26 (g) "Child advocate" or "advocate" means the individual
27 appointed to the office of child advocate under section 3.



1 (h) ~~(g)~~ "Child caring institution" means that term as defined
2 in section 1 of 1973 PA 116, MCL 722.111.

3 (i) ~~(h)~~ "Child placing agency" means an organization licensed
4 or approved by the department to receive children for placement in
5 private family homes for foster care or adoption and to provide
6 services related to adoption.

7 ~~(i) "Complainant" means an individual who makes a complaint as
8 provided in section 5.~~

9 (j) "Child protection law" means the child protection law,
10 1975 PA 238, MCL 722.621 to 722.638.

11 ~~(k) "Children's ombudsman" or "ombudsman" means the individual
12 appointed to the office of children's ombudsman under section 3.~~

13 (k) ~~(l)~~ "Closed session" means that term as defined in section
14 2 of the open meetings act, 1976 PA 267, MCL 15.262.

15 (l) "Complainant" means an individual who makes a complaint as
16 provided in section 5.

17 (m) "Department" means the department of health and human
18 services.

19 (n) "Foster care" means care provided to a child in a foster
20 family home, foster family group home, or child caring institution
21 licensed by the department under 1973 PA 116, MCL 722.111 to
22 722.128, or care provided to a child in a relative's home under a
23 court order.

24 (o) "Foster parent's bill of rights law" means the foster
25 parent's bill of rights law created in section 8a of the foster
26 care and adoption services act, 1994 PA 203, MCL 722.958a.

27 (p) "Full investigation" means an act of fact finding,
28 document review, or systematic inquiry or examination that occurs
29 after the completion of a preliminary investigation.



1 (q) "Investigation" means either a preliminary investigation
2 or a full investigation.

3 (r) **"Juvenile justice services" means that term as defined in**
4 **section 117a of the social welfare act, 1939 PA 280, MCL 400.117a.**

5 (s) ~~(r)~~ "Office" means the ~~children's ombudsman office of the~~
6 **child advocate** established under section 3.

7 (t) ~~(s)~~ "Preliminary investigation" means an act of fact
8 finding, document review, or systematic inquiry or examination to
9 determine if there is a correlation between an administrative act
10 and the death of a child or to determine if a trend or systematic
11 issue is identified that would cause the ombudsman to open a full
12 investigation.

13 (u) **"Residential facility" means a facility that provides**
14 **juvenile justice services and is state operated, county operated,**
15 **public, private and contracted, secure, or nonsecure.**

16 Sec. 3. (1) As a means of effecting changes in policy,
17 procedure, and legislation, educating the public, investigating and
18 reviewing actions of the department, child placing agencies, ~~or~~
19 child caring institutions, **or residential facilities**, monitoring
20 and ensuring compliance with relevant statutes, rules, and policies
21 pertaining to children's protective services and the placement,
22 supervision, treatment, and improving delivery of care of children
23 in foster care and adoptive homes, **and providing juvenile justice**
24 **services**, the ~~children's ombudsman office of the child advocate~~ is
25 established as an autonomous entity in the department of
26 **technology**, management, and budget.

27 (2) The governor shall appoint an individual as the ~~ombudsman,~~
28 **child advocate** with the advice and consent of the senate. The
29 individual ~~shall~~ **must** be qualified by training and experience to



1 perform the duties and exercise the powers of the ~~children's~~
2 ~~ombudsman and the children's ombudsman office~~ **child advocate and**
3 **the office of the child advocate** as provided in this act.

4 (3) The governor may remove the ~~children's ombudsman~~ **child**
5 **advocate** from office for cause that includes, but is not limited
6 to, incompetency to properly exercise duties, official misconduct,
7 habitual or willful neglect of duty, or other misfeasance or
8 malfeasance in connection with the operation of the office of the
9 ~~children's ombudsman~~ **child advocate**. The governor ~~shall~~ **must**
10 report the reason for the removal to the legislature.

11 (4) The ~~children's ombudsman serving in office on the~~
12 ~~effective date of the amendatory act that added this subsection~~
13 ~~shall serve~~ **child advocate serves** at the pleasure of the governor.

14 Sec. 4. (1) The ~~ombudsman~~ **child advocate** shall establish
15 procedures for the office for budgeting, expending money, and
16 employing personnel according to the management and budget act,
17 1984 PA 431, MCL 18.1101 to 18.1594. Subject to annual
18 appropriations, the ~~ombudsman shall~~ **child advocate must** employ
19 sufficient personnel to carry out the duties and powers prescribed
20 by this act.

21 (2) The ~~ombudsman shall~~ **child advocate must** establish
22 procedures for receiving and processing complaints from
23 complainants and individuals not meeting the definition of
24 complainant, conducting investigations, holding informal hearings,
25 and reporting findings and recommendations resulting from
26 investigations.

27 (3) Personnel employed by the office of the ~~children's~~
28 ~~ombudsman shall receive mandatory training conducted by the~~
29 ~~Michigan domestic violence prevention and treatment board in~~



1 ~~domestic violence and in handling complaints of~~ **child advocate**
2 **shall receive training in the areas of** child abuse or child neglect
3 ~~that involve a history of domestic violence, as determined by the~~
4 **child advocate.**

5 (4) Any individual may submit a complaint to the ~~ombudsman-~~
6 **child advocate.** The ~~ombudsman-~~ **child advocate** has the sole
7 discretion and authority to determine if a complaint falls within
8 his or her duties and powers to investigate and if a complaint
9 involves an administrative act. The ~~ombudsman-~~ **child advocate** may
10 initiate an investigation without receiving a complaint. The
11 ~~ombudsman-~~ **child advocate** may initiate an investigation upon receipt
12 of a complaint from an individual not meeting the definition of
13 complainant. An individual not meeting the definition of
14 complainant is not entitled to receive information under this act
15 as if he or she is a complainant. The individual is entitled to
16 receive the **published findings and** recommendations of the ~~ombudsman~~
17 **child advocate** and the department's **or the residential facility's**
18 response to the recommendations of the ~~ombudsman-~~ **child advocate** in
19 accordance with state and federal law. During the course of an
20 investigation, the ~~ombudsman-~~ **child advocate** may refer a case to the
21 department if the ~~ombudsman-~~ **child advocate** determines that the
22 department received a complaint on the case, but did not conduct a
23 ~~field-an~~ investigation. If the ~~ombudsman-~~ **child advocate** refers a
24 case to the department, the department ~~shall-~~ **must** conduct a ~~field~~
25 **an** investigation of the case or provide notice to the ~~ombudsman~~
26 **child advocate** why a ~~field-an~~ investigation was not conducted, or
27 what alternative steps may have been taken to address the
28 situation. If a ~~field-an~~ investigation has been conducted, the
29 department ~~shall-~~ **must** report the results to the ~~ombudsman-~~ **child**

1 **advocate.**

2 (5) The ~~ombudsman shall~~ **child advocate must** notify the
3 department **or residential facility** of any immediate safety concerns
4 regarding a child or children who are part of an active or open
5 child protective services or foster care case. This notification
6 ~~shall~~ **must** occur as soon as possible, but not later than 1 business
7 day after the ~~ombudsman~~ **child advocate** becomes aware of the
8 concerns.

9 Sec. 5. All of the following individuals may make a complaint
10 to the ~~ombudsman~~ **child advocate** with respect to a particular child,
11 alleging that an administrative act is contrary to law, rule, or
12 policy, imposed without an adequate statement of reason, or based
13 on irrelevant, immaterial, or erroneous grounds:

14 (a) The child, if he or she is able to articulate a complaint.

15 (b) A biological parent of the child.

16 (c) A foster parent of the child.

17 (d) An adoptive parent or a prospective adoptive parent of the
18 child.

19 (e) A legally appointed guardian of the child.

20 (f) A guardian ad litem of the child.

21 (g) An adult who is related to the child within the fifth
22 degree by marriage, blood, or adoption, as defined in section 22 of
23 the adoption code, MCL 710.22.

24 (h) A Michigan legislator.

25 (i) An individual required to report child abuse or child
26 neglect under section 3 of the child protection law, ~~1975 PA 238,~~
27 MCL 722.623.

28 (j) **A judge for a juvenile receiving juvenile justice**
29 **services.**



1 (k) The governor.

2 (l) ~~(j)~~ An attorney for any individual described in
3 subdivisions (a) to ~~(g)~~ (k).

4 Sec. 5a. The ~~children's ombudsman has the authority~~ **child**
5 **advocate is authorized** to do all of the following:

6 (a) Pursue all necessary action, including, but not limited
7 to, legal action, to protect the rights and welfare of a child
8 under the jurisdiction, control, or supervision of the department,
9 the Michigan children's institute, the family division of circuit
10 court under section 2(a)(1) of chapter XIIIA of the probate code of
11 1939, 1939 PA 288, MCL 712A.2, a child caring institution, ~~or~~ a
12 child placing agency, **or a residential facility or a child who is**
13 **the victim in a child protective services maltreatment in care**
14 **investigation. A court's placement decision is not subject to the**
15 **child advocate's authority.**

16 (b) Pursue legislative advocacy in the best interests of
17 children.

18 (c) Review policies and procedures relating to the
19 department's **or a residential facility's** involvement with children
20 and make recommendations for improvement.

21 (d) Subject to an appropriation of funds, commence and conduct
22 investigations into alleged violations of the foster parent's bill
23 of rights law.

24 (e) **Mediate issues and educate the public regarding complaints**
25 **dealing with certain county and private agencies serving children,**
26 **maltreatment in care investigations, and investigations of lack of**
27 **or insufficient services regarding a residential facility.**

28 Sec. 6. (1) The ~~ombudsman~~ **child advocate** may do all of the
29 following in relation to a child who may be a victim of child abuse



1 or child neglect, including a child who may have died as a result
2 of suspected child abuse or child neglect:

3 (a) Upon his or her own initiative or upon receipt of a
4 complaint, investigate an administrative act that is alleged to be
5 contrary to law or rule, contrary to policy of the department, ~~or a~~
6 child placing agency, **or a residential facility**, imposed without an
7 adequate statement of reason, or based on irrelevant, immaterial,
8 or erroneous grounds. The ~~ombudsman~~**child advocate** has sole
9 discretion to determine if a complaint involves an administrative
10 act.

11 (b) Decide, in his or her discretion, whether to investigate
12 an administrative act.

13 (c) Upon his or her own initiative or upon receipt of a
14 complaint and subject to an appropriation of funds, investigate an
15 alleged violation of the foster parent's bill of rights law.

16 (d) Except as otherwise provided in this subdivision, access
17 records and reports necessary to carry out the ~~ombudsman's~~**child**
18 **advocate's** powers and duties under this act to the same extent and
19 in the same manner as provided to the department under the
20 provisions of the child protection law. The ~~ombudsman~~**child**
21 **advocate** must be provided access to medical records in the same
22 manner as access is provided to the department under section 16281
23 of the public health code, 1978 PA 368, MCL 333.16281. The
24 ~~ombudsman shall~~**child advocate must** be provided access to mental
25 health records in the same manner as access is provided to the
26 department in section 748a of the mental health code, 1974 PA 258,
27 MCL 330.1748a, subject to section 9. The ~~ombudsman~~**child advocate**
28 may request substance use disorder records if the ~~ombudsman~~**child**
29 **advocate** obtains a valid consent or a court order under 42 CFR part



1 2. The ~~ombudsman~~**child advocate** is subject to the same standards
2 for safeguarding the confidentiality of information under this
3 section and the same sanctions for unauthorized release of
4 information as the department. In the course of a child fatality
5 investigation, the ~~ombudsman~~**child advocate** may access records from
6 the court of jurisdiction, attorney general, prosecuting attorney,
7 or any attorney retained by the department and reports from a
8 county child fatality review team to the same extent and in the
9 same manner as provided to the department under state law.

10 (e) Request a subpoena from a court requiring the production
11 of a record or report necessary to carry out the ~~ombudsman's~~**child**
12 **advocate's** duties and powers, including a child fatality
13 investigation. If the person to whom a subpoena is issued fails or
14 refuses to produce the record or report, the ~~ombudsman~~**child**
15 **advocate** may petition the court for enforcement of the subpoena.

16 (f) Hold informal hearings and request that individuals appear
17 before the ~~ombudsman~~**child advocate** and give testimony or produce
18 documentary or other evidence that the ~~ombudsman~~**child advocate**
19 considers relevant to a matter under investigation.

20 (g) Make recommendations to the governor and the legislature
21 concerning the need for children's protective services, adoption,
22 ~~or~~ foster care, **or juvenile justice services** legislation, policy,
23 or practice without prior review by other offices, departments, or
24 agencies in the executive branch in order to facilitate rapid
25 implementation of recommendations or for suggested improvements to
26 the recommendations. No other office, department, or **child placing**
27 agency shall prohibit the release of ~~an ombudsman's~~**a child**
28 **advocate's** recommendation to the governor or the legislature.

29 (2) The ~~ombudsman shall~~**child advocate must** conduct a



1 preliminary investigation into all child fatality cases that
2 occurred or are alleged to have occurred due to child abuse or
3 child neglect in 1 or more of the following situations:

4 (a) A child died during an active child protective services
5 investigation or open services case, or there was an assigned or
6 rejected child protective services complaint within 24 months
7 immediately preceding the child's death.

8 (b) A child died while in foster care, unless the death
9 resulted from natural causes and there was not a previous child
10 protective services or licensing complaint concerning the foster
11 home.

12 (c) A child was returned home from foster care and there is an
13 active foster care case.

14 (d) The foster care case involving the deceased child or
15 sibling was closed within 24 months immediately preceding the
16 child's death.

17 **(e) A child died while committed to a residential facility.**

18 (3) Upon completing a preliminary investigation into a child
19 fatality case described under subsection (2), the ~~ombudsman shall~~
20 **child advocate must** determine whether a full investigation is
21 necessary. If the ~~ombudsman~~**child advocate** determines a full
22 investigation is necessary, he or she ~~shall~~**must** open a full
23 investigation into the child fatality case described under
24 subsection (2).

25 (4) Subject to state appropriations, a full investigation
26 under subsection (3) must be completed within 12 months after the
27 ~~ombudsman~~**child advocate** opens that child fatality case for a full
28 investigation.

29 Sec. 7. (1) Upon deciding to investigate a complaint, from a



1 complainant and an individual not meeting the definition of
2 complainant, the ~~ombudsman shall~~ **child advocate must** notify the
3 complainant or the individual not meeting the definition of
4 complainant of the decision to investigate and ~~shall~~ **must** notify
5 the department, adoption attorney, ~~or~~ child placing agency, **or**
6 **residential facility** of the intention to investigate. If the
7 ~~ombudsman~~ **child advocate** declines to investigate a complaint or
8 continue an investigation, the ~~ombudsman shall~~ **child advocate must**
9 notify the complainant or the individual not meeting the definition
10 of complainant and the department, ~~or~~ child placing agency, **or**
11 **residential facility** of the decision and of the reasons for the
12 ~~ombudsman's~~ **child advocate's** action.

13 (2) The ~~ombudsman shall~~ **child advocate must** advise a
14 complainant of administrative remedies and may advise the
15 individual to pursue all administrative remedies or channels of
16 complaint open to the complainant before pursuing a complaint with
17 the ~~ombudsman~~ **child advocate**. Subsequent to the administrative
18 processing of a complaint, the ~~ombudsman~~ **child advocate** may conduct
19 further investigations of a complaint upon the request of the
20 complainant or upon the ~~ombudsman's~~ **child advocate's** own
21 initiative.

22 (3) If the ~~ombudsman~~ **child advocate** finds in the course of an
23 investigation that an individual's action is in violation of state
24 or federal criminal law, the ~~ombudsman shall~~ **child advocate must**
25 immediately report that fact to the county prosecutor or the
26 attorney general. If the complaint is against a child placing
27 agency **or residential facility**, the ~~ombudsman shall~~ **child advocate**
28 **must** refer the matter to the department for further action with
29 respect to licensing.



1 (4) The ~~ombudsman~~ **child advocate** may file a petition on behalf
2 of a child requesting the court to take jurisdiction under section
3 2(b) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
4 712A.2, or a petition for termination of parental rights under
5 section 19b of chapter XIIIA of the probate code of 1939, 1939 PA
6 288, MCL 712A.19b, if the ~~ombudsman~~ **child advocate** is satisfied
7 that the complainant has contacted the department, the prosecuting
8 attorney, the child's attorney, and the child's guardian ad litem,
9 if any, and that none of these persons intend to file a petition as
10 described in this subsection.

11 Sec. 8. (1) The department, ~~and a child placing agency, shall~~
12 **and a residential facility must** do all of the following:

13 (a) Upon the ~~ombudsman's~~ **child advocate's** request, grant the
14 ~~ombudsman~~ **child advocate** or his or her designee access to all
15 information, records, and documents in the possession of the
16 department, ~~or child placing agency, or residential facility~~ that
17 the ~~ombudsman~~ **child advocate** considers relevant and necessary in an
18 investigation.

19 (b) Assist the ~~ombudsman~~ **child advocate** to obtain the
20 necessary releases of those documents that are specifically
21 restricted.

22 (c) Upon the ~~ombudsman's~~ **child advocate's** request, provide the
23 ~~ombudsman~~ **child advocate** with progress reports concerning the
24 administrative processing of a complaint.

25 (d) Upon the ~~ombudsman's~~ **child advocate's** request, provide the
26 ~~ombudsman~~ **child advocate** information he or she requests under
27 subdivision (a) within 10 business days after the request. If the
28 department determines that release of the information would violate
29 federal or state law, the ~~ombudsman shall~~ **child advocate must** be



1 notified of that determination within the same 10-day deadline.

2 (2) The department, an attorney involved with an adoption, ~~and~~
3 a child placing agency, ~~shall~~ **and a residential facility must**
4 provide information to a biological parent, **legal guardian,**
5 prospective adoptive parent, or foster parent regarding the
6 provisions of this act.

7 (3) The ~~ombudsman,~~ **child advocate,** the department, and the
8 department of technology, management, and budget ~~shall~~ **must** ensure
9 that the ~~ombudsman~~ **child advocate** has access, in the ~~ombudsman's~~
10 **child advocate's** own office, to departmental computer networks
11 pertaining to protective services, foster care, adoption, juvenile
12 delinquency, ~~and~~ the central registry, **and juvenile justice**
13 **services,** unless otherwise prohibited by state or federal law, or
14 the release of the information to the ~~ombudsman~~ **child advocate**
15 would jeopardize federal funding. The cost of implementing this
16 subsection ~~shall~~ **must** be negotiated among the office of the
17 ~~children's ombudsman,~~ **child advocate,** the department, and the
18 department of technology, management, and budget.

19 (4) **A residential facility must conspicuously post in an area**
20 **accessible to residents, employees, and visitors a description of**
21 **the office of child advocate services and the contact information**
22 **for the purpose of filing a complaint.**

23 (5) During the course of an investigation conducted by the
24 child advocate, the residential facility must ensure that a
25 resident has anonymity, privacy, and procedures in place to
26 accommodate interviews conducted by the office of child advocate.

27 Sec. 9. (1) Subject to subsections (2) through (7) and except
28 as provided in subsection (8), a record of the ~~children's~~
29 ~~ombudsman's~~ **child advocate's** office is confidential, shall only be



1 used for purposes set forth in this act, is not subject to court
2 subpoena, and is not discoverable in a legal proceeding. A record
3 of the ~~children's ombudsman's~~ **child advocate's** office is exempt
4 from disclosure under the freedom of information act, 1976 PA 442,
5 MCL 15.231 to 15.246. If the ~~ombudsman~~ **child advocate** identifies
6 action or inaction by the state, through its agencies or services,
7 that failed to protect children, the ~~ombudsman shall~~ **child advocate**
8 **must** provide his or her findings and recommendations to the **child**
9 **placing** agency affected by those findings, and make those findings
10 and recommendations available to the complainant and the
11 legislature upon request to the extent consistent with state or
12 federal law. The ~~ombudsman~~ **child advocate** must not disclose any
13 information that impairs the rights of the child or the child's
14 parents or guardians.

15 (2) The ~~ombudsman~~ **child advocate** may release information to a
16 complainant or to a closed session of a legislative committee that
17 has jurisdiction over family and children's services issues **or**
18 **juvenile justice issues** regarding the department's handling of a
19 case under the child protection law that is obtained or generated
20 during an investigation conducted by the office.

21 (3) Unless otherwise part of the public record, the office
22 must not release any of the following confidential information to
23 the general public:

24 (a) Records relating to mental health evaluation or treatment
25 of a parent or child.

26 (b) Records relating to the evaluation or treatment of a
27 substance use disorder of a parent or child.

28 (c) Records relating to medical diagnosis or treatment of a
29 parent or child.



1 (d) Records relating to domestic violence-related services and
2 sexual assault services provided to a parent or child.

3 (e) Records relating to educational services provided to a
4 parent or child.

5 (4) Notwithstanding subsection (3), if the ~~ombudsman~~**child**
6 **advocate** determines that disclosure of confidential information is
7 necessary to identify, prevent, or respond to the child abuse or
8 child neglect of a child, the ~~ombudsman~~**child advocate** may disclose
9 information in his or her possession to the department, a court, a
10 law enforcement agency, or a prosecuting attorney investigating a
11 report of known or suspected child abuse or child neglect. The
12 ~~ombudsman~~**child advocate** shall not release the address, telephone
13 number, or other information regarding the whereabouts of a victim
14 or suspected victim of domestic violence unless ordered to by a
15 court.

16 (5) Except as provided in subsection (4), the ~~ombudsman shall~~
17 **child advocate must** not disclose information relating to an ongoing
18 law enforcement investigation or an ongoing children's protective
19 services investigation. The ~~ombudsman~~**child advocate** may release
20 the results of its investigation to a complainant, or an individual
21 not meeting the definition of complainant, if the ~~ombudsman~~**child**
22 **advocate** receives notification that releasing the results of its
23 investigation is not related to and will not interfere with an
24 ongoing law enforcement investigation or ongoing child protective
25 services investigation.

26 (6) The ~~ombudsman shall~~**child advocate must** not disclose the
27 identity of an individual making a child abuse or child neglect
28 complaint under the child protection law unless that individual's
29 written permission is obtained first or a court has ordered the



1 ~~ombudsman~~ **child advocate** to release that information.

2 (7) The ~~ombudsman~~ **child advocate** may release an individual's
3 identity who makes an intentionally false report of child abuse or
4 child neglect under the child protection law.

5 (8) Not more than 30 days after the case closure date of a
6 case investigated by the office under this act, the ~~ombudsman shall~~
7 **child advocate must** release his or her findings, recommendations,
8 and the **child placing agency or residential facility** responses, if
9 any, to the public. The ~~ombudsman shall~~ **child advocate must** redact
10 confidential information consistent with state and federal law.

11 Sec. 10. (1) The ~~ombudsman shall~~ **child advocate must** prepare a
12 report of the factual findings of an investigation and make
13 recommendations to the department, ~~or~~ the child placing agency, **or**
14 **the residential facility** if the ~~ombudsman~~ **child advocate** finds 1 or
15 more of the following:

16 (a) A matter should be further considered by the department,
17 ~~or~~ the child placing agency, **or the residential facility**.

18 (b) An administrative act or omission should be modified,
19 canceled, or corrected.

20 (c) Reasons should be given for an administrative act or
21 omission.

22 (d) Other action should be taken by the department, ~~or~~ the
23 child placing agency, **or the residential facility**.

24 (2) Before announcing a conclusion or recommendation that
25 expressly or by implication criticizes an individual, the
26 department, ~~or~~ a child placing agency, **or a residential facility**,
27 the ~~ombudsman shall~~ **child advocate must** consult with that
28 individual, the department, ~~or~~ the child placing agency, **or the**
29 **residential facility**. When publishing an opinion adverse to the



1 department, ~~or~~ child placing agency, **or residential facility**, the
2 ~~ombudsman shall~~ **child advocate must** include in the publication any
3 statement of reasonable length made to the ~~ombudsman~~ **child advocate**
4 by the department, ~~or~~ child placing agency, **or residential facility**
5 in defense or mitigation of the action. The ~~ombudsman~~ **child**
6 **advocate** may request to be notified by the department, ~~or~~ child
7 placing agency, **or residential facility**, within a specified time,
8 of any action taken on any recommendation presented.

9 (3) The ~~ombudsman shall~~ **child advocate must** notify the
10 complainant of the actions taken by the ombudsman and by the
11 department, ~~or~~ child placing agency, **or residential facility**.

12 (4) The ~~ombudsman~~ **child advocate** may provide to the
13 complainant the following information:

14 (a) A copy of the ~~ombudsman's~~ **child advocate's** report
15 regarding the investigation's findings, recommendations to the
16 department made according to the investigation, the department's
17 response to the ~~ombudsman's~~ **child advocate's** findings and
18 recommendations, and any epilogue to the ~~ombudsman's~~ **child**
19 **advocate's** report and the department's response.

20 (b) Information that has otherwise been made public.

21 (5) The ~~ombudsman~~ **child advocate** shall not release information
22 to the individual making the complaint that will endanger the
23 health or welfare of a child or another individual.

24 (6) With respect to a child fatality case investigated under
25 section 6(2) and upon review of records or other information
26 received under section 6(1)(c) or (d), in the course of a child
27 fatality investigation, if there is no ongoing child protection
28 proceeding involving a sibling of the child who died, the ~~ombudsman~~
29 ~~shall~~ **child advocate must** provide any necessary recommendations for

1 improving systemic issues that are discovered during the
2 investigation of the child fatality. The recommendations may be
3 provided to the court of jurisdiction, the state court
4 administrative office, the county child fatality review team,
5 medical professionals, **law enforcement**, or attorneys or other legal
6 professionals involved with the particular child who died. The
7 recommendations ~~shall~~ **must** also be summarized and included in the
8 annual report referenced in subsection (7).

9 (7) The ~~ombudsman shall~~ **child advocate must** submit to the
10 governor, the director of the department, and the legislature an
11 annual report on the ~~ombudsman's~~ **child advocate's** conduct,
12 including any recommendations regarding the need for legislation or
13 for change in rules or policies.

14 Sec. 11. (1) Subject to subsection (4), an official, the
15 department, ~~or a~~ child placing agency, ~~shall~~ **or a residential**
16 **facility must** not penalize any person for filing a complaint or
17 cooperating with the ~~ombudsman~~ **child advocate** in investigating a
18 complaint.

19 (2) An individual, the department, an adoption attorney, ~~or a~~
20 child placing agency, ~~shall~~ **or a residential facility must** not
21 hinder the lawful actions of the ~~ombudsman~~ **child advocate** or **his or**
22 **her** employees. ~~of the ombudsman.~~

23 (3) A report by the ~~ombudsman~~ **child advocate** is not subject to
24 prior approval by a person outside of the office.

25 (4) An individual who intentionally makes a false complaint of
26 child abuse or **child** neglect under this act is subject to the
27 penalties contained in section 13(5) of the child protection law,
28 MCL 722.633.

29 Sec. 12. The authority granted the ~~ombudsman~~ **child advocate**



1 under this act is in addition to the authority granted under the
2 provisions of any other act or rule under which the remedy or right
3 of appeal or objection is provided for a person, or any procedure
4 provided for the inquiry into or investigation of any matter. The
5 authority granted the ~~ombudsman~~ **child advocate** does not limit or
6 affect the remedy or right of appeal or objection and is not an
7 exclusive remedy or procedure.



11. Competency Evaluations 01594'23

Juveniles: juvenile justice services; juvenile competency evaluations and restoration services, update.

Juveniles: juvenile justice services; Juveniles: other;

HOUSE BILL NO. _____

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"

by amending sections 18p and 18s of chapter XIIIA (MCL 712A.18p and 712A.18s), as added by 2012 PA 541.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XIIIA

2

Sec. 18p. (1) The court shall order the prosecuting attorney

3

to provide to the juvenile's attorney all information related to

4

competency and shall order the prosecuting attorney and juvenile's

5

attorney to submit to the qualified juvenile forensic mental health



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11. Competency Evaluations 01594'23

2

1 examiner any information considered relevant to the competency
2 evaluation, including, but not limited to:

3 (a) The names and addresses of all attorneys involved.

4 (b) Information about the alleged offense.

5 (c) Any information about the juvenile's background in the
6 prosecuting attorney's possession.

7 (2) Except as prohibited by federal law, the court shall
8 require the juvenile's attorney to provide any available records of
9 the juvenile or other information relevant to the evaluation,
10 including, but not limited to, any of the following:

11 (a) Psychiatric records.

12 (b) School records.

13 (c) Medical records.

14 (d) Child protective services records.

15 (3) The requirement to provide records or information under
16 subsection (1) or (2) does not limit, waive, or abrogate the work
17 product doctrine or the attorney-client privilege, and release of
18 records and information under subsection (1) or (2) is subject to
19 the work product doctrine and the attorney-client privilege.

20 (4) All information required under subsections (1) and (2)
21 must be provided to the qualified juvenile forensic mental health
22 examiner within 10 days after the court issues the order for the
23 competency evaluation. If possible, the information required under
24 this section ~~shall~~**must** be received before the juvenile's
25 competency evaluation or the commencement of the competency
26 evaluation in an outpatient setting.

27 (5) A qualified juvenile forensic mental health examiner who
28 conducts a competency evaluation shall submit a written report to
29 the court not later than 30 days from receipt of the court order



1 requiring the competency evaluation. The evaluation ~~shall~~**must** be
2 based on a juvenile adjudicative competence interview (JACI) or
3 another interview method approved by the court. The report ~~shall~~
4 **must** contain, but not be limited to, the following:

5 (a) A description of the nature, content, and extent of the
6 examination, including, but not limited to, all of the following:

7 (i) A description of assessment procedures, techniques, and
8 tests used.

9 (ii) Available medical, educational, and court records
10 reviewed.

11 (iii) Social, clinical, developmental, and legal history as
12 available.

13 (b) A clinical assessment that includes, but is not limited
14 to, the following:

15 (i) A mental status examination.

16 (ii) The diagnosis and functional impact of mental illness,
17 developmental disability, or cognitive impairment. If the juvenile
18 is taking medication, the impact of the medication on the
19 juvenile's mental state and behavior.

20 (iii) An assessment of the juvenile's intelligence.

21 (iv) The juvenile's **physical and mental** age, maturity level,
22 developmental stage, and decision-making abilities.

23 (v) Whether the juvenile has any other factor that affects
24 competence.

25 (c) A description of abilities and deficits in the following
26 mental competency functions related to the juvenile's competence to
27 proceed:

28 (i) The ability to factually as well as rationally understand
29 and appreciate the nature and object of the proceedings, including,



11. Competency Evaluations 01594'23

1 but not limited to, all of the following:

2 (A) An ability to understand the role of the participants in
3 the court process, including ~~the~~ the roles of the judge, the
4 juvenile's attorney, the prosecuting attorney, the probation
5 officer, witnesses, and the jury, and to understand the adversarial
6 nature of the process.

7 (B) An ability to appreciate the charges and understand the
8 seriousness of the charges.

9 (C) An ability to understand and realistically appraise the
10 likely outcomes.

11 (D) An ability to extend thinking into the future.

12 (ii) The ability to render meaningful assistance to the
13 juvenile's attorney in the preparation of the case, including, but
14 not limited to, all of the following:

15 (A) An ability to disclose to an attorney a reasonably
16 coherent description of facts and events pertaining to the charge,
17 as perceived by the juvenile.

18 (B) An ability to consider the impact of ~~his or her~~ **the**
19 **juvenile's** action on others.

20 (C) Verbal articulation abilities or the ability to express
21 himself or herself in a reasonable and coherent manner.

22 (D) Logical decision-making abilities, particularly
23 multifactored problem-solving or the ability to take several
24 factors into consideration in making a decision.

25 (E) An ability to reason about available options by weighing
26 the consequences, including weighing pleas, waivers, and
27 strategies.

28 (F) An ability to display appropriate courtroom behavior.

29 (G) **An ability to comply with and benefit from court rules and**



1 court orders.

2 (d) If necessary, a referral for the juvenile to receive
3 individualized, sustainable, and community-based mental health and
4 behavioral health services.

5 (6) The qualified juvenile forensic mental health examiner
6 shall provide the court with an opinion about the juvenile's
7 competency to proceed. If the qualified juvenile forensic mental
8 health examiner determines that the juvenile is incompetent to
9 proceed, the qualified juvenile forensic mental health examiner
10 shall comment on the nature of any psychiatric or psychological
11 disorder or cognitive impairment, the prognosis, and the services
12 needed **and expertise required** to restore the juvenile to
13 competency, if possible, within a projected time frame.

14 (7) The court in its discretion may ~~, for good cause,~~ grant
15 the qualified juvenile forensic mental health examiner a ~~30-day~~ an
16 extension ~~in filing of up to another 30 days to file~~ the competency
17 evaluation report ~~under subsection (5) if 1 or more of the~~
18 following apply:

19 (a) The inability to find an available qualified juvenile
20 forensic mental health examiner for at least 21 days after the
21 court ordered a competency evaluation.

22 (b) The qualified juvenile forensic mental health examiner had
23 an unexpected emergency that prevented the completion of the
24 juvenile's interview or the filing of the report.

25 (c) The juvenile did not complete the juvenile's interview.

26 (8) Copies of the written report ~~shall~~ **must** be provided by the
27 court to the juvenile's attorney, the prosecuting attorney, and any
28 guardian ad litem for the juvenile not later than 5 working days
29 after receipt of the report by the court.



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

4 (a) If the offense is a traffic offense or a misdemeanor other
5 than a serious misdemeanor, the matter ~~shall~~**must** be dismissed.

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

8 (c) If the offense is a felony, the **court may dismiss the**
9 **matter or suspend the** proceedings against the juvenile. ~~shall be~~
10 ~~further suspended.~~

11 (2) If proceedings are suspended ~~because the juvenile is~~
12 ~~incompetent to proceed but the court finds that the juvenile may be~~
13 ~~restored to competency in the foreseeable future,~~ **under subsection**
14 **(1)**, all of the following apply:

15 (a) Before issuing a restoration order, the court shall hold a
16 hearing to determine the least restrictive environment for
17 completion of the restoration.

18 (b) The court may issue a restoration order ~~that is valid for~~
19 60 days from the date of the initial finding of incompetency or
20 until 1 of the following occurs, whichever occurs first:

21 (i) The qualified juvenile forensic mental health examiner,
22 based on information provided by the qualified restoration
23 provider, **reevaluates the juvenile and** submits a report **under**
24 **subdivision (d)** that the juvenile has regained competency or that
25 there is no substantial probability that the juvenile will regain
26 competency. ~~within the period of the order.~~

27 (ii) The charges are dismissed.

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

29 (c) Following issuance of the restoration order, the qualified



1 restoration provider shall **provide the juvenile services and** submit
2 a report to the court and the qualified juvenile forensic mental
3 health examiner that ~~includes the information required under~~
4 ~~section 18p of this chapter.~~ **provides information on the services**
5 **the qualified restoration provider provided to restore competency,**
6 **the juvenile's engagement and success with those services, and the**
7 **qualified restoration provider opinion under subparagraph (i) or**
8 **(ii).** The report ~~shall~~ **must** be submitted to the court and the
9 qualified juvenile forensic mental health examiner every 30 days,
10 or sooner if and at the time either of the following occurs:

11 (i) The qualified restoration provider ~~determines~~ **believes** that
12 the juvenile is no longer incompetent to proceed **and must be**
13 **reevaluated by the qualified juvenile forensic mental health**
14 **examiner.**

15 (ii) The qualified restoration provider ~~determines~~ **believes**
16 that there is no substantial probability that the juvenile will be
17 competent to proceed within the period of the order **and must be**
18 **reevaluated by the qualified juvenile forensic mental health**
19 **examiner.**

20 (d) The qualified juvenile forensic mental health examiner
21 shall have 30 days to re-evaluate the juvenile and submit a report
22 to the court that states that, in the qualified juvenile forensic
23 mental health examiner's professional opinion, either the juvenile
24 has regained competency or there is no substantial probability that
25 the juvenile will regain competency.

26 (3) Not later than 14 days before the expiration of the
27 initial 60-day order, the qualified restoration provider may
28 recommend to the court and the qualified juvenile forensic mental
29 health examiner that the restoration order be renewed by the court



1 for up to another 60 days. ~~, if there is a substantial probability~~
2 ~~that the juvenile will not be incompetent to proceed within the~~
3 ~~period of that renewed restoration order.~~ The restoration order and
4 any renewed restoration order shall ~~must~~ not exceed a total of 120
5 days. The court may renew the restoration order only if either of
6 the following applies:

7 (a) The juvenile has not participated in a substantial portion
8 of restoration services.

9 (b) The qualified restoration provider had an unexpected
10 emergency that prevented a substantial portion of restoration
11 services or the filing of the report.

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

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

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

21 (ii) If the court determines that commitment proceedings are
22 inappropriate, the juvenile shall ~~must~~ be released to the
23 juvenile's parent, legal guardian, or legal custodian under
24 conditions considered appropriate to the court.

25 (b) Dismiss the charges against the juvenile.

26 (5) Upon receipt of a report from a qualified juvenile
27 forensic mental health examiner that there is a substantial
28 probability that the juvenile is unable to be restored due to
29 serious emotional disturbance, the court may in its discretion,

1 except as provided under the youth rehabilitation services act,
2 1974 PA 150, MCL 803.301 to 803.309, order that mental health
3 services be provided to the juvenile by the department, ~~of~~
4 ~~community health~~, subject to the availability of inpatient care, a
5 community mental health services program, ~~the department of human~~
6 ~~services~~, a county department of human services, or another
7 appropriate mental health services provider for a period not to
8 exceed 60 days. The court shall retain jurisdiction over the
9 juvenile throughout the duration of the order. The entity ordered
10 to provide services under this subsection shall continue to provide
11 services for the duration of the period of treatment ordered by the
12 court.

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

19 (a) Renew the order for another period of treatment **for not to**
20 **exceed more than 60 days at the request of the juvenile.** The order
21 for treatment and any renewed order ~~shall~~**must** not exceed a total
22 of 120 days.

23 (b) Determine custody of the juvenile and dismiss the charges
24 against the juvenile.

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

28 (8) **No order or combination of orders issued under this**
29 **section or section 18p of this chapter shall have force and effect**



1 for a total period in excess of the maximum sentence the juvenile
2 could receive if convicted of the charges.

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

5 Enacting section 2. This amendatory act does not take effect
6 unless Senate Bill No. ____ or House Bill No. ____ (request no.
7 01594'23 a) of the 102nd Legislature is enacted into law.

11. Competency Evaluations 01594'23

Mental health: code; juvenile competency evaluations and restoration services, update.

Mental health: code; Juveniles: juvenile justice services;
Juveniles: other;

HOUSE BILL NO. _____

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 1066 and 1074 (MCL 330.2066 and 330.2074), as
added by 2012 PA 540.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1066. (1) The court shall order the prosecuting attorney
2 to provide to the juvenile's attorney all information related to
3 competency and shall order the prosecuting attorney and juvenile's
4 attorney to submit to the qualified forensic mental health examiner



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1 any information considered relevant to the competency evaluation,
2 including, but not limited to:

3 (a) The names and addresses of all attorneys involved.

4 (b) Information about the alleged offense.

5 (c) Any information about the juvenile's background in the
6 prosecuting attorney's possession.

7 (2) Except as prohibited by federal law, the court shall
8 require the juvenile's attorney to provide any available records of
9 the juvenile or other information relevant to the evaluation,
10 including, but not limited to, any of the following:

11 (a) Psychiatric records.

12 (b) School records.

13 (c) Medical records.

14 (d) Child protective services records.

15 (3) The requirement to provide records or information under
16 subsection (1) or (2) does not limit, waive, or abrogate the work
17 product doctrine or the attorney-client privilege, and release of
18 records and information under subsection (1) or (2) is subject to
19 the work product doctrine and the attorney-client privilege.

20 (4) All information required under subsections (1) and (2)
21 must be provided to the qualified forensic mental health examiner
22 within 10 days after the court issues the order for the competency
23 evaluation. If possible, the information required under this
24 section ~~shall~~**must** be received before the juvenile's competency
25 evaluation or the commencement of the competency evaluation in an
26 outpatient setting.

27 (5) A qualified forensic mental health examiner who conducts a
28 competency evaluation shall submit a written report to the court
29 not later than 30 days from receipt of the court order requiring



1 the competency evaluation. The evaluation ~~shall~~**must** be based on a
2 juvenile adjudicative competence interview (JACI) or another
3 interview method approved by the court. The report ~~shall~~**must**
4 contain, but not be limited to, the following:

5 (a) A description of the nature, content, and extent of the
6 examination, including, but not limited to, all of the following:

7 (i) A description of assessment procedures, techniques, and
8 tests used.

9 (ii) Available medical, educational, and court records
10 reviewed.

11 (iii) Social, clinical, developmental, and legal history as
12 available.

13 (b) A clinical assessment that includes, but is not limited
14 to, the following:

15 (i) A mental status examination.

16 (ii) The diagnosis and functional impact of mental illness,
17 developmental disability, or cognitive impairment. If the juvenile
18 is taking medication, the impact of the medication on the
19 juvenile's mental state and behavior.

20 (iii) An assessment of the juvenile's intelligence.

21 (iv) The juvenile's **physical and mental** age, maturity level,
22 developmental stage, and decision-making abilities.

23 (v) Whether the juvenile has any other factor that affects
24 competence.

25 (c) A description of abilities and deficits in the following
26 mental competency functions related to the juvenile's competence to
27 proceed:

28 (i) The ability to factually as well as rationally understand
29 and appreciate the nature and object of the proceedings, including,



11. Competency Evaluations 01594'23

1 but not limited to, all of the following:

2 (A) An ability to understand the role of the participants in
3 the court process, including ~~the~~ the roles of the judge, the
4 juvenile's attorney, the prosecuting attorney, the probation
5 officer, witnesses, and the jury, and to understand the adversarial
6 nature of the process.

7 (B) An ability to appreciate the charges and understand the
8 seriousness of the charges.

9 (C) An ability to understand and realistically appraise the
10 likely outcomes.

11 (D) An ability to extend thinking into the future.

12 (ii) The ability to render meaningful assistance to the
13 juvenile's attorney in the preparation of the case, including, but
14 not limited to, all of the following:

15 (A) An ability to disclose to an attorney a reasonably
16 coherent description of facts and events pertaining to the charge,
17 as perceived by the juvenile.

18 (B) An ability to consider the impact of ~~his or her~~ **the**
19 **juvenile's** action on others.

20 (C) Verbal articulation abilities or the ability to express
21 himself or herself in a reasonable and coherent manner.

22 (D) Logical decision-making abilities, particularly
23 multifactored problem-solving or the ability to take several
24 factors into consideration in making a decision.

25 (E) An ability to reason about available options by weighing
26 the consequences, including weighing pleas, waivers, and
27 strategies.

28 (F) An ability to display appropriate courtroom behavior.

29 (G) **An ability to comply with and benefit from court rules and**

1 court orders.

2 (d) If necessary, a referral for the juvenile to receive
3 individualized, sustainable, and community-based mental health and
4 behavioral health services.

5 (6) The qualified forensic mental health examiner shall
6 provide the court with an opinion about the juvenile's competency
7 to proceed. If the qualified forensic mental health examiner
8 determines that the juvenile is incompetent to proceed, the
9 qualified forensic mental health examiner shall comment on the
10 nature of any psychiatric or psychological disorder or cognitive
11 impairment, the prognosis, and the services needed and expertise
12 required to restore the juvenile to competency, if possible, within
13 a projected time frame.

14 (7) The court in its discretion may ~~, for good cause,~~ grant
15 the qualified forensic mental health examiner ~~a 30-day~~ an extension
16 ~~in filing of up to another 30 days to file~~ the competency
17 evaluation report ~~under subsection (5) if 1 or more of the~~
18 following apply:

19 (a) The inability to find an available qualified juvenile
20 forensic mental health examiner for at least 21 days after the
21 court ordered a competency evaluation.

22 (b) The qualified juvenile forensic mental health examiner had
23 an unexpected emergency that prevented the completion of the
24 juvenile's interview or the filing of the report.

25 (c) The juvenile did not complete the juvenile's interview.

26 (8) Copies of the written report ~~shall~~ must be provided by the
27 court to the juvenile's attorney, the prosecuting attorney, and any
28 guardian ad litem for the juvenile not later than 5 working days
29 after receipt of the report by the court.



11. Competency Evaluations 01594'23

1 Sec. 1074. (1) If the juvenile is incompetent to proceed, but
2 the court finds that the juvenile may be restored to competency in
3 the foreseeable future, 1 of the following applies:

4 (a) If the offense is a traffic offense or a misdemeanor other
5 than a serious misdemeanor, the matter ~~shall~~**must** be dismissed.

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

8 (c) If the offense is a felony, the **court may dismiss the**
9 **matter or suspend the** proceedings against the juvenile. ~~shall be~~
10 ~~further suspended.~~

11 (2) If proceedings are suspended ~~because the juvenile is~~
12 ~~incompetent to proceed but the court finds that the juvenile may be~~
13 ~~restored to competency in the foreseeable future,~~ **under subsection**
14 **(1)**, all of the following apply:

15 (a) Before issuing a restoration order, the court shall hold a
16 hearing to determine the least restrictive environment for
17 completion of the restoration.

18 (b) The court may issue a restoration order ~~that is valid for~~
19 60 days from the date of the initial finding of incompetency or
20 until 1 of the following occurs, whichever occurs first:

21 (i) The qualified forensic mental health examiner, based on
22 information provided by the qualified restoration provider,
23 **reevaluates the juvenile and** submits a report **under subdivision (d)**
24 that the juvenile has regained competency or that there is no
25 substantial probability that the juvenile will regain competency.
26 ~~within the period of the order.~~

27 (ii) The charges are dismissed.

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

29 (c) Following issuance of the restoration order, the qualified

1 restoration provider shall **provide the juvenile services and** submit
2 a report to the court and the qualified forensic mental health
3 examiner that ~~includes the information required under section~~
4 ~~1066.~~**provides information on the services the qualified restoration**
5 **provider provided to restore competency, the juvenile's engagement**
6 **and success with those services, and the qualified restoration**
7 **provider opinion under subparagraph (i) or (ii).** The report shall
8 **must** be submitted to the court and the qualified forensic mental
9 health examiner every 30 days, or sooner if and at the time either
10 of the following occurs:

11 (i) The qualified restoration provider ~~determines~~**believes** that
12 the juvenile is no longer incompetent to proceed **and must be**
13 **reevaluated by the qualified juvenile forensic mental health**
14 **examiner.**

15 (ii) The qualified restoration provider ~~determines~~**believes**
16 that there is no substantial probability that the juvenile will be
17 competent to proceed within the period of the order **and must be**
18 **reevaluated by the qualified juvenile mental health examiner.**

19 (d) The qualified juvenile forensic mental health examiner
20 shall have 30 days to re-evaluate the juvenile and submit a report
21 to the court that states that, in the qualified juvenile forensic
22 mental health examiner's professional opinion, either the juvenile
23 has regained competency or there is no substantial probability that
24 the juvenile will regain competency.

25 (3) Not later than 14 days before the expiration of the
26 initial 60-day order, the qualified restoration provider may
27 recommend to the court and the qualified forensic mental health
28 examiner that the restoration order be renewed by the court for **up**
29 **to another 60 days.** ~~if there is a substantial probability that~~

1 ~~the juvenile will not be incompetent to proceed within the period~~
2 ~~of that renewed restoration order.~~ The restoration order and any
3 renewed restoration order ~~shall~~**must** not exceed a total of 120
4 days. **The court may renew the restoration order only if either of**
5 **the following applies:**

6 (a) The juvenile has not participated in a substantial portion
7 of restoration services.

8 (b) The qualified restoration provider had an unexpected
9 emergency that prevented a substantial portion of restoration
10 services or the filing of the report.

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

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

17 (i) The court may direct that civil commitment proceedings be
18 initiated, as allowed under section 498d.

19 (ii) If the court determines that commitment proceedings are
20 inappropriate, the juvenile ~~shall~~**must** be released to the
21 juvenile's parent, legal guardian, or legal custodian under
22 conditions considered appropriate to the court.

23 (b) Dismiss the charges against the juvenile.

24 (5) Upon receipt of a report from a qualified forensic mental
25 health examiner that there is a substantial probability that the
26 juvenile is unable to be restored due to serious emotional
27 disturbance, the court may in its discretion, except as provided
28 under the youth rehabilitation services act, 1974 PA 150, MCL
29 803.301 to 803.309, order that mental health services be provided



1 to the juvenile by the department, subject to the availability of
2 inpatient care, a community mental health services program, ~~the~~
3 ~~department of human services,~~ a county department of human
4 services, or another appropriate mental health services provider
5 for a period not to exceed 60 days. The court shall retain
6 jurisdiction over the juvenile throughout the duration of the
7 order. The entity ordered to provide services under this subsection
8 shall continue to provide services for the duration of the period
9 of treatment ordered by the court.

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

16 (a) Renew the order for another period of treatment ~~for not to~~
17 ~~exceed more than~~ 60 days ~~at the request of the juvenile~~. The order
18 for treatment and any renewed order ~~shall~~ **must** not exceed a total
19 of 120 days.

20 (b) Determine custody of the juvenile and dismiss the charges
21 against the juvenile.

22 **(7) No order or combination of orders issued under this**
23 **section or section 1066 shall have force and effect for a total**
24 **period in excess of the maximum sentence the juvenile could receive**
25 **if convicted of the charges.**

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

28 Enacting section 2. This amendatory act does not take effect
29 unless Senate Bill No. ____ or House Bill No. ____ (request no.



1 01594'23) of the 102nd Legislature is enacted into law.



2. Diversion Act 00610'23

Juveniles: criminal procedure; use of screening tool for minors eligible for a certain diversion option; require.
Juveniles: criminal procedure; Juveniles: juvenile justice services;

HOUSE BILL NO. _____

A bill to amend 1988 PA 13, entitled
"Juvenile diversion act,"
by amending sections 2, 3, 6, and 9 (MCL 722.822, 722.823, 722.826,
and 722.829), section 2 as amended by 2019 PA 101 and section 6 as
amended by 1996 PA 137.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
2 ~~(a) "Assaultive crime" means an offense that, if committed by~~
3 ~~an adult, would constitute an offense against a person described in~~



1 ~~section 82, 83, 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350,~~
2 ~~397, 520b, 520c, 520d, 520e, 520g, 529, 529a, or 530 of the~~
3 ~~Michigan penal code, 1931 PA 328, MCL 750.82, 750.83, 750.84,~~
4 ~~750.86, 750.87, 750.88, 750.89, 750.316, 750.317, 750.321, 750.349,~~
5 ~~750.349a, 750.350, 750.397, 750.520b, 750.520c, 750.520d, 750.520e,~~
6 ~~750.520g, 750.529, 750.529a, and 750.530.~~

7 (a) ~~(b)~~ "Court" means the family division of circuit court.

8 (b) ~~(c)~~ "Divert" or "diversion" means the placement that
9 occurs when a ~~formally recorded apprehension is made by a law~~
10 enforcement agency **makes a formally recorded investigation or**
11 **apprehension** for an act by a minor that if a petition were filed
12 with the court would bring that minor within section 2(a) of
13 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,
14 and instead of petitioning the court or authorizing a petition,
15 either of the following occurs:

16 (i) The minor is released into the custody of ~~his or her the~~
17 **minor's** parent, guardian, or custodian and the investigation is
18 discontinued.

19 (ii) The minor and the minor's parent, guardian, or custodian
20 agree to work with a person or public or private organization or
21 agency that will assist the minor and the minor's family in
22 resolving the problem that initiated the investigation.

23 (c) ~~(d)~~ "Law enforcement agency" means a police department of
24 a city, village, or township, a sheriff's department, the
25 department of state police, or any other governmental law
26 enforcement agency in this state.

27 (d) ~~(e)~~ "Minor" means an individual less than 18 years of age.

28 (e) "Specified juvenile violation" means that term as defined
29 in section 2 of chapter XIIIA of the probate code of 1939, 1939 PA



1 288, MCL 712A.2.

2 Sec. 3. (1) If in the course of investigating an alleged
3 offense by a minor a petition has not been filed with the court, or
4 if a petition has not been authorized, a law enforcement official
5 or court intake worker may do 1 of the following:

6 (a) Release the minor into the custody of ~~his or her~~ **the**
7 **minor's** parent, guardian, or custodian and discontinue the
8 investigation.

9 (b) ~~Divert~~ **Subject to subsections (4) and (5), divert** the
10 matter by making an agreement ~~pursuant to~~ **under** section 5 with the
11 minor and the minor's parent, guardian, or custodian to refer the
12 minor to a person or public or private organization or agency that
13 will assist the minor and the minor's family in resolving the
14 problem that initiated the investigation.

15 (c) File a petition with the court or authorize a petition
16 that has been filed.

17 (2) A minor may be diverted only as provided in subsection
18 (1)(a) or (b) and subsection (3).

19 (3) A minor accused or charged with ~~an assaultive offense~~
20 **shall a specified juvenile violation must** not be diverted.

21 (4) **Except as otherwise provided in this subsection, before a**
22 **diversion decision is made for a minor, a risk screening tool and a**
23 **mental health screening tool must be conducted on the minor. A risk**
24 **screening tool and a mental health screening tool must not be**
25 **conducted on a minor who meets any of the following criteria:**

26 (a) **Is accused or charged with a specified juvenile violation.**

27 (b) **Is currently under supervision in the juvenile justice**
28 **system by the court or the department of health and human services.**

29 (5) **A minor must not be diverted under subsection (1)(b)**

1 unless both of the following requirements are met:

2 (a) The law enforcement official or court intake worker
3 receives the results of a risk screening tool and a mental health
4 screening tool for the minor conducted by a designated court
5 officer who is trained in those screening tools.

6 (b) The law enforcement official or court intake worker uses
7 the results of the risk screening tool and the mental health
8 screening tool, and the best interests of public safety and the
9 minor, to inform the decision to divert the minor.

10 (6) A risk screening tool and a mental health screening tool
11 described in subsections (4) and (5) must meet both of the
12 following requirements:

13 (a) Is research based and nationally validated for use with
14 minors.

15 (b) Complies with the guidelines created under subsection (7).

16 (7) The supreme court shall create guidelines on the use of
17 risk screening tools and mental health screening tools described in
18 subsections (4) and (5).

19 Sec. 6. (1) When a decision is made to divert a minor, the law
20 enforcement official or court intake worker shall file with the
21 court in the county in which the minor resides or is found all of
22 the following information:

23 (a) The minor's name, address, and date of birth.

24 (b) The act or offense for which the minor was apprehended.

25 (c) The date and place of the act or offense for which the
26 minor was apprehended.

27 (d) The diversion decision made, whether referred or released.

28 (e) The nature of the minor's compliance with the diversion
29 agreement.



1 (f) If the diversion is under section 3(1)(b), the results of
2 the minor's risk screening tool and mental health screening tool.

3 (2) If a diversion agreement is revoked pursuant to under
4 section 5(5), the law enforcement official or court intake worker
5 shall file **the fact of and reasons for the revocation** with the
6 court in which the information described in subsection (1) is
7 filed. ~~the fact of and reasons for the revocation.~~

8 Sec. 9. (1) A record kept under this act ~~shall~~**must** not be
9 used by any person, including a court official or law enforcement
10 official, for any purpose except in making a decision on whether to
11 divert a minor.

12 (2) A person who violates ~~this section~~**subsection (1)** is
13 guilty of a misdemeanor ~~and~~ punishable by imprisonment for not more
14 than 180 days ~~and~~ or a fine of not more than \$1,000.00, or both.

15 (3) **A risk screening tool and a mental health screening tool**
16 **conducted as part of a proceeding under this act and any**
17 **information obtained from a minor in the course of those screenings**
18 **or provided by the minor in order to participate in a diversion**
19 **program, including, but not limited to, any admission, confession,**
20 **or incriminating evidence, are not admissible into evidence in any**
21 **adjudicatory hearing in which the minor is accused and are not**
22 **subject to subpoena or any other court process for use in any other**
23 **proceeding or for any other purpose.**

24 Enacting section 1. This amendatory act does not take effect
25 unless Senate Bill No.____ or House Bill No.____ (request no.
26 00605'23) of the 102nd Legislature is enacted into law.



9. Fines & Fees #1 01332'23

Juveniles: other; juvenile fines, fees, and costs; eliminate.
Juveniles: other; Juveniles: criminal procedure;

HOUSE BILL NO. _____

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 2f, 18, 28, and 29 (MCL 712A.2f, 712A.18,
712A.28, and 712A.29), section 2f as added by 2016 PA 185, section
18 as amended by 2022 PA 209, section 28 as amended by 2020 PA 362,
and section 29 as amended by 2003 PA 74, and by adding section 29a
to chapter XIIA; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XIIA

2

Sec. 2f. (1) If the court determines that formal jurisdiction

3

should not be acquired over a juvenile, the court may proceed in an



SCS



H01332'23

1 informal manner referred to as a consent calendar.

2 (2) A case ~~shall~~**must** not be placed on the consent calendar
3 unless the juvenile and the parent, guardian, or legal custodian
4 and the prosecutor agree to have the case placed on the consent
5 calendar.

6 (3) The court may transfer a case from the formal calendar to
7 the consent calendar at any time before disposition. A case
8 involving the alleged commission of an offense as that term is
9 defined in section 31 of the William Van Regenmorter crime victim's
10 rights act, 1985 PA 87, MCL 780.781, ~~shall~~**must** only be placed on
11 the consent calendar upon compliance with the procedures set forth
12 in section 36b of the William Van Regenmorter crime victim's rights
13 act, 1985 PA 87, MCL 780.786b.

14 (4) After a case is placed on the consent calendar, the
15 prosecutor shall provide the victim with notice as required by
16 article 2 of the William Van Regenmorter crime victim's rights act,
17 1985 PA 87, MCL 780.781 to 780.802.

18 (5) Consent calendar cases must be maintained in the following
19 nonpublic manner:

20 (a) Access to consent calendar case records ~~shall~~**must** be
21 provided to the juvenile, the juvenile's parents, guardian, or
22 legal custodian, the guardian ad litem, counsel for the juvenile,
23 the department of health and human services if related to an
24 investigation of neglect and abuse, law enforcement personnel,
25 prosecutor, and other courts. However, consent calendar case
26 records ~~shall~~**must** not be disclosed to federal agencies or military
27 recruiters. ~~For purposes of this subsection, As used in this~~
28 **subdivision**, "case records" includes the pleadings, motions,
29 authorized petitions, notices, memoranda, briefs, exhibits,



1 available transcripts, findings of the court, register of actions,
2 consent calendar case plan, and court orders related to the case
3 placed on the consent calendar.

4 (b) The contents of the confidential file ~~, as defined in MCR~~
5 ~~3.903, shall~~ **must** continue to be maintained confidentially. **As used**
6 **in this subdivision, "confidential file" means that term as defined**
7 **in MCR 3.903.**

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

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

17 (a) ~~The plan may include a provision requiring the juvenile,~~
18 ~~parent, guardian, or legal custodian to reimburse the court for the~~
19 ~~cost of the consent calendar services for the juvenile. The~~
20 ~~reimbursement amount shall be reasonable, taking into account the~~
21 ~~juvenile's income and resources. The plan shall also~~ **must** include a
22 requirement that the juvenile pay restitution under the William Van
23 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to
24 780.834. **The court shall not order the juvenile or the juvenile's**
25 **parent, guardian, or legal custodian to pay for fees or costs**
26 **associated with consent calendar services.**

27 (b) A consent calendar case plan ~~shall~~ **must** not contain a
28 provision removing the juvenile from the custody of the juvenile's
29 parent, guardian, or legal custodian.

1 (c) The consent calendar case plan is not an order of the
2 court, but ~~shall~~**must** be included as a part of the case record.

3 (d) Violation of the terms of the consent calendar case plan
4 may result in the court's returning the case to the formal calendar
5 for further proceedings consistent with subsection (10).

6 (8) The court shall not enter an order of disposition in a
7 case while it is on the consent calendar.

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

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

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

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

28 (11) Statements made by the juvenile during the proceeding on
29 the consent calendar ~~shall~~**must** not be used against the juvenile at

1 a trial on the formal calendar on the same charge.

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

15 Sec. 18. (1) If the court finds that a juvenile concerning
16 whom a petition is filed is not within this chapter, the court
17 shall enter an order dismissing the petition. Except as otherwise
18 provided in subsection ~~(10)~~, **(8)**, if the court finds that a
19 juvenile is within this chapter, the court shall order the juvenile
20 returned to his or her parent if the return of the juvenile to his
21 or her parent would not cause a substantial risk of harm to the
22 juvenile or society. The court may also enter any of the following
23 orders of disposition that are appropriate for the welfare of the
24 juvenile and society in view of the facts proven and ascertained:

25 (a) Warn the juvenile or the juvenile's parents, guardian, or
26 custodian and, except as provided in subsection ~~(7)~~, **(5)**, dismiss
27 the petition.

28 (b) Place the juvenile on probation, or under supervision in
29 the juvenile's own home or in the home of an adult who is related



1 to the juvenile. As used in this subdivision, "related" means a
2 relative as that term is defined in section 13a of this chapter.
3 The court shall order the terms and conditions of probation or
4 supervision, including reasonable rules for the conduct of the
5 parents, guardian, or custodian, if any, as the court determines
6 necessary for the physical, mental, or moral well-being and
7 behavior of the juvenile. The court may order that the juvenile
8 participate in a juvenile drug treatment court under chapter 10A of
9 the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to
10 600.1088. ~~The court also shall order, as a condition of probation
11 or supervision, that the juvenile shall pay the minimum state cost
12 prescribed by section 18m of this chapter.~~

13 (c) If a juvenile is within the court's jurisdiction under
14 section 2(a) of this chapter, or under section 2(h) of this chapter
15 for a supplemental petition, place the juvenile in a suitable
16 foster care home subject to the court's supervision. If a juvenile
17 is within the court's jurisdiction under section 2(b) of this
18 chapter, the court shall not place a juvenile in a foster care home
19 subject to the court's supervision.

20 (d) Except as otherwise provided in this subdivision, place
21 the juvenile in or commit the juvenile to a private institution or
22 agency approved or licensed by the department's division of child
23 welfare licensing for the care of juveniles of similar age, sex,
24 and characteristics. If the juvenile is not a ward of the court,
25 the court shall commit the juvenile to the department or, if the
26 county is a county juvenile agency, to that county juvenile agency
27 for placement in or commitment to an institution or agency as the
28 department or county juvenile agency determines is most
29 appropriate, subject to any initial level of placement the court



1 designates.

2 (e) Except as otherwise provided in this subdivision, commit
3 the juvenile to a public institution, county facility, institution
4 operated as an agency of the court or county, or agency authorized
5 by law to receive juveniles of similar age, sex, and
6 characteristics. If the juvenile is not a ward of the court, the
7 court shall commit the juvenile to the department or, if the county
8 is a county juvenile agency, to that county juvenile agency for
9 placement in or commitment to an institution or facility as the
10 department or county juvenile agency determines is most
11 appropriate, subject to any initial level of placement the court
12 designates. In a placement under subdivision (d) or a commitment
13 under this subdivision, except to a state institution or a county
14 juvenile agency, the juvenile's religious affiliation must be
15 protected by placement or commitment to a private child placing or
16 child caring agency or institution, if available. ~~Except for
17 commitment to the department or a county juvenile agency, in an
18 order of commitment under this subdivision to a state institution
19 or agency described in the youth rehabilitation services act, 1974
20 PA 150, MCL 803.301 to 803.309, or in 1935 PA 220, MCL 400.201 to
21 400.214, the court shall name the superintendent of the institution
22 where the juvenile is committed as a special guardian to receive
23 benefits due the juvenile from the government of the United States.
24 An order of commitment under this subdivision to the department or
25 a county juvenile agency must name that agency as a special
26 guardian to receive those benefits. The benefits received by the
27 special guardian must be used to the extent necessary to pay for
28 the portions of the cost of care in the institution or facility
29 that the parent or parents are found unable to pay.~~



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

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

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

17 (i) Order the juvenile to engage in community service. **The**
18 **court shall not order the juvenile or the juvenile's parent,**
19 **guardian, or legal custodian to pay for fees or costs associated**
20 **with community service.**

21 ~~(j) If the court finds that a juvenile has violated a~~
22 ~~municipal ordinance or a state or federal law, order the juvenile~~
23 ~~to pay a civil fine in the amount of the civil or penal fine~~
24 ~~provided by the ordinance or law. Money collected from fines levied~~
25 ~~under this subsection must be distributed as provided in section 29~~
26 ~~of this chapter.~~ **The court shall not order the juvenile or the**
27 **juvenile's parent, guardian, or legal custodian to pay fines**
28 **associated with a violation of a municipal ordinance or a state or**
29 **federal law if another disposition under this section has been**



1 ordered.

2 (k) If the court finds that the juvenile has violated a court
3 order under section 2(a)(2) to (4) of this chapter, order the
4 juvenile to be placed in a secure facility. A court order under
5 this subdivision must state all of the following:

6 (i) The court order the juvenile violated.

7 (ii) The factual basis for determining that there was
8 reasonable cause to believe that the juvenile violated the court
9 order.

10 (iii) The court's finding of fact to support a determination
11 that there is no appropriate less restrictive alternative placement
12 available considering the best interests of the juvenile.

13 (iv) The length of time, not to exceed 7 days, that the
14 juvenile may remain in the secure facility and the plan for the
15 juvenile's release from the facility.

16 (v) That the order may not be renewed or extended.

17 (l) For a second or subsequent violation of a court order under
18 section 2(a)(2) to (4) of this chapter, issue a second or
19 subsequent order under subdivision (k), but only if the court finds
20 both of the following:

21 (i) The juvenile violated a court order after the date that the
22 court issued the first order under subdivision (k).

23 (ii) The court has procedures in place to ensure that a
24 juvenile held in a secure facility by a court order is not in
25 custody more than 7 days or the length of time authorized by the
26 court, whichever is shorter.

27 (m) If a juvenile is within the court's jurisdiction under
28 section 2(a)(1) of this chapter, order the juvenile's parent or
29 guardian to personally participate in treatment reasonably

1 available in the parent's or guardian's location.

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

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

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

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

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

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

27 (vi) If the court must commit the juvenile to a county juvenile
28 agency, the county juvenile agency is able to place the juvenile in
29 a juvenile boot camp program.



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

26 (i) The seriousness of the offense in terms of community
27 protection, including, but not limited to, the existence of any
28 aggravating factors recognized by the sentencing guidelines, the
29 use of a firearm or other dangerous weapon, and the impact on any

1 victim.

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

7 (iii) The juvenile's prior record of delinquency including, but
8 not limited to, any record of detention, any police record, any
9 school record, or any other evidence indicating prior delinquent
10 behavior.

11 (iv) The juvenile's programming history, including, but not
12 limited to, the juvenile's past willingness to participate
13 meaningfully in available programming.

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

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

17 (p) In a proceeding under section 2(b) or (c) of this chapter,
18 if a juvenile is removed from the parent's custody at any time, the
19 court shall permit the juvenile's parent to have regular and
20 frequent parenting time with the juvenile. Parenting time between
21 the juvenile and his or her parent shall not be less than 1 time
22 every 7 days unless the court determines either that exigent
23 circumstances require less frequent parenting time or that
24 parenting time, even if supervised, may be harmful to the
25 juvenile's life, physical health, or mental well-being. If the
26 court determines that parenting time, even if supervised, may be
27 harmful to the juvenile's life, physical health, or mental well-
28 being, the court may suspend parenting time until the risk of harm
29 no longer exists. The court may order the juvenile to have a

1 psychological evaluation or counseling, or both, to determine the
2 appropriateness and the conditions of parenting time.

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

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

21 (3) ~~An order of disposition placing a juvenile in the~~
22 ~~juvenile's own home under subsection (1)(b) may contain a provision~~
23 ~~for reimbursement by the juvenile, parent, guardian, or custodian~~
24 ~~to the court for the cost of service. If an order is entered under~~
25 ~~this subsection, an amount due must be determined and treated in~~
26 ~~the same manner provided for an order entered under subsection~~
27 ~~(2). The court shall not order a juvenile or a juvenile's parent,~~
28 ~~guardian, or legal custodian to pay for the costs of care,~~
29 ~~services, court-appointed attorney representation, or other costs~~

1 or assessments related to the juvenile's court proceeding.

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

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

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

20 (5) ~~(7)~~ If the court finds that a juvenile comes under section
21 30 of this chapter, the court shall order the juvenile or the
22 juvenile's parent to pay restitution as provided in sections 30 and
23 31 of this chapter and in sections 44 and 45 of the William Van
24 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.794 and
25 780.795.

26 (6) ~~(8)~~ If the court imposes restitution as a condition of
27 probation, the court shall require the juvenile to do either of the
28 following as an additional condition of probation:

29 (a) Engage in community service or, with the victim's consent,

1 perform services for the victim.

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

4 (7) ~~(9)~~—If the court finds that the juvenile is in intentional
5 default of the payment of restitution, a court may, as provided in
6 section 30 of this chapter, revoke or alter the terms and
7 conditions of probation for nonpayment of restitution. If a
8 juvenile who is ordered to engage in community service
9 intentionally refuses to perform the required community service,
10 the court may revoke or alter the terms and conditions of
11 probation. **The juvenile must not be placed outside of his or her**
12 **home solely based on nonpayment of restitution or refusal to**
13 **perform community service.**

14 (8) ~~(10)~~—The court shall not enter an order of disposition for
15 a juvenile offense as defined in section 1a of 1925 PA 289, MCL
16 28.241a, or a judgment of sentence for a conviction until the court
17 has examined the court file and has determined that the juvenile's
18 biometric data have been collected and forwarded as required by
19 section 3 of 1925 PA 289, MCL 28.243, and the juvenile's
20 fingerprints have been taken and forwarded as required by the sex
21 offenders registration act, 1994 PA 295, MCL 28.721 to 28.730. If a
22 juvenile's biometric data have not been collected or a juvenile has
23 not had his or her fingerprints taken, the court shall do either of
24 the following:

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



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

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

14 ~~(12) If the court enters an order of disposition based on an
15 act that is a juvenile offense as defined in section 1 of 1989 PA
16 196, MCL 780.901, the court shall order the juvenile to pay the
17 assessment as provided in that act. If the court enters a judgment
18 of conviction under section 2d of this chapter for an offense that
19 is a felony, misdemeanor, or ordinance violation, the court shall
20 order the juvenile to pay the assessment as provided in 1989 PA
21 196, MCL 780.901 to 780.911.~~

22 (10) ~~(13)~~ If the court has entered an order of disposition or
23 a judgment of conviction for a listed offense as defined in section
24 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722,
25 the court, the department, or the county juvenile agency shall
26 register the juvenile or accept the juvenile's registration as
27 provided in the sex offenders registration act, 1994 PA 295, MCL
28 28.721 to 28.730.

29 (11) ~~(14)~~ If the court enters an order of disposition placing

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

20 (12) ~~(15)~~—If the juvenile is within the court's jurisdiction
21 under section 2(a)(1) of this chapter for an offense other than a
22 listed offense as defined in section 2 of the sex offenders
23 registration act, 1994 PA 295, MCL 28.722, the court shall
24 determine if the offense is a violation of a law of this state or a
25 local ordinance of a municipality of this state that by its nature
26 constitutes a sexual offense against an individual who is less than
27 18 years of age. If so, the order of disposition is for a listed
28 offense as defined in section 2 of the sex offenders registration
29 act, 1994 PA 295, MCL 28.722, and the court shall include the basis



1 for that determination on the record and include the determination
2 in the order of disposition.

3 (13) ~~(16)~~—The court shall not impose a sentence of
4 imprisonment in the county jail under subsection (1)(o) unless the
5 present county jail facility for the juvenile's imprisonment meets
6 all requirements under federal law and regulations for housing
7 juveniles. The court shall not impose the sentence until it
8 consults with the sheriff to determine when the sentence will begin
9 to ensure that space will be available for the juvenile.

10 (14) ~~(17)~~—In a proceeding under section 2(h) of this chapter,
11 this section only applies to a disposition for a violation of a
12 personal protection order and subsequent proceedings.

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

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

26 Sec. 28. (1) Before June 1, 1988, the court shall maintain
27 records of all cases brought before it and as provided in the
28 juvenile diversion act. The records are open only by court order to
29 persons having a legitimate interest, except that diversion records

1 are open only as provided in the juvenile diversion act.

2 (2) Beginning June 1, 1988, the court shall maintain records
3 of all cases brought before it and as provided in the juvenile
4 diversion act. Except as otherwise provided in this subsection,
5 until December 31, 2020, records of a case brought before the court
6 are open to the general public. Diversion records are open only as
7 provided in the juvenile diversion act. Except as otherwise
8 provided in section 49 of the William Van Regenmorter crime
9 victim's rights act, 1985 PA 87, MCL 780.799, if the hearing of a
10 case brought before the court is closed under section 17 of this
11 chapter, the records of that hearing are open only by court order
12 to persons having a legitimate interest.

13 (3) Beginning January 1, 2021, except as otherwise provided,
14 records of a case brought before the court are not open to the
15 general public and are open only to persons having a legitimate
16 interest. Diversion records are open only as provided in the
17 juvenile diversion act. Except as otherwise provided in section 49
18 of the William Van Regenmorter crime victim's rights act, 1985 PA
19 87, MCL 780.799, if the hearing of a case brought before the court
20 is closed under section 17 of this chapter, the records of that
21 hearing are open only by court order to persons having a legitimate
22 interest.

23 ~~(4) If the court issues an order in respect to payments by a~~
24 ~~parent under section 18(2) of this chapter, a copy must be mailed~~
25 ~~to the department of treasury. Action taken against parents or~~
26 adults must not be released for publicity unless the parents or
27 adults are found guilty of contempt of court. The court shall
28 furnish the department and a county juvenile agency with reports of
29 the administration of the court in a form recommended by the

1 Michigan Probate Judges Association. Copies of these reports must,
2 upon request, be made available to other state departments by the
3 department.

4 (5) As used in this section:

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

7 (b) "Indian child" and "Indian child's tribe" mean those terms
8 as defined in section 3 of the Michigan Indian family preservation
9 act, chapter XIIB of the probate code of 1939, 1939 PA 288, MCL
10 712B.3.

11 (c) "Juvenile diversion act" means the juvenile diversion act,
12 1988 PA 13, MCL 722.821 to 722.831.

13 (d) "Persons having a legitimate interest" includes, but is
14 not limited to, the juvenile, the juvenile's parent, the juvenile's
15 guardian or legal custodian, the juvenile's guardian ad litem,
16 counsel for the juvenile, the department or a licensed child caring
17 institution or child placing agency under contract with the
18 department to provide for the juvenile's care and supervision if
19 related to an investigation of child neglect or child abuse, law
20 enforcement personnel, a prosecutor, a member of a local foster
21 care review board established under 1984 PA 422, MCL 722.131 to
22 722.139a, the Indian child's tribe if the juvenile is an Indian
23 child, and a court of this state.

24 Sec. 29. (1) If a child is subject to ~~any combination of~~
25 ~~finer, costs, restitution, assessments, or~~ payments arising out of
26 the same order of disposition, money collected from that child, or
27 his or her parent or parents, for the payment of ~~finer, costs,~~
28 ~~restitution, assessments, or~~ other payments ~~shall~~ **must** be
29 allocated as provided in this section.

1 ~~(2) Except as otherwise provided in this subsection, if~~ **If** a
2 child is subject to payment of victim payments and ~~any combination~~
3 ~~of other fines, costs, assessments, or other payments, 50% 100%~~ of
4 the money collected from that child, or his or her parent or
5 parents, **shall must first** be applied to payment of victim payments.
6 ~~, and the balance shall be applied to payment of fines, costs, and~~
7 ~~other assessments or payments. If fines, costs, or other~~
8 ~~assessments or payments remain unpaid after all victim payments~~
9 ~~have been paid, additional money collected shall be applied to~~
10 ~~payment of those fines, costs, or other assessments or payments. If~~
11 ~~victim payments remain unpaid after all fines, costs, or other~~
12 ~~assessments or payments have been paid, additional money collected~~
13 ~~shall be applied toward payment of those victim payments.~~

14 ~~(3) In cases involving orders of disposition for offenses that~~
15 ~~would be violations of state law if committed by an adult, money~~
16 ~~allocated under subsection (2) for payment of fines, costs, and~~
17 ~~assessments or payments other than victim payments shall be applied~~
18 ~~in the following order of priority:~~

19 ~~(a) Payment of the minimum state cost prescribed in section 1j~~
20 ~~of chapter IX of the code of criminal procedure, 1927 PA 175, MCL~~
21 ~~769.1j.~~

22 ~~(b) Payment of other costs.~~

23 ~~(c) Payment of fines.~~

24 ~~(d) Payment of assessments and other payments.~~

25 ~~(4) In cases involving orders of disposition for offenses that~~
26 ~~would be violations of local ordinances if committed by an adult,~~
27 ~~money allocated under subsection (2) for payment of fines, costs,~~
28 ~~and assessments or payments other than victim payments shall be~~
29 ~~applied in the following order of priority:~~

1 ~~(a) Payment of the minimum state cost prescribed in section 1j~~
2 ~~of chapter IX of the code of criminal procedure, 1927 PA 175, MCL~~
3 ~~769.1j.~~

4 ~~(b) Payment of fines and other costs.~~

5 ~~(c) Payment of assessments and other payments.~~

6 ~~(5) Money allocated for payment of costs under subsection (3)~~
7 ~~shall be paid to the county treasurer for deposit in the general~~
8 ~~fund of the county. Money allocated for payment of fines under~~
9 ~~subsection (3) shall be paid to the county treasurer to be used for~~
10 ~~library purposes as provided by law.~~

11 ~~(6) One third of the money allocated for payment of fines and~~
12 ~~costs under subsection (4) shall be paid to the treasurer of the~~
13 ~~political subdivision whose ordinance was violated, and 2/3 of that~~
14 ~~money shall be paid to the county treasurer for deposit in the~~
15 ~~general fund of the county.~~

16 ~~(3) (7)~~As used in this section, "victim payment" means
17 restitution ordered under sections 30 and 31 **of this chapter** and
18 under the **William Van Regenmorter** crime victim's rights act, 1985
19 PA 87, MCL 780.751 to 780.834, paid to the victim or the victim's
20 estate, but not to a person who reimbursed the victim for his or
21 her loss. ~~or an assessment~~ **Victim payment also includes payments**
22 **to the crime victim rights fund** ordered under section 5 of 1989 PA
23 196, MCL 780.905.

24 **Sec. 29a. (1) The court shall not order a juvenile within the**
25 **court's jurisdiction under section 2(a)(1) or (f) of this chapter**
26 **or the juvenile's parent, guardian, or legal custodian to reimburse**
27 **the court for any fine, fees, or costs related to the juvenile's**
28 **court case.**

29 **(2) Beginning July 1, 2024, the court shall not collect the**

1 balance of any court-ordered fines, fees, or costs previously
2 assessed to a juvenile under section 29 of this chapter, or former
3 section 18m of this chapter, and only the portion of any court
4 order that imposed those fines, fees, or costs is vacated and
5 unenforceable.

6 Enacting section 1. Section 18m of chapter XIIIA of the probate
7 code of 1939, 1939 PA 288, MCL 712A.18m, is repealed.

8 Enacting section 2. This amendatory act takes effect July 1,
9 2024.

10 Enacting section 3. This amendatory act does not take effect
11 unless all of the following bills of the 102nd Legislature are
12 enacted into law:

13 (a) Senate Bill No. _____ or House Bill No. _____ (request no.
14 01332'23 a).

15 (b) Senate Bill No. _____ or House Bill No. _____ (request no.
16 01332'23 b).

17 (c) Senate Bill No. _____ or House Bill No. _____ (request no.
18 01332'23 c).



11. Competency Evaluations 01594'23

Juveniles: other; DNA fine for juveniles; eliminate.
Juveniles: other; Juveniles: criminal procedure; Criminal
procedure: DNA;

HOUSE BILL NO. _____

A bill to amend 1990 PA 250, entitled
"DNA identification profiling system act,"
by amending section 6 (MCL 28.176), as amended by 2018 PA 310.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) Except as otherwise provided in this section, the
2 department shall permanently retain a DNA identification profile of
3 an individual obtained from a sample in the manner prescribed by
4 the department under this act if any of the following apply:

5 (a) The individual is arrested for committing or attempting to
6 commit a felony offense or an offense that would be a felony



SCS



H01332'23 a

1 offense if committed by an adult.

2 (b) The individual is convicted of or found responsible for a
3 felony or attempted felony, or any of the following misdemeanors,
4 or local ordinances that are substantially corresponding to the
5 following misdemeanors:

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

10 (ii) A violation of section 335a(1) of the Michigan penal code,
11 1931 PA 328, MCL 750.335a, indecent exposure.

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

15 (iv) A violation of section 454 of the Michigan penal code,
16 1931 PA 328, MCL 750.454, leasing a house for purposes of
17 prostitution.

18 (2) The DNA identification profiles of DNA samples received
19 under this act must only be disclosed as follows:

20 (a) To a criminal justice agency for law enforcement
21 identification purposes.

22 (b) In a judicial proceeding as authorized or required by a
23 court.

24 (c) To a defendant in a criminal case if the DNA
25 identification profile is used in conjunction with a charge against
26 the defendant.

27 (d) For an academic, research, statistical analysis, or
28 protocol developmental purpose only if personal identifications are
29 removed.

1 (3) Notwithstanding subsection (1), if at the time the
2 individual is arrested, convicted of, or found responsible for the
3 violation the investigating law enforcement agency or the
4 department already has a sample from the individual that meets the
5 requirements of this act, the individual is not required to provide
6 another sample or pay the assessment required under subsection (5).

7 (4) The county sheriff or the investigating law enforcement
8 agency as ordered by the court shall provide for collecting the
9 samples required to be provided under subsection (1) in a medically
10 approved manner by qualified persons using supplies provided by the
11 department and shall forward those samples and any samples
12 described in subsection (1) that were already in the agency's
13 possession to the department after the individual from whom the
14 sample was taken has been arraigned in the district court. However,
15 the individual's DNA sample must not be forwarded to the department
16 if the individual is not charged with committing or attempting to
17 commit a felony offense or an offense that would be a felony if
18 committed by an adult. If the individual's DNA sample is forwarded
19 to the department despite the individual not having been charged as
20 described in this subsection, the law enforcement agency shall
21 notify the department to destroy that sample. The collecting and
22 forwarding of samples must be done in the manner required under
23 this act. A sample must be collected by the county sheriff or the
24 investigating law enforcement agency after arrest but before
25 sentencing or disposition as ordered by the court and promptly
26 transmitted to the department of state police after the individual
27 is charged with committing or attempting to commit a felony offense
28 or an offense that would be a felony if committed by an adult. This
29 subsection does not preclude a law enforcement agency or state



11. Competency Evaluations 01594'23

1 agency from obtaining a sample at or after sentencing or
2 disposition. At the time a DNA sample is taken from an individual
3 under this section, the individual ~~shall~~**must** be notified in
4 writing of all of the following:

5 (a) That, except as otherwise provided by law, the
6 individual's DNA sample or DNA identification profile, or both,
7 ~~shall~~**must** be destroyed or expunged, as appropriate, if the charge
8 for which the sample was obtained has been dismissed or resulted in
9 acquittal, or no charge was filed within the limitations period.

10 (b) That the individual's DNA sample or DNA identification
11 profile, or both, will not be destroyed or expunged, as
12 appropriate, if the department determines that the individual from
13 whom the sample is taken is otherwise obligated to submit a sample
14 or if it is evidence relating to another individual that would
15 otherwise be retained under this section.

16 (c) That the burden is on the arresting law enforcement agency
17 and the prosecution to request the destruction or expunction of a
18 DNA sample or DNA identification profile as required under this
19 section, not on the individual.

20 (5) The court shall order each individual found responsible
21 for or convicted of 1 or more crimes listed in subsection (1) to
22 pay an assessment of \$60.00. The assessment required under this
23 subsection is in addition to any fine, costs, or other assessments
24 imposed by the court. **This subsection does not apply to a juvenile
25 within the jurisdiction of the court under section 2 of chapter
26 XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.**

27 (6) An assessment required under subsection (5) must be
28 ordered on the record and must be listed separately in the
29 adjudication order, judgment of sentence, or order of probation.



1 (7) After reviewing a verified petition by an individual
2 against whom an assessment is imposed under subsection (5), the
3 court may suspend payment of all or part of the assessment if it
4 determines the individual is unable to pay the assessment.

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

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

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

18 (9) If a sample was collected under subsection (1) from an
19 individual who does not have more than 1 conviction, and that
20 conviction was reversed by an appellate court, the sentencing court
21 shall order the disposal of the sample collected and DNA
22 identification profile record for that conviction in the manner
23 provided in subsections (12) and (13).

24 (10) Any other DNA identification profile obtained by the
25 department must not be permanently retained by the department but
26 must be retained only as long as it is needed for a criminal
27 investigation or criminal prosecution. Except as provided in
28 subsection (11), the state police forensic laboratory shall dispose
29 of a DNA sample collected under subsection (1) or a DNA

1 identification profile, or both, if any of the following
2 circumstances occur:

3 (a) The department receives a written request for disposal
4 from the investigating police agency or prosecutor indicating that
5 the sample or profile is no longer necessary for a criminal
6 investigation or criminal prosecution.

7 (b) The department receives a written request for disposal and
8 a certified copy of a final court order establishing that the
9 charge for which the sample was obtained has been dismissed or has
10 resulted in an acquittal or that no charge was filed within the
11 applicable limitations period.

12 (11) Subsection (10) does not apply if either of the following
13 circumstances exists:

14 (a) The department determines that the individual from whom
15 the sample is taken has otherwise become obligated to submit a
16 sample.

17 (b) Subsection (15) applies.

18 (12) The state police forensic laboratory shall dispose of a
19 sample and a DNA identification profile record in the following
20 manner:

21 (a) Not more than 60 days after the department receives notice
22 under subsection (10), the laboratory shall dispose of the sample
23 in compliance with section 13811 of the public health code, 1978 PA
24 368, MCL 333.13811.

25 (b) The laboratory shall dispose of the sample and the DNA
26 identification profile record in the presence of a witness.

27 (13) After disposal in accordance with subsection (12), the
28 laboratory shall make and keep a written record of the disposal,
29 signed by the individual who witnessed the disposal.



11. Competency Evaluations 01594'23

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1 (14) An identification, warrant, detention, probable cause to
2 arrest, arrest, or conviction based upon a DNA match or DNA
3 information is not invalidated if it is later determined that 1 or
4 more of the following errors occurred in good faith:

5 (a) A DNA sample was erroneously obtained.

6 (b) A DNA identification profile was erroneously retained.

7 (c) A DNA sample was not disposed of or there was a delay in
8 disposing of the sample.

9 (d) A DNA identification profile was not disposed of or there
10 was a delay in disposing of the profile.

11 (15) Notwithstanding any other provision of this act, the
12 department is not required to dispose of physical evidence or data
13 obtained from a sample if evidence relating to an individual other
14 than the individual from whom the sample was taken would be
15 destroyed and the evidence or data relating to the other individual
16 would otherwise be retained under this section.

17 (16) The department shall send written notice to the
18 requesting law enforcement agency, court, or prosecutor when the
19 individual's DNA sample or DNA identification profile has been
20 destroyed under this act.

21 Enacting section 1. This amendatory act takes effect July 1,
22 2024.



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11. Competency Evaluations 01594'23

Juveniles: other; late fee for juveniles; eliminate.
Juveniles: other; Juveniles: criminal procedure;

HOUSE BILL NO. _____

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 4803 (MCL 600.4803), as amended by 1996 PA 374.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4803. (1) ~~A~~**Except as otherwise provided in subsection**
2 **(3),** a person who fails to pay a penalty, fee, or costs in full
3 within 56 days after that amount is due and owing is subject to a
4 late penalty equal to 20% of the amount owed. The court shall
5 inform a person subject to a penalty, fee, or costs that the late
6 penalty will be applied to any amount that continues to be unpaid
7 56 days after the amount is due and owing. Penalties, fees, and



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1 costs are due and owing at the time they are ordered unless the
2 court directs otherwise. The court shall order a specific date on
3 which the penalties, fees, and costs are due and owing. If the
4 court authorizes delayed or installment payments of a penalty, fee,
5 or costs, the court shall inform the person of the date on which,
6 or time schedule under which, the penalty, fee, or costs, or
7 portion of the penalty, fee, or costs, will be due and owing. A
8 late penalty may be waived by the court upon the request of the
9 person subject to the late penalty.

10 (2) Within 30 days after receiving a late penalty, the clerk
11 of the court shall transmit the amount received to the treasurer or
12 chief financial officer of the funding unit of the court, for
13 deposit in the general fund of the funding unit.

14 (3) **This section does not apply to a juvenile within the**
15 **jurisdiction of the court under section 2 of chapter XIIA of the**
16 **probate code of 1939, 1939 PA 288, MCL 712A.2.**

17 (4) ~~(3)~~—As used in this section, "funding unit" means 1 of the
18 following as applicable:

19 (a) For the circuit court, each county in the circuit.

20 (b) For the recorder's court of the city of Detroit, the
21 county.

22 (c) For the district court, the district funding unit of the
23 district, as defined in section 8104.

24 (d) For a municipal court, the political unit where the
25 municipal court is located.

26 Enacting section 1. This amendatory act takes effect July 1,
27 2024.



Juveniles: other; juvenile sentenced as adult fee; eliminate.
Juveniles: other; Juveniles: criminal procedure;

HOUSE BILL NO. _____

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 1 of chapter IX (MCL 769.1), as amended by 1999
PA 87.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER IX

Sec. 1. (1) A judge of a court having jurisdiction may
pronounce judgment against and pass sentence upon a person
convicted of an offense in that court. The sentence ~~shall~~**must** not
exceed the sentence prescribed by law. The court shall sentence a
juvenile convicted of any of the following crimes in the same



11. Competency Evaluations 01594'23

2

1 manner as an adult:

2 (a) ~~Arson of a dwelling~~ **First degree arson** in violation of
3 section 72 of the Michigan penal code, 1931 PA 328, MCL 750.72.

4 (b) Assault with intent to commit murder in violation of
5 section 83 of the Michigan penal code, 1931 PA 328, MCL 750.83.

6 (c) Assault with intent to maim in violation of section 86 of
7 the Michigan penal code, 1931 PA 328, MCL 750.86.

8 (d) Attempted murder in violation of section 91 of the
9 Michigan penal code, 1931 PA 328, MCL 750.91.

10 (e) Conspiracy to commit murder in violation of section 157a
11 of the Michigan penal code, 1931 PA 328, MCL 750.157a.

12 (f) Solicitation to commit murder in violation of section 157b
13 of the Michigan penal code, 1931 PA 328, MCL 750.157b.

14 (g) First degree murder in violation of section 316 of the
15 Michigan penal code, 1931 PA 328, MCL 750.316.

16 (h) Second degree murder in violation of section 317 of the
17 Michigan penal code, 1931 PA 328, MCL 750.317.

18 (i) Kidnapping in violation of section 349 of the Michigan
19 penal code, 1931 PA 328, MCL 750.349.

20 (j) First degree criminal sexual conduct in violation of
21 section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.

22 (k) Armed robbery in violation of section 529 of the Michigan
23 penal code, 1931 PA 328, MCL 750.529.

24 (l) Carjacking in violation of section 529a of the Michigan
25 penal code, 1931 PA 328, MCL 750.529a.

26 (2) A person convicted of a felony or of a misdemeanor
27 punishable by imprisonment for more than 92 days ~~shall~~ **must** not be
28 sentenced until the court has examined the court file and has
29 determined that the person's fingerprints have been taken.



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1 (3) Unless a juvenile is required to be sentenced in the same
2 manner as an adult under subsection (1), a judge of a court having
3 jurisdiction over a juvenile shall conduct a hearing at the
4 juvenile's sentencing to determine if the best interests of the
5 public would be served by placing the juvenile on probation and
6 committing the juvenile to an institution or agency described in
7 the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to
8 803.309, or by imposing any other sentence provided by law for an
9 adult offender. Except as provided in subsection (5), the court
10 shall sentence the juvenile in the same manner as an adult unless
11 the court determines by a preponderance of the evidence that the
12 interests of the public would be best served by placing the
13 juvenile on probation and committing the juvenile to an institution
14 or agency described in the youth rehabilitation services act, 1974
15 PA 150, MCL 803.301 to 803.309. The rules of evidence do not apply
16 to a hearing under this subsection. In making the determination
17 required under this subsection, the judge shall consider all of the
18 following, giving greater weight to the seriousness of the alleged
19 offense and the juvenile's prior record of delinquency:

20 (a) The seriousness of the alleged offense in terms of
21 community protection, including, but not limited to, the existence
22 of any aggravating factors recognized by the sentencing guidelines,
23 the use of a firearm or other dangerous weapon, and the impact on
24 any victim.

25 (b) The juvenile's culpability in committing the alleged
26 offense, including, but not limited to, the level of the juvenile's
27 participation in planning and carrying out the offense and the
28 existence of any aggravating or mitigating factors recognized by
29 the sentencing guidelines.

11. Competency Evaluations 01594'23

1 (c) The juvenile's prior record of delinquency including, but
2 not limited to, any record of detention, any police record, any
3 school record, or any other evidence indicating prior delinquent
4 behavior.

5 (d) The juvenile's programming history, including, but not
6 limited to, the juvenile's past willingness to participate
7 meaningfully in available programming.

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

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

11 (4) With the consent of the prosecutor and the defendant, the
12 court may waive the hearing required under subsection (3). If the
13 court waives the hearing required under subsection (3), the court
14 may place the juvenile on probation and commit the juvenile to an
15 institution or agency described in the youth rehabilitation
16 services act, 1974 PA 150, MCL 803.301 to 803.309, but shall not
17 impose any other sentence provided by law for an adult offender.

18 (5) If a juvenile is convicted of a violation or conspiracy to
19 commit a violation of section 7403(2)(a)(i) of the public health
20 code, 1978 PA 368, MCL 333.7403, the court shall determine whether
21 the best interests of the public would be served by imposing the
22 sentence provided by law for an adult offender, by placing the
23 individual on probation and committing the individual to an
24 institution or agency under subsection (3), or by imposing a
25 sentence of imprisonment for any term of years but not less than 25
26 years. If the court determines by clear and convincing evidence
27 that the best interests of the public would be served by imposing a
28 sentence of imprisonment for any term of years but not less than 25
29 years, the court may impose that sentence. In making its



11. Competency Evaluations 01594'23

1 determination, the court shall use the criteria specified in
2 subsection (3).

3 (6) The court shall state on the record the court's findings
4 of fact and conclusions of law for the probation and commitment
5 decision or sentencing decision made under subsection (3). If a
6 juvenile is committed under subsection (3) to an institution or
7 agency described in the youth rehabilitation services act, 1974 PA
8 150, MCL 803.301 to 803.309, a transcript of the court's findings
9 shall ~~must~~ be sent to the ~~family independence agency~~ **department of**
10 **health and human services** or county juvenile agency, as applicable.

11 (7) ~~If a juvenile is committed under subsection (3) or (4) to~~
12 ~~an institution or agency described in the youth rehabilitation~~
13 ~~services act, 1974 PA 150, MCL 803.301 to 803.309, the written~~
14 ~~order of commitment shall contain a provision for the reimbursement~~
15 ~~to the court by the juvenile or those responsible for the~~
16 ~~juvenile's support, or both, for the cost of care or service. The~~
17 ~~amount of reimbursement ordered shall be reasonable, taking into~~
18 ~~account both the income and resources of the juvenile and those~~
19 ~~responsible for the juvenile's support. The amount may be based~~
20 ~~upon the guidelines and model schedule prepared under section 18(6)~~
21 ~~of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL~~
22 ~~712A.18. The reimbursement provision applies during the entire~~
23 ~~period the juvenile remains in care outside the juvenile's own home~~
24 ~~and under court supervision. The court shall provide for the~~
25 ~~collection of all amounts ordered to be reimbursed, and the money~~
26 ~~collected shall be accounted for and reported to the county board~~
27 ~~of commissioners. Collections to cover delinquent accounts or to~~
28 ~~pay the balance due on reimbursement orders may be made after a~~
29 ~~juvenile is released or discharged from care outside the juvenile's~~



11. Competency Evaluations 01594'23

6

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

27 ~~(8) If the court appoints an attorney to represent a juvenile,~~
28 ~~an order entered under this section may require the juvenile or~~
29 ~~person responsible for the juvenile's support, or both, to~~



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11. Competency Evaluations 01594'23

1 ~~reimburse the court for attorney fees.~~

2 (8) ~~(9)~~—An order directed to a person responsible for the
3 juvenile's support under this section is not binding on the person
4 unless an opportunity for a hearing has been given and until a copy
5 of the order is served on the person, personally or by first-class
6 mail to the person's last known address.

7 (9) ~~(10)~~—If a juvenile is placed on probation and committed
8 under subsection (3) or (4) to an institution or agency described
9 in the youth rehabilitation services act, 1974 PA 150, MCL 803.301
10 to 803.309, the court shall retain jurisdiction over the juvenile
11 while the juvenile is on probation and committed to that
12 institution or agency.

13 (10) ~~(11)~~—If the court has retained jurisdiction over a
14 juvenile under subsection ~~(10)~~, ~~(9)~~, the court shall conduct an
15 annual review of the services being provided to the juvenile, the
16 juvenile's placement, and the juvenile's progress in that
17 placement. In conducting this review, the court shall examine the
18 juvenile's annual report prepared under section 3 of the juvenile
19 facilities act, 1988 PA 73, MCL 803.223. The court may order
20 changes in the juvenile's placement or treatment plan including,
21 but not limited to, committing the juvenile to the jurisdiction of
22 the department of corrections, based on the review.

23 (11) ~~(12)~~—If an individual who is under the court's
24 jurisdiction under section 4 of chapter XIIA of the probate code of
25 1939, 1939 PA 288, MCL 712A.4, is convicted of a violation or
26 conspiracy to commit a violation of section 7403(2)(a)(i) of the
27 public health code, 1978 PA 368, MCL 333.7403, the court shall
28 determine whether the best interests of the public would be served
29 by imposing the sentence provided by law for an adult offender or



11. Competency Evaluations 01594'23

1 by imposing a sentence of imprisonment for any term of years but
2 not less than 25 years. If the court determines by clear and
3 convincing evidence that the best interests of the public would be
4 served by imposing a sentence of imprisonment for any term of years
5 but not less than 25 years, the court may impose that sentence. In
6 making its determination, the court shall use the criteria
7 specified in subsection (3) to the extent they apply.

8 (12) ~~(13)~~—If the defendant is sentenced for an offense other
9 than a listed offense as defined in section 2(d)(i) to ~~(ix)~~ and ~~(xi)~~
10 ~~to (xiii)~~ 2 of the sex offenders registration act, 1994 PA 295, MCL
11 28.722, the court shall determine if the offense is a violation of
12 a law of this state or a local ordinance of a municipality of this
13 state that by its nature constitutes a sexual offense against an
14 individual who is less than 18 years of age. If so, the conviction
15 is for a listed offense as defined in section 2(d)(x) 2 of the sex
16 offenders registration act, 1994 PA 295, MCL 28.722, and the court
17 shall include the basis for that determination on the record and
18 include the determination in the judgment of sentence.

19 (13) ~~(14)~~—When sentencing a person convicted of a misdemeanor
20 involving the illegal delivery, possession, or use of alcohol or a
21 controlled substance or a felony, the court shall examine the
22 presentence investigation report and determine if the person being
23 sentenced is licensed or registered under article 15 of the public
24 health code, 1978 PA 368, MCL 333.16101 to 333.18838. The court
25 shall also examine the court file and determine if a report of the
26 conviction upon which the person is being sentenced has been
27 forwarded to the department of ~~consumer and industry services~~
28 **licensing and regulatory affairs** as provided in section 16a of this
29 **chapter**. If the report has not been forwarded to the department of



11. Competency Evaluations 01594'23

9

1 ~~consumer and industry services, licensing and regulatory affairs,~~
2 the court shall order the clerk of the court to immediately prepare
3 and forward the report as provided in section 16a of **this chapter**.

4 Enacting section 1. This amendatory act takes effect July 1,
5 2024.



6. MIDC 01330'23

Courts: other; Michigan indigent defense commission act; expand duties to include indigent defense of youth.
Courts: other; Juveniles: juvenile justice services;

HOUSE BILL NO. _____

A bill to amend 2013 PA 93, entitled "Michigan indigent defense commission act," by amending the title and sections 3, 5, 7, 9, 11, 13, 15, 17, 21, and 23 (MCL 780.983, 780.985, 780.987, 780.989, 780.991, 780.993, 780.995, 780.997, 780.1001, and 780.1003), section 3 as amended by 2019 PA 108, sections 5, 9, 11, 13, 15, and 17 as amended by 2018 PA 214, and section 7 as amended by 2018 PA 443.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to create the Michigan indigent defense commission and



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1 to provide for its powers and duties; to provide **certain** indigent
2 defendants in criminal **and juvenile** cases with effective assistance
3 of counsel; to provide standards for the appointment of legal
4 counsel; to provide for and limit certain causes of action; and to
5 provide for certain appropriations and grants.

6 Sec. 3. As used in this act:

7 (a) "Adult" means either of the following:

8 (i) An individual 18 years of age or older.

9 (ii) An individual less than 18 years of age at the time of the
10 commission of a felony if any of the following conditions apply:

11 (A) During consideration of a petition filed under section 4
12 of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
13 712A.4, to waive jurisdiction to try the individual as an adult and
14 upon granting a waiver of jurisdiction.

15 (B) The prosecuting attorney designates the case under section
16 2d(1) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
17 712A.2d, as a case in which the juvenile is to be tried in the same
18 manner as an adult.

19 (C) During consideration of a request by the prosecuting
20 attorney under section 2d(2) of chapter XIIIA of the probate code of
21 1939, 1939 PA 288, MCL 712A.2d, that the court designate the case
22 as a case in which the juvenile is to be tried in the same manner
23 as an adult.

24 (D) The prosecuting attorney authorizes the filing of a
25 complaint and warrant for a specified juvenile violation under
26 section 1f of chapter IV of the code of criminal procedure, 1927 PA
27 175, MCL 764.1f.

28 (b) "Consumer Price Index" means the annual United States
29 Consumer Price Index for all urban consumers as defined and



1 reported by the United States Department of Labor, Bureau of Labor
2 Statistics.

3 (c) "Department" means the department of licensing and
4 regulatory affairs.

5 (d) "Effective assistance of counsel" or "effective
6 representation" means legal representation that is compliant with
7 standards established by the appellate courts of this state and the
8 United States Supreme Court.

9 (e) "Indigent" means ~~meeting 1 or more of the conditions~~
10 ~~described in section 11(3).~~ **an inability to obtain competent legal**
11 **representation for one's self without substantial financial**
12 **hardship to one's self or one's dependents, as determined using the**
13 **standards and procedures prescribed by MIDC under section 11.**

14 (f) "Indigent ~~criminal~~-defense services" means local legal
15 defense services provided to a ~~defendant and to which both of the~~
16 ~~following conditions apply:~~ **any of the following individuals:**

17 (i) ~~The defendant~~ **An indigent adult who** is being prosecuted or
18 sentenced for a crime for which ~~an individual~~ **the adult** may be
19 imprisoned upon conviction, beginning ~~with~~ **not later than** the
20 ~~defendant's~~ **adult's** initial appearance in court to answer to the
21 criminal charge.

22 ~~(ii) The defendant is determined to be indigent under section~~
23 ~~11(3).~~

24 (ii) **An indigent youth who is, or is alleged to be, under the**
25 **jurisdiction of the court under section 2(a), (d), or (h) of**
26 **chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,**
27 **beginning not later than the youth's preliminary inquiry.**

28 (g) Indigent ~~criminal~~-defense services do not include ~~services~~
29 ~~authorized to be~~ **any of the following:**



1 (i) **Services** provided under the appellate defender act, 1978 PA
2 620, MCL 780.711 to 780.719.

3 (ii) **Services provided by a lawyer-guardian ad litem under**
4 **section 17c(7) to (10) and section 17d of chapter XIIIA of the**
5 **probate code of 1939, 1939 PA 288, MCL 712A.17c and 712A.17d.**

6 (h) "~~Indigent eriminal-defense system~~" ~~or "system"~~ means
7 either of the following:

8 (i) The local unit of government that funds a trial court.

9 (ii) If a trial court is funded by more than 1 local unit of
10 government, those local units of government, collectively.

11 (i) "Local share" or "share" means an indigent ~~eriminal~~
12 defense system's average annual expenditure for indigent ~~eriminal~~
13 **adult** defense services in the 3 fiscal years immediately preceding
14 the creation of the MIDC under this act ~~, excluding money~~
15 ~~reimbursed to the system by individuals determined to be partially~~
16 ~~indigent. and indigent youth defense services in the 3 fiscal years~~
17 **immediately preceding January 1, 2024.** Beginning on November 1,
18 2018, if the Consumer Price Index has increased since November 1 of
19 the prior state fiscal year, the local share must be adjusted **and**
20 **compounded annually** by that number or by 3%, whichever is less.

21 (j) "MIDC" or "commission" means the Michigan indigent defense
22 commission ~~created~~ **established** under section 5.

23 (k) "Partially indigent" means a ~~eriminal~~ defendant who is
24 unable to afford the complete cost of legal representation, but is
25 able to contribute a monetary amount toward ~~his or her~~ **the**
26 representation.

27 (l) "**Youth**" means an individual who is less than 18 years of
28 age and who is the subject of a delinquency petition.

29 Sec. 5. (1) The Michigan indigent defense commission is

1 established within the department.

2 (2) The MIDC is an autonomous entity within the department.
 3 Except as otherwise provided by law, the MIDC shall exercise its
 4 statutory powers, duties, functions, and responsibilities
 5 independently of the department. The department shall provide
 6 support and coordinated services as requested by the MIDC including
 7 providing personnel, budgeting, procurement, and other
 8 administrative support to the MIDC sufficient to carry out its
 9 duties, powers, and responsibilities.

10 (3) The MIDC shall propose minimum standards for the local
 11 delivery of indigent ~~criminal~~-defense services providing effective
 12 assistance of counsel to adults **and youth** throughout this state.
 13 ~~These~~

14 (4) **The** minimum standards must be designed to ensure the
 15 provision of indigent ~~criminal~~-defense services that meet
 16 constitutional requirements for effective assistance of counsel.
 17 However, these minimum standards must not infringe on the supreme
 18 court's authority over practice and procedure in the courts of this
 19 state as set forth in section 5 of article VI of the state
 20 constitution of 1963.

21 (5) ~~(4)~~-The commission shall convene a public hearing before a
 22 proposed **minimum** standard is recommended to the department.

23 (6) A **proposed** minimum standard ~~proposed under this subsection~~
 24 must be submitted to the department for approval or rejection.
 25 ~~Opposition~~

26 (7) **Any opposition** to a proposed minimum standard may be
 27 submitted to the department in a manner prescribed by the
 28 department. ~~An~~-**If an** indigent ~~criminal~~-defense system ~~that~~ objects
 29 to a ~~recommended~~-**proposed** minimum standard on the ground that the

1 ~~recommended~~**proposed** minimum standard would exceed the MIDC's
2 statutory authority, ~~shall~~**the objection must** state specifically
3 how the ~~recommended~~**proposed** minimum standard would exceed the
4 MIDC's statutory authority. A

5 (8) **Except as otherwise provided in subsection (9), a proposed**
6 minimum standard is final when it is approved by the department. A

7 (9) **The commission may amend an approved minimum standard at**
8 **any time in accordance with the procedures set forth in subsections**
9 **(5) to (8). If a proposed minimum standard has been recommended to**
10 **the department but not yet approved or rejected, the commission may**
11 **modify the proposed minimum standard. If the commission modifies**
12 **the proposed minimum standard under this subsection, the commission**
13 **must again convene a public hearing before recommending the**
14 **modified proposed minimum standard to the department.**

15 (10) **An approved** minimum standard ~~that is approved by the~~
16 ~~department~~ is not subject to challenge through the appellate
17 procedures in section 15.

18 (11) An approved minimum standard for the local delivery of
19 indigent ~~criminal~~ defense services within an indigent ~~criminal~~
20 defense system is not a rule as that term is defined in section 7
21 of the administrative procedures act of 1969, 1969 PA 306, MCL
22 24.207.

23 (12) ~~(5) Approval~~ **An approval** of a minimum standard proposed
24 by the MIDC is considered a final department action subject to
25 judicial review under section 28 of article VI of the state
26 constitution of 1963 to determine whether the approved minimum
27 standard is authorized by law. ~~Jurisdiction~~

28 (13) **The jurisdiction** and venue for **the judicial review of an**
29 **approved minimum standard** are vested in the court of claims.



1 **(14)** An indigent ~~criminal~~-defense system may file a petition
2 for **the review of an approved minimum standard** in the court of
3 claims within 60 days after the date of mailing **or emailing** notice
4 of the department's final decision on the ~~recommended~~-**proposed**
5 minimum standard.

6 **(15)** The filing of a petition for review **under subsection (14)**
7 does not stay enforcement of an approved minimum standard, but the
8 department may grant, or the court of claims may order, a stay upon
9 appropriate terms.

10 **(16)** ~~(6)~~The MIDC shall identify and encourage best practices
11 for delivering the effective assistance of counsel to indigent
12 defendants. ~~charged with crimes.~~

13 **(17)** ~~(7)~~The MIDC shall identify and implement a system of
14 performance metrics to assess the provision of indigent defense
15 services in this state relative to national standards and
16 benchmarks.

17 **(18)** The MIDC shall provide an annual report to the governor,
18 **the** legislature, **the** supreme court, and the state budget director
19 on the performance metrics not later than December 15 of each year.

20 Sec. 7. (1) The MIDC includes ~~18-19~~ voting members and the ex
21 officio member described in subsection ~~(2)~~-**(4)**.

22 **(2)** ~~The~~-**Except as otherwise provided in subsection (11), the**
23 ~~18-19~~ voting members ~~shall~~-**must** be appointed by the governor for
24 terms of 4 years. ~~, except as provided in subsection (4).~~

25 **(3)** Subject to ~~subsection (3)~~, **subsections (5) to (9)**, the
26 governor shall appoint **the 19** members ~~under this~~-**described in**
27 subsection **(1)** as follows:

28 (a) Two members submitted by the speaker of the house of
29 representatives.

1 (b) Two members submitted by the senate majority leader.

2 (c) One member from a list of 3 names submitted by the supreme
3 court chief justice.

4 (d) Three members from a list of 9 names submitted by the
5 Criminal Defense Attorneys of Michigan.

6 (e) **One member from a list of 3 names submitted by the
7 children's law section of the State Bar of Michigan who is
8 experienced in defending youth in delinquency proceedings.**

9 (f) ~~(e)~~—One member from a list of 3 names submitted by the
10 Michigan Judges Association.

11 (g) ~~(f)~~—One member from a list of 3 names submitted by the
12 Michigan District Judges Association.

13 (h) ~~(g)~~—One member from a list of 3 names submitted by the
14 State Bar of Michigan.

15 (i) ~~(h)~~—One member from a list of names submitted by bar
16 associations whose primary mission or purpose is to advocate for
17 minority interests. Each bar association described in this
18 subdivision may submit 1 name.

19 (j) ~~(i)~~—One member from a list of 3 names submitted by the
20 Prosecuting Attorneys Association of Michigan who is a former
21 county prosecuting attorney or former assistant county prosecuting
22 attorney.

23 (k) ~~(j)~~—One member selected to represent the general public.

24 (l) ~~(k)~~—Two members representing the funding unit of a circuit
25 court from a list of 6 names submitted by the Michigan Association
26 of Counties.

27 (m) ~~(l)~~—One member representing the funding unit of a district
28 court from a list of 3 names submitted by the Michigan Townships
29 Association or the Michigan Municipal League. The Michigan

1 Townships Association and the Michigan Municipal League shall
2 alternate in submitting a list as described under this subdivision.
3 For the first appointment after ~~the effective date of the~~
4 ~~amendatory act that amended this subdivision, March 21, 2019,~~ the
5 Michigan Municipal League shall submit a list as described under
6 this subdivision for consideration for the appointment. For the
7 second appointment after ~~the effective date of the amendatory act~~
8 ~~that amended this subdivision, March 21, 2019,~~ the Michigan
9 Townships Association shall submit a list as described under this
10 subdivision for consideration for the appointment.

11 (n) ~~(m)~~ One member from a list of 3 names submitted by the
12 state budget office.

13 (4) ~~(2)~~ The supreme court chief justice or ~~his or her~~ **the**
14 **designee of the chief justice** shall serve as an ex officio member
15 of the MIDC without vote.

16 (5) ~~(3)~~ **Every individual** nominated for service on
17 the MIDC as provided in subsection ~~(1)~~ **(3)** must have **at least 1 of**
18 **the following:**

19 (a) ~~significant~~ **Significant** experience in the defense or
20 prosecution of criminal proceedings. ~~or have~~

21 (b) **Significant experience in the defense or prosecution of**
22 **youth in juvenile proceedings.**

23 (c) ~~demonstrated a~~ **A strong and demonstrated** commitment to
24 providing effective representation in indigent ~~criminal~~ defense
25 services.

26 (6) Of the members appointed under this section, the governor
27 shall appoint no fewer than 2 individuals who are ~~not~~ licensed
28 attorneys **and at least 1 individual with substantial knowledge of**
29 **the juvenile justice system.**



1 (7) Any individual who receives compensation from this state
2 or an indigent ~~criminal~~-defense system for providing prosecution of
3 or representation to indigent adults **or youth** in state courts is
4 ineligible to serve as a member of the MIDC.

5 (8) Not more than 3 judges, whether they are former judges or
6 sitting judges, shall serve on the MIDC at the same time.

7 (9) The governor may reject the names submitted under
8 subsection ~~(1)~~-(3) and request additional names.

9 (10) ~~(4)~~-An MIDC ~~members~~-**member** shall hold office until ~~their~~
10 ~~successors are~~-**a successor is appointed for the member.**

11 (11) The terms of the members must be staggered. Initially, 4
12 members must be appointed for a term of 4 years each, 4 members
13 must be appointed for a term of 3 years each, 4 members must be
14 appointed for a term of 2 years each, and 3 members must be
15 appointed for a term of 1 year each.

16 (12) ~~(5)~~-The governor shall fill a vacancy occurring in the
17 membership of the MIDC in the same manner as the original
18 appointment, except if the vacancy is for an appointment described
19 in subsection ~~(1)(d)~~,-(3) (d), the source of the nomination shall
20 submit a list of 3 names for each vacancy. However, if the senate
21 majority leader or the speaker of the house of representatives is
22 the source of the nomination, 1 name must be submitted. If an MIDC
23 member vacates the commission before the end of the member's term,
24 the governor shall fill that vacancy for the unexpired term only.

25 (13) ~~(6)~~-The governor shall appoint ~~1 of the original~~ MIDC
26 ~~members to serve as chairperson of the MIDC for a term of 1 year.~~
27 ~~At the expiration of that year, or upon the vacancy in the~~
28 ~~membership of the member appointed chairperson, the~~-**The** MIDC shall
29 annually elect a chairperson from its membership to serve a 1-year

1 term. An MIDC member shall not serve as chairperson of the MIDC for
2 more than 3 consecutive terms.

3 (14) ~~(7)~~—MIDC members shall not receive compensation in that
4 capacity but must be reimbursed for their reasonable actual and
5 necessary expenses by the state treasurer.

6 (15) ~~(8)~~—The governor may remove an MIDC member for
7 incompetence, dereliction of duty, malfeasance, misfeasance, or
8 nonfeasance in office, or for any other good cause.

9 (16) ~~(9)~~—A majority of the MIDC voting members constitute a
10 quorum for the transaction of business at a meeting of the MIDC. A
11 majority of the MIDC voting members are required for official
12 action of the commission.

13 (17) ~~(10)~~—Confidential case information, ~~including~~, but not
14 limited to, client information and attorney work product, ~~is~~
15 exempt from disclosure under the freedom of information act, 1976
16 PA 442, MCL 15.231 to 15.246.

17 Sec. 9. (1) The MIDC has the following authority and duties:

18 (a) Developing and overseeing the implementation, enforcement,
19 and modification of minimum standards, rules, and procedures to
20 ensure that indigent ~~criminal~~-defense services providing effective
21 assistance of counsel are consistently delivered to all indigent
22 adults **and youth** in this state consistent with the safeguards of
23 the United States ~~constitution~~, **Constitution**, the state
24 constitution of 1963, and this act.

25 (b) Investigating, auditing, and reviewing the operation of
26 indigent ~~criminal~~-defense services to ~~assure~~ **ensure** compliance with
27 the commission's minimum standards, rules, and procedures. However,
28 an indigent ~~criminal~~-defense service that is in compliance with the
29 commission's minimum standards, rules, and procedures must not be

1 required to provide indigent ~~criminal~~-defense services in excess of
2 those standards, rules, and procedures.

3 (c) Hiring an executive director and determining the
4 appropriate number of staff needed to accomplish the purpose of the
5 MIDC consistent with annual appropriations.

6 (d) Assigning the executive director the following duties:

7 (i) Establishing an organizational chart, preparing an annual
8 budget, and hiring, disciplining, and firing staff.

9 (ii) Assisting the MIDC in developing, implementing, and
10 regularly reviewing the MIDC's standards, rules, and procedures,
11 including, but not limited to, recommending to the MIDC suggested
12 changes to the criteria for an indigent adult's **or youth's**
13 eligibility for receiving ~~criminal~~-trial defense services under
14 this act.

15 (e) Establishing procedures for the receipt and resolution of
16 complaints, and the implementation of recommendations from the
17 courts, other participants in the criminal **and juvenile** justice
18 system, ~~systems~~, clients, and members of the public.

19 (f) Establishing procedures for the mandatory collection of
20 data concerning the operation of the MIDC, each indigent ~~criminal~~
21 defense system, and the operation of indigent ~~criminal~~-defense
22 services.

23 (g) Establishing rules and procedures for indigent ~~criminal~~
24 defense systems to apply to the MIDC for grants to bring the
25 system's delivery of indigent ~~criminal~~-defense services into
26 compliance with the minimum standards established by the MIDC.

27 (h) Establishing procedures for annually reporting to the
28 governor, **the** legislature, and **the** supreme court. The report
29 required under this subdivision ~~shall~~**must** include, but **is** not ~~be~~

1 limited to, recommendations for improvements and further
2 legislative action.

3 (2) Upon the appropriation of sufficient funds, the MIDC shall
4 establish minimum standards to carry out the purpose of this act,
5 and collect data from all indigent ~~criminal~~-defense systems. The
6 MIDC shall propose goals for compliance with the minimum standards
7 established under this act consistent with the metrics established
8 under this section and appropriations by this state.

9 (3) In establishing and overseeing the minimum standards,
10 rules, and procedures described in subsection (1), the MIDC shall
11 emphasize the importance of ~~indigent-criminal~~**all of the following:**

12 (a) **Indigent** defense services provided to ~~juveniles~~**youth**
13 under the age of ~~17~~**18** who are tried in the same manner as adults
14 or who may be sentenced in the same manner as adults. ~~and to~~

15 (b) **Indigent defense services provided to** adults with mental
16 impairments.

17 (4) The MIDC shall be mindful that defense attorneys who
18 provide indigent ~~criminal~~-defense services are partners with the
19 prosecution, law enforcement, and the judiciary in the criminal **and**
20 **juvenile** justice ~~system~~**systems**.

21 (5) The MIDC shall establish procedures for the conduct of its
22 affairs and promulgate policies necessary to carry out its powers
23 and duties under this act.

24 (6) **The** MIDC policies must be placed in an appropriate manual,
25 made publicly available on a website, and made available to all
26 attorneys and professionals providing indigent ~~criminal~~-defense
27 services, the supreme court, the governor, the senate majority
28 leader, the speaker of the house of representatives, the senate and
29 house appropriations committees, and the senate and house fiscal

1 agencies.

2 Sec. 11. (1) The MIDC shall establish minimum standards,
3 rules, and procedures to effectuate the following:

4 (a) The delivery of indigent ~~criminal~~-defense services must be
5 independent of the judiciary but ensure that the judges of this
6 state are permitted and encouraged to contribute information and
7 advice concerning that delivery of indigent ~~criminal~~-defense
8 services.

9 (b) If the caseload is sufficiently high, indigent ~~criminal~~-
10 defense services may consist of both an indigent ~~criminal~~-defender
11 office and the active participation of other members of the state
12 bar.

13 (c) ~~Trial courts~~-**A trial court** shall ~~assure~~-**ensure** that each
14 criminal defendant is advised of ~~his or her~~-**the** right to counsel.
15 ~~All adults, except those~~-**Youth may not waive the right to counsel**
16 **without first consulting with counsel on the consequences of**
17 **waiver. If a youth waives the right to counsel, it must be on the**
18 **record and in writing.**

19 (d) ~~Except for a defendant~~ appearing with retained counsel or
20 ~~those~~-**a defendant** who ~~have~~-**has** made an informed waiver of counsel,
21 ~~must~~-**each defendant must, not later than the first appearance of**
22 **the defendant in court, be screened for eligibility under this act,**
23 **indigency using the standards and procedures prescribed by MIDC**
24 **under subsection (3), and counsel must be assigned as soon as an**
25 **indigent** ~~adult~~-**defendant** is determined to be eligible for indigent
26 ~~criminal~~-defense services.

27 (2) The MIDC shall implement minimum standards, rules, and
28 procedures to guarantee the right of indigent defendants to the
29 assistance of counsel as provided under ~~amendment~~-**Amendments VI and**

1 **XIV** of the Constitution of the United States and section 20 of
2 article I of the state constitution of 1963. In establishing
3 minimum standards, rules, and procedures, the MIDC shall adhere to
4 the following principles:

5 (a) Defense counsel is provided sufficient time and a space
6 where attorney-client confidentiality is safeguarded for meetings
7 with defense counsel's client.

8 (b) Defense counsel's workload is controlled to permit
9 effective representation. Economic disincentives or incentives that
10 impair defense counsel's ability to provide effective
11 representation must be avoided. The MIDC may develop workload
12 controls to enhance defense counsel's ability to provide effective
13 representation.

14 (c) Defense counsel's ability, training, and experience match
15 the nature and complexity of the case to which ~~he or she~~ **the**
16 **defense counsel** is appointed.

17 (d) The same defense counsel continuously represents and
18 personally appears at every court appearance throughout the
19 pendency of the case. However, indigent ~~criminal~~-defense systems
20 may exempt ministerial, nonsubstantive tasks, and hearings from
21 this prescription.

22 (e) Indigent ~~criminal~~-defense systems employ only defense
23 counsel who have attended continuing legal education relevant to
24 counsels' indigent defense clients.

25 (f) Indigent ~~criminal~~-defense systems systematically review
26 defense counsel at the local level for efficiency and for effective
27 representation according to MIDC standards.

28 ~~(3) The following requirements apply to the application for,~~
29 ~~and appointment of, indigent criminal defense services under this~~

1 act:

2 ~~(a) A preliminary inquiry regarding, and the determination of,~~
3 ~~the indigency of any defendant, including a determination regarding~~
4 ~~whether a defendant is partially indigent, for purposes of this act~~
5 ~~must be made as determined by the indigent criminal defense system~~
6 ~~not later than at the defendant's first appearance in court. The~~
7 ~~determination may be reviewed by the indigent criminal defense~~
8 ~~system at any other stage of the proceedings. In determining~~
9 ~~whether a defendant is entitled to the appointment of counsel, the~~
10 ~~indigent criminal defense system shall consider whether the~~
11 ~~defendant is indigent and the extent of his or her ability to pay.~~
12 ~~Factors to be considered include, but are not limited to, income or~~
13 ~~funds from employment or any other source, including personal~~
14 ~~public assistance, to which the defendant is entitled, property~~
15 ~~owned by the defendant or in which he or she has an economic~~
16 ~~interest, outstanding obligations, the number and ages of the~~
17 ~~defendant's dependents, employment and job training history, and~~
18 ~~his or her level of education. A trial court may play a role in~~
19 ~~this determination as part of any indigent criminal defense~~
20 ~~system's compliance plan under the direction and supervision of the~~
21 ~~supreme court, consistent with section 4 of article VI of the state~~
22 ~~constitution of 1963. If an indigent criminal defense system~~
23 ~~determines that a defendant is partially indigent, the indigent~~
24 ~~criminal defense system shall determine the amount of money the~~
25 ~~defendant must contribute to his or her defense. An indigent~~
26 ~~criminal defense system's determination regarding the amount of~~
27 ~~money a partially indigent defendant must contribute to his or her~~
28 ~~defense is subject to judicial review. Nothing in this act prevents~~
29 ~~a court from making a determination of indigency for any purpose~~

1 ~~consistent with article VI of the state constitution of 1963.~~

2 ~~(b) A defendant is considered to be indigent if he or she is~~
3 ~~unable, without substantial financial hardship to himself or~~
4 ~~herself or to his or her dependents, to obtain competent, qualified~~
5 ~~legal representation on his or her own. Substantial financial~~
6 ~~hardship is rebuttably presumed if the defendant receives personal~~
7 ~~public assistance, including under the food assistance program,~~
8 ~~temporary assistance for needy families, Medicaid, or disability~~
9 ~~insurance, resides in public housing, or earns an income less than~~
10 ~~140% of the federal poverty guideline. A defendant is also~~
11 ~~rebuttably presumed to have a substantial financial hardship if he~~
12 ~~or she is currently serving a sentence in a correctional~~
13 ~~institution or is receiving residential treatment in a mental~~
14 ~~health or substance abuse facility.~~

15 ~~(c) A defendant not falling below the presumptive thresholds~~
16 ~~described in subdivision (b) must be subjected to a more rigorous~~
17 ~~screening process to determine if his or her particular~~
18 ~~circumstances, including the seriousness of the charges being~~
19 ~~faced, his or her monthly expenses, and local private counsel rates~~
20 ~~would result in a substantial hardship if he or she were required~~
21 ~~to retain private counsel.~~

22 ~~(d) A determination that a defendant is partially indigent may~~
23 ~~only be made if the indigent criminal defense system determines~~
24 ~~that a defendant is not fully indigent. An indigent criminal~~
25 ~~defense system that determines a defendant is not fully indigent~~
26 ~~but may be partially indigent must utilize the screening process~~
27 ~~under subdivision (c). The provisions of subdivision (c) apply to a~~
28 ~~partially indigent defendant.~~

29 ~~(e) The MIDC shall promulgate objective standards for indigent~~

1 ~~criminal defense systems to determine whether a defendant is~~
2 ~~indigent or partially indigent. These standards must include~~
3 ~~availability of prompt judicial review, under the direction and~~
4 ~~supervision of the supreme court, if the indigent criminal defense~~
5 ~~system is making the determination regarding a defendant's~~
6 ~~indigency or partial indigency.~~

7 ~~(f) The MIDC shall promulgate objective standards for indigent~~
8 ~~criminal defense systems to determine the amount a partially~~
9 ~~indigent defendant must contribute to his or her defense. The~~
10 ~~standards must include availability of prompt judicial review,~~
11 ~~under the direction and supervision of the supreme court, if the~~
12 ~~indigent criminal defense system is making the determination~~
13 ~~regarding how much a partially indigent defendant must contribute~~
14 ~~to his or her defense.~~

15 ~~(g) A defendant is responsible for applying for indigent~~
16 ~~defense counsel and for establishing his or her indigency and~~
17 ~~eligibility for appointed counsel under this act. Any oral or~~
18 ~~written statements made by the defendant in or for use in the~~
19 ~~criminal proceeding and material to the issue of his or her~~
20 ~~indigency must be made under oath or an equivalent affirmation.~~

21 **(3) The MIDC shall establish standards and procedures for**
22 **determinations of indigency.**

23 (4) The MIDC shall establish standards for trainers and
24 organizations conducting training that receive MIDC funds for
25 training and education. The standards established under this
26 subsection must require that the MIDC analyze the quality of the
27 training, and must require that the effectiveness of the training
28 be capable of being measured and validated. **measurement and**
29 **validation.**

1 (5) An indigent ~~criminal~~-defense system may include in its
2 compliance plan a request that the MIDC serve as a clearinghouse
3 for experts and investigators. If an indigent ~~criminal~~-defense
4 system makes a request under this subsection, the MIDC may develop
5 and operate a system for determining the need and availability for
6 an expert or investigator in individual cases.

7 Sec. 13. (1) All indigent ~~criminal~~-defense systems and, at the
8 direction of the supreme court, attorneys engaged in providing
9 indigent ~~criminal~~-defense services shall cooperate and participate
10 with the MIDC in the investigation, audit, and review of their
11 indigent ~~criminal~~-defense services.

12 (2) An indigent ~~criminal~~-defense system may submit ~~to the MIDC~~
13 an estimate of the cost of developing the plan and cost analysis
14 for implementing the plan under subsection (3) to the MIDC for
15 approval. If approved, the MIDC shall award the indigent ~~criminal~~
16 defense system a grant to pay the approved costs for developing the
17 plan and cost analysis under subsection (3).

18 (3) No later than 180 days after a standard is approved by the
19 department, each indigent ~~criminal~~-defense system shall submit a
20 plan to the MIDC for the provision of indigent ~~criminal~~-defense
21 services in a manner as determined by the MIDC and shall submit an
22 annual plan for the following state fiscal year on or before
23 October 1 of each year. A plan submitted under this subsection must
24 specifically address how the minimum standards established by the
25 MIDC under this act will be met and must include a cost analysis
26 for meeting those minimum standards. The standards to be addressed
27 in the annual plan are those approved not less than 180 days before
28 the annual plan submission date. The cost analysis must include a
29 statement of the funds in excess of the local share, if any,

1 necessary to allow its system to comply with the MIDC's minimum
2 standards.

3 (4) The MIDC shall approve or disapprove all or any portion of
4 a plan or cost analysis, or both a plan and cost analysis,
5 submitted under subsection (3), and shall do so ~~within~~**not later**
6 **than** 90 calendar days ~~of~~**after** the submission of the plan and cost
7 analysis. If the MIDC disapproves any part of the plan, the cost
8 analysis, or both the plan and the cost analysis, the indigent
9 ~~criminal~~ defense system shall consult with the MIDC and, for any
10 disapproved portion, submit a new plan, a new cost analysis, or
11 both ~~within~~**not later than** 60 calendar days ~~of~~**after** the mailing **or**
12 **emailing** date of the official notification of the MIDC's
13 disapproval. If, after 3 submissions, ~~a compromise is not reached,~~
14 **the MIDC still disapproves of any portion of the plan or cost**
15 **analysis,** the ~~dispute~~**disputed portion** must be resolved as provided
16 in section 15. All approved provisions of an indigent ~~criminal~~
17 defense system's plan and cost analysis must not be delayed by any
18 disapproved portion and must proceed as provided in this act. The
19 MIDC shall not approve a cost analysis or portion of a cost
20 analysis unless it is reasonably and directly related to an
21 indigent defense function.

22 (5) The MIDC shall submit a report to the governor, the senate
23 majority leader, the speaker of the house of representatives, and
24 the appropriations committees of the senate and house of
25 representatives requesting the appropriation of funds necessary to
26 implement compliance plans after all the systems compliance plans
27 are approved by the MIDC. For standards approved after January 1,
28 2018, the MIDC shall include a cost analysis for each minimum
29 standard in the report and shall also provide a cost analysis for

1 each minimum standard approved on or before January 1, 2018, if a
2 cost analysis for each minimum standard approved was not provided,
3 and shall do so not later than October 31, 2018. The amount
4 requested under this subsection must be equal to the total amount
5 required to achieve full compliance as agreed upon by the MIDC and
6 the indigent ~~eriminal~~-defense systems under the approval process
7 provided in subsection (4). The information used to create this
8 report must be made available to the governor, the senate majority
9 leader, the speaker of the house of representatives, and the
10 appropriations committees of the senate and house of
11 representatives.

12 ~~(6) The MIDC shall submit a report to the governor, the senate~~
13 ~~majority leader, the speaker of the house of representatives, and~~
14 ~~the appropriations committees of the senate and house of~~
15 ~~representatives not later than October 31, 2021 that includes a~~
16 ~~recommendation regarding the appropriate level of local share,~~
17 ~~expressed in both total dollars and as a percentage of the total~~
18 ~~cost of compliance for each indigent ~~eriminal~~ defense system.~~

19 (6) ~~(7)~~ Except as provided in subsection ~~(9)~~, ~~(8)~~, an indigent
20 ~~eriminal~~-defense system shall maintain not less than its local
21 share. If the MIDC determines that funding in excess of the
22 indigent ~~eriminal~~-defense system's share is necessary in order to
23 bring its system into compliance with the minimum standards
24 established by the MIDC, that excess funding must be paid by this
25 state. The legislature shall appropriate to the MIDC the additional
26 funds necessary for ~~a~~ **an indigent defense** system to meet and
27 maintain those minimum standards, which must be provided to
28 indigent ~~eriminal~~-defense systems through grants as described in
29 subsection ~~(8)~~. ~~(7)~~. The legislature may appropriate funds that

1 apply to less than all of the minimum standards and may provide
2 less than the full amount of the funds requested under subsection
3 (5). Notwithstanding this subsection, it is the intent of the
4 legislature to fund all of the minimum standards contained in the
5 report under subsection (5) within 3 years of the date on which the
6 minimum standards were adopted.

7 (7) ~~(8)~~—An indigent ~~criminal~~-defense system must not be
8 required to provide funds in excess of its local share. The MIDC
9 shall provide grants to indigent ~~criminal~~-defense systems to assist
10 in bringing the systems into compliance with minimum standards
11 established by the MIDC.

12 (8) ~~(9)~~—An indigent ~~criminal~~-defense system is not required to
13 expend its local share if the minimum standards established by the
14 MIDC may be met for less than that share, but the local share of a
15 system that expends less than its local share under these
16 circumstances is not reduced by the lower expenditure.

17 (9) ~~(10)~~—This state shall appropriate funds to the MIDC for
18 grants to the local units of government for the reasonable costs
19 associated with data required to be collected under this act that
20 is over and above the local unit of government's data costs for
21 other purposes.

22 (10) ~~(11)~~—Within 180 days after receiving funds from the MIDC
23 under subsection ~~(8)~~, ~~(7)~~, an indigent ~~criminal~~-defense system
24 shall comply with the terms of the grant in bringing its system
25 into compliance with the minimum standards established by the MIDC
26 for effective assistance of counsel. The terms of a grant may allow
27 an indigent ~~criminal~~-defense system to exceed 180 days for
28 compliance with a specific item needed to meet minimum standards if
29 necessity is demonstrated in the indigent ~~criminal~~-defense system's

1 compliance plan. The MIDC has the authority to allow an indigent
2 ~~criminal~~-defense system to exceed 180 days for implementation of
3 items if an unforeseeable condition prohibits timely compliance.

4 (11) ~~(12)~~—If an indigent ~~criminal~~-defense system is awarded no
5 funds for implementation of its plan under this act, the MIDC shall
6 nevertheless issue to the **indigent defense** system a zero grant
7 reflecting that it will receive no grant funds.

8 (12) ~~(13)~~—The MIDC may apply for and obtain grants from any
9 source to carry out the purposes of this act. All funds received by
10 MIDC, from any source, are state funds and must be appropriated as
11 provided by law.

12 (13) ~~(14)~~—The MIDC shall ensure proper financial protocols in
13 administering and overseeing funds utilized by indigent ~~criminal~~
14 defense systems, including, but not limited to, all of the
15 following:

16 (a) Requiring documentation of expenditures.

17 (b) Requiring each indigent ~~criminal~~-defense system to hold
18 all grant funds in a fund that is separate from other funds held by
19 the indigent ~~criminal~~-defense system.

20 (c) Requiring each indigent ~~criminal~~-defense system to comply
21 with the standards promulgated by the ~~governmental-accounting~~
22 ~~standards board~~. **Governmental Accounting Standards Board.**

23 (14) ~~(15)~~—If an indigent ~~criminal~~-defense system does not
24 fully expend a grant toward its costs of compliance, its grant in
25 the second succeeding fiscal year must be reduced by the amount
26 equal to the unexpended funds. Identified unexpended grant funds
27 must be reported by indigent ~~criminal~~-defense systems on or before
28 October 31 of each year. Funds subject to extension under
29 subsection ~~(11)~~ **(10)** must be reported but not included in the

1 reductions described in this subsection. Any grant money that is
2 determined to have been used for a purpose outside of the
3 compliance plan must be repaid to the MIDC, or if not repaid, must
4 be deducted from future grant amounts.

5 (15) ~~(16)~~—If an indigent ~~criminal~~ defense system expends funds
6 in excess of its local share and the approved MIDC grant to meet
7 unexpected needs in the provision of indigent ~~criminal~~ defense
8 services, the MIDC shall recommend the inclusion of the funds in a
9 subsequent year's grant if all expenditures were reasonably and
10 directly related to indigent ~~criminal~~ defense functions.

11 (16) ~~(17)~~—The court shall collect contribution or
12 reimbursement from individuals determined to be partially indigent
13 under applicable court rules and statutes. Reimbursement under this
14 subsection is subject to section 22 of chapter XV of the code of
15 criminal procedure, 1927 PA 175, MCL 775.22. The court shall remit
16 100% of the funds it collects under this subsection to the indigent
17 ~~criminal~~ defense system in which the court is sitting. Twenty
18 percent of the funds received under this subsection by an indigent
19 ~~criminal~~ defense system must be remitted to the department in a
20 manner prescribed by the department and reported to the MIDC by
21 October 31 of each year. The funds received by the department under
22 this subsection must be expended by the MIDC ~~in support of indigent~~
23 ~~criminal defense systems in this state. to implement its minimum~~
24 **standards and to ensure that indigent defense systems comply with**
25 **the minimum standards.** The remaining 80% of the funds collected
26 under this subsection may be retained by the indigent ~~criminal~~
27 defense system for purposes of reimbursing the costs of collecting
28 the funds under this subsection and funding indigent defense in the
29 subsequent fiscal year. The funds collected under this subsection

1 must not alter the calculation of the local share made pursuant to
2 **under** section 3(i)-3.

3 Sec. 15. (1) Except as provided in section 5, if a dispute
4 arises between the MIDC and an indigent ~~criminal~~ defense system
5 concerning the ~~requirements of this act, including a dispute~~
6 ~~concerning the approval of an indigent criminal defense system's~~
7 **annual plan**, ~~or cost analysis, or compliance with section 13 or~~
8 ~~17,~~ the parties shall attempt to resolve the dispute by mediation.
9 The state court administrator, as authorized by the supreme court,
10 shall appoint a mediator agreed to by the parties within 30
11 calendar days of the mailing **or emailing** date of the official
12 notification of the third disapproval by the MIDC under section
13 13(4) to mediate the dispute and shall facilitate the mediation
14 process. The MIDC shall immediately send the state court
15 administrative office a copy of the official notice of that third
16 disapproval. If the parties do not agree on the selection of the
17 mediator, the state court administrator, as authorized by the
18 supreme court, shall appoint a mediator of ~~his or her~~ **the state**
19 **court administrator's** choosing. Mediation must commence within 30
20 calendar days after the mediator is appointed and terminate within
21 60 calendar days of its commencement. Mediation costs associated
22 with mediation of the dispute must be paid equally by the parties.

23 (2) **The MIDC shall establish resolution procedures under**
24 **section 9(5) related to resolving a dispute with an indigent**
25 **defense system that is not in compliance with section 13 or 17.**
26 **These procedures must be available on a public website. If a**
27 **dispute between the MIDC and an indigent defense system concerning**
28 **compliance with section 13 or 17 cannot be resolved through the**
29 **MIDC resolution procedures created under this subsection,**



1 subsection (4) applies.

2 (3) ~~(2)~~—If the parties do not come to a resolution of the
3 dispute during mediation under subsection (1), all of the following
4 apply:

5 (a) The mediator may submit ~~his or her~~ a recommendation of how
6 the dispute should be resolved to the MIDC within 30 calendar days
7 of the conclusion of mediation for the MIDC's consideration.

8 (b) The MIDC shall consider the recommendation of the
9 mediator, if any, and shall approve a final plan or ~~the~~ cost
10 analysis, or both, in the manner the MIDC considers appropriate
11 within 30 calendar days, and the indigent ~~criminal~~-defense system
12 shall implement the plan as approved by the MIDC.

13 (c) The indigent ~~criminal~~-defense system that is aggrieved by
14 the final plan, cost analysis, or both, may bring an action seeking
15 equitable relief as described in subsection ~~(3)~~. **(4)**.

16 **(4)** ~~(3)~~—The MIDC, ~~or~~ an indigent ~~criminal~~-defense system may
17 bring an action seeking equitable relief in the circuit court only
18 as follows:

19 (a) Within 60 days after the MIDC's issuance of an approved
20 plan and cost analysis under subsection ~~(2)(b)~~. **(3)(b)**.

21 (b) Within 60 days after the system receives grant funds under
22 section ~~13(8)~~, **13(7)**, if the plan, cost analysis, or both, required
23 a grant award for implementation of the plan.

24 (c) Within 30 days of the MIDC's determination that the
25 indigent ~~criminal~~-defense system has breached its duty to comply
26 with ~~an~~ any of the following:

27 (i) An approved plan.

28 (ii) A cost analysis.

29 (iii) A grant contract provision.

1 (iv) **A provision of section 13 or 17.**

2 (d) The action must be brought in the judicial circuit where
3 the indigent ~~criminal-defense service~~-**system** is located. The state
4 court administrator, as authorized by the supreme court, shall
5 assign an active or retired judge from a judicial circuit other
6 than the judicial circuit where the action was filed to hear the
7 case. Costs associated with the assignment of the judge must be
8 paid equally by the parties.

9 (e) The action must not challenge the validity, legality, or
10 appropriateness of the minimum standards approved by the
11 department.

12 (5) ~~(4)~~—If the dispute involves the indigent ~~criminal~~-defense
13 system's plan, cost analysis, or both, the court may approve,
14 reject, or modify the submitted plan, cost analysis, or the terms
15 of a grant awarded under section ~~13(8)~~-**13(7)** other than the amount
16 of the grant, determine whether section 13 has been complied with,
17 and issue any orders necessary to obtain compliance with this act.
18 However, the system must not be required to expend more than its
19 local share in complying with this act.

20 (6) ~~(5)~~—If a party refuses or fails to comply with a previous
21 order of the court, the court may enforce the previous order
22 through the court's enforcement remedies, including, but not
23 limited to, its contempt powers, and may order that the state
24 undertake the provision of indigent ~~criminal~~-defense services in
25 lieu of the indigent ~~criminal~~-defense system.

26 (7) ~~(6)~~—If the court determines that an indigent ~~criminal~~
27 defense system has breached its duty under section 17(1), the court
28 may order the MIDC to provide indigent ~~criminal~~-defense on behalf
29 of that **indigent defense** system.



1 (8) ~~(7)~~—If the court orders the MIDC to provide indigent
2 ~~criminal~~ defense services on behalf of an indigent ~~criminal~~ defense
3 system, the court shall order the system to pay the following
4 amount of the state's costs that the MIDC determines are necessary
5 ~~in order~~ to bring the indigent ~~criminal~~ defense system into
6 compliance with the minimum standards established by the MIDC:

- 7 (a) In the first year, 20% of the state's costs.
8 (b) In the second year, 40% of the state's costs.
9 (c) In the third year, 60% of the state's costs.
10 (d) In the fourth year, 80% of the state's costs.
11 (e) In the fifth year, and any subsequent year, not more than
12 the dollar amount that was calculated under subdivision (d).

13 (9) ~~(8)~~—An indigent ~~criminal~~ defense system may resume
14 providing indigent ~~criminal~~ defense services at any time as
15 provided under section 13. When ~~a~~ **an indigent defense** system
16 resumes providing indigent ~~criminal~~ defense services, it is no
17 longer required to pay an assessment under subsection ~~(7)~~ **(8)** but
18 must be required to pay no less than its share.

19 Sec. 17. (1) Except as provided in subsection (2), every local
20 unit of government that is part of an indigent ~~criminal~~ defense
21 system shall comply with an approved plan under this act.

22 (2) ~~A~~ **An indigent defense** system's duty of compliance with 1
23 or more standards within the plan under subsection (1) is
24 contingent upon receipt of a grant in the amount sufficient to
25 cover that particular standard or standards contained in the plan
26 and cost analysis approved by the MIDC.

27 (3) The MIDC may proceed under section 15 if an indigent
28 ~~criminal~~ defense system breaches its duty of compliance under
29 subsection (1).

1 Sec. 21. Both of the following apply to the MIDC:

2 (a) ~~The~~ **Except as provided in section 7(17),** the freedom of
3 information act, 1976 PA 442, MCL 15.231 to 15.246. ~~, except as~~
4 ~~provided in section 7(10).~~

5 (b) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

6 Sec. 23. (1) Nothing in this act shall be construed to
7 overrule, expand, or extend, either directly or by analogy, any
8 decisions reached by the United States ~~supreme court~~ **Supreme Court**
9 or the supreme court of this state regarding the effective
10 assistance of counsel.

11 (2) Nothing in this act shall be construed to override section
12 29 or 30 of article IX of the state constitution of 1963.

13 (3) Except as otherwise provided in this act, the failure of
14 an indigent ~~criminal~~ defense system to comply with statutory duties
15 imposed under this act does not create a cause of action against
16 the government or a system.

17 (4) ~~Statutory~~ **The** duties imposed **under this act** that create a
18 higher standard than that imposed by the United States ~~constitution~~
19 **Constitution** or the state constitution of 1963 do not create a
20 cause of action against a local unit of government, an indigent
21 ~~criminal~~ defense system, or this state.

22 (5) ~~Violations~~ **A violation** of **the** MIDC rules that ~~do~~ **does** not
23 constitute ineffective assistance of counsel under the United
24 States ~~constitution~~ **Constitution** or the state constitution of 1963
25 ~~do~~ **does** not constitute grounds for a conviction to be reversed or a
26 judgment to be modified for ineffective assistance of counsel.



8. Per Diem Rates 00608'23

Juveniles: juvenile justice services; juvenile justice residential per diem rates; modify.

Juveniles: juvenile justice services; Juveniles: other; State agencies (existing): health and human services;

HOUSE BILL NO. _____

A bill to amend 1939 PA 280, entitled
"The social welfare act,"
(MCL 400.1 to 400.119b) by adding section 117k.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 117k. The department may adjust the juvenile justice
2 residential per diem rate as needed, but must stay within the
3 appropriated amount provided in the annual budget. The department
4 may make changes to provider service agreements to respond to bed
5 shortages, staff retention, and service needs.



12. Pre-Court Diversion & Consent Calendar 00606'23

Juveniles: other; length of time youth can be placed on precourt diversion program; limit.

Juveniles: other; Juveniles: juvenile justice services;

HOUSE BILL NO. _____

A bill to amend 1988 PA 13, entitled
"Juvenile diversion act,"
by amending sections 5 and 6 (MCL 722.825 and 722.826), as amended
by 1996 PA 137.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) If a decision is made to divert a minor with a
2 referral under section 3(1)(b), a conference with the minor and the
3 minor's parent, guardian, or custodian ~~shall~~**must** be held to
4 consider alternatives to the filing of a petition with the court or
5 to the authorization of a petition. The law enforcement official or



12. Pre-Court Diversion & Consent Calendar 00606'23

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1 **court** intake worker shall notify the minor and the minor's parent,
2 guardian, or custodian of the proposed conference and shall inform
3 the minor, and the minor's parent, guardian, or custodian of all of
4 the following:

5 (a) That participation in the conference or resulting referral
6 plan is voluntary.

7 (b) That an attorney may accompany the minor and the minor's
8 parent, guardian, or custodian at the conference.

9 (c) The alternative referral programs available and the
10 criteria utilized to determine whether to file a petition with the
11 court or to dispose of the petition with a referral.

12 (d) That if diversion is agreed to and the minor complies with
13 the terms of the diversion agreement and the referral plan, a
14 petition cannot be filed with the court, or if a petition has been
15 filed, the petition cannot be authorized.

16 (2) The conference to consider alternatives to the filing of a
17 petition with the court or to consider alternatives to the
18 authorization of a petition ~~shall~~**must** not be held until after the
19 questioning, if any, of the minor has been completed or after an
20 investigation has been made concerning the alleged offense. Mention
21 of, or promises concerning, diversion ~~shall~~**must** not be made by a
22 law enforcement official or court intake worker in the presence of
23 the minor or the minor's parent, guardian, or custodian during any
24 questioning of the minor. Information divulged by the minor during
25 the conference or after the diversion is agreed to, but before a
26 petition is filed with the court or has been authorized, ~~shall~~**must**
27 not be used against the minor.

28 (3) If a conference held under this section results in
29 diversion that imposes conditions on the minor and that will



1 prevent the filing of a petition with the court or the
2 authorization of a petition, the terms of the diversion agreement
3 ~~shall~~**must** be set forth in writing, dated, and signed by the law
4 enforcement official or court intake worker, the minor, and the
5 minor's parent, guardian, or custodian. **The time period for a minor
6 to complete the terms of a diversion agreement must not exceed 3
7 months, unless the law enforcement official or court intake worker
8 determines that a longer period is needed for the minor to complete
9 a specific treatment program and documents this determination as
10 required under section 6.**

11 (4) If a conference is held under this section and an
12 agreement under subsection (3) is not reached, a petition may be
13 filed with the court as provided by law and a petition may be
14 authorized as provided by law. If an agreement under subsection (3)
15 is not reached and a petition is to be filed, the petition ~~shall~~
16 **must** be filed with the court not later than 30 days after the
17 conference.

18 (5) If the minor fails to comply with the terms of the
19 diversion agreement and the referral plan, the law enforcement
20 official or the court intake worker may revoke the diversion
21 agreement. If the diversion agreement is revoked, a petition may be
22 filed with the court as provided by law and a petition may be
23 authorized as provided by law.

24 Sec. 6. (1) When a decision is made to divert a minor, the law
25 enforcement official or court intake worker shall file with the
26 court in the county in which the minor resides or is found all of
27 the following information:

- 28 (a) The minor's name, address, and date of birth.
29 (b) The act or offense for which the minor was apprehended.

12. Pre-Court Diversion & Consent Calendar 00606'23

4

1 (c) The date and place of the act or offense for which the
2 minor was apprehended.

3 (d) The diversion decision made, whether referred or released.

4 (e) The nature of the minor's compliance with the diversion
5 agreement.

6 (f) **The time period to complete the terms of the diversion**
7 **agreement and, if the period exceeds 3 months, the determination**
8 **that a longer period is necessary for the minor to complete a**
9 **specific treatment program.**

10 (2) If a diversion agreement is revoked ~~pursuant to~~ **under**
11 section 5(5), the law enforcement official or court intake worker
12 shall file **the fact of and reasons for the revocation** with the
13 court in which the information described in subsection (1) is
14 filed. ~~the fact of and reasons for the revocation.~~

7. SADO 01329'23

Courts: other; duties of the appellate defender; include requirement to defend youth.

Courts: other; Juveniles: juvenile justice services;

HOUSE BILL NO. _____

A bill to amend 1978 PA 620, entitled
"Appellate defender act,"
by amending the title and sections 2, 4, 6, and 7 (MCL 780.712,
780.714, 780.716, and 780.717) and by adding sections 1a and 8a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act relating to ~~criminal procedure~~; **indigent appellate
defense**; to provide for the defense of ~~persons accused or convicted
of criminal offenses~~; **certain indigent individuals**; to create the
appellate defender commission; to provide for an appellate



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1 defender; to prescribe powers and duties; to provide facilities,
 2 personnel, and related assistance and services for the appellate
 3 defender and the commission; and to provide for the financing of
 4 the administration of this act.

5 **Sec. 1a. As used in this act:**

6 (a) "Adult" means either of the following:

7 (i) An individual who is eligible to appeal a criminal
 8 conviction or exercise any other postconviction remedy.

9 (ii) An individual who is eligible to appeal an order issued
 10 under section 2d or 4 of chapter XIIIA of the probate code of 1939,
 11 1939 PA 288, MCL 712A.2d and 712A.4.

12 (b) "Indigent defense system" or "system" means either of the
 13 following:

14 (i) The local unit of government that funds a trial court.

15 (ii) If a trial court is funded by more than 1 local unit of
 16 government, those local units of government, collectively.

17 (c) "Youth" means an individual who is eligible to appeal an
 18 order issued under section 2(a), (d), or (h) of chapter XIIIA of the
 19 probate code of 1939, 1939 PA 288, MCL 712A.2.

20 **Sec. 2. (1) An appellate defender commission is created within**
 21 **the office of the state court administrator. The appellate defender**
 22 **commission consists of ~~7-9~~ members appointed by the governor for**
 23 **terms of 4 years. ~~Of the 7-~~The members ~~7-2~~ of the commission must**
 24 **be determined as follows:**

25 (a) **Two** members ~~shall~~**must** be recommended by the supreme court
 26 of this state. ~~7-1~~

27 (b) **One** member ~~shall~~**must** be recommended by the court of
 28 appeals of this state. ~~7-1~~

29 (c) **One** member ~~shall~~**must** be recommended by the Michigan



1 judges association. ~~7-2~~

2 (d) ~~Two~~ members ~~shall~~**must** be recommended by the ~~state bar~~
3 **State Bar** of Michigan. ~~7-and 1 member,~~

4 (e) **One member must be recommended by the Michigan Indian**
5 **Judicial Association.**

6 (f) ~~Two~~ members who ~~shall~~**are** not ~~be an attorney,~~**attorneys**
7 ~~shall~~**must** be selected from the general public by the governor to
8 **represent the interests of individuals who have been impacted by**
9 **the youth or adult justice system.**

10 (g) A member ~~of~~**appointed to the commission under subdivisions**
11 **(a) to (f)** shall not be, at the time of appointment, a sitting
12 judge, a prosecuting attorney, or a law enforcement officer.

13 (2) Initially 4 members of the commission shall be appointed
14 for terms of 4 years and 1 member each for terms of 1, 2, and 3
15 years respectively.

16 (3) Members of the commission shall not receive a salary in
17 that capacity but ~~shall~~**must** be reimbursed for their reasonable
18 actual and necessary expenses by the state treasurer upon the
19 warrant of the state treasurer.

20 (4) The commission shall be responsible for the development of
21 ~~a~~**both of the following:**

22 (a) ~~A~~ system of ~~indigent~~**appellate defense services which**
23 ~~shall~~**for indigent adults.**

24 (b) **A system of appellate defense services for indigent youth.**

25 (5) **Both of the systems described in subsection (4) must**
26 **include services provided by** ~~the~~**both of the following:**

27 (a) **The** office of the state appellate defender ~~7-provided for~~
28 ~~under~~**created in section 3. 7-and locally**

29 (b) **Locally** appointed private counsel.



1 (6) ~~(5)~~—The commission shall be responsible for the
2 development of minimum standards to which all indigent ~~eriminal~~
3 ~~defense~~ **defense** ~~services shall for adults and youth shall~~
4 conform. ~~Within 180 days after appointment of the commission and~~
5 ~~whenever~~ **Whenever** the commission deems it advisable, ~~after that~~
6 ~~period,~~ the commission shall submit proposed standards to the
7 supreme court. Upon approval of the proposed standards by the
8 supreme court, the commission shall adopt the standards.

9 (7) ~~(6)~~—The commission shall compile and keep current ~~a both~~
10 **of the following:**

11 (a) A statewide roster of attorneys eligible for, and willing
12 to accept, appointment ~~by an appropriate court to serve as criminal~~
13 ~~appellate defense counsel for indigents.~~ **indigent adults.**

14 (b) A statewide roster of attorneys eligible for, and willing
15 to accept, appointment to serve as appellate defense counsel for
16 **indigent youth.**

17 (8) The appointment of ~~eriminal~~ **indigent adults and youth must** appellate defense services for
18 ~~indigents shall~~ **must** be made ~~by the trial~~
19 ~~court from the applicable roster provided by the commission or~~
20 **shall be described in subsection (7), or** referred to the office of
21 the state appellate defender.

22 (9) ~~(7)~~—The commission shall provide a continuing legal
23 education training program for its staff and the private attorneys
24 who appear on the ~~roster for purposes of appointment for indigent~~
25 ~~eriminal defense appellate service.~~ **rosters described in subsection**
26 **(7).**

27 Sec. 4. (1) ~~The~~ **An individual shall not serve as an** appellate
28 defender, deputy appellate defender, ~~and each or~~ assistant
29 appellate defender ~~shall.~~

1 ~~(a) Be unless the individual is~~ an attorney licensed to
2 practice law in this state.

3 (2) ~~(b) The appellate defender, the deputy appellate defender,~~
4 and each assistant appellate defender shall do all of the
5 following:

6 (a) Take and subscribe to the oath required by the
7 constitution before taking office.

8 (b) ~~(c)~~ Perform duties as may be provided by law.

9 (c) ~~(d)~~ Represent the following individuals:

10 (i) An indigent defendant ~~adult~~ only subsequent to a conviction
11 or entry of a guilty plea or plea of nolo contendere at the trial
12 court level.

13 (ii) An indigent youth only subsequent to an appealable order.

14 (3) ~~(e) Not~~ The appellate defender and the deputy appellate
15 defender shall not engage in the practice of law or as an attorney
16 or counselor in a court of this state except in the exercise of ~~his~~
17 the duties under ~~this~~ prescribed by this act.

18 (4) ~~(2)~~ For purposes of this act, the appellate defender, the
19 deputy appellate defender, ~~the each~~ assistant appellate defender,
20 and support personnel ~~shall be~~ are considered as court employees
21 and are not as classified civil service employees.

22 Sec. 6. The appellate defender shall do all of the following:

23 (a) Conduct an appeal of a felony conviction or conduct other
24 ~~post conviction~~ postconviction remedies on behalf of a ~~person an~~
25 indigent adult for whom the appellate defender is assigned as
26 attorney. ~~by a court of a record.~~

27 (b) Conduct an appeal of an order or conduct other appropriate
28 postdisposition remedies on behalf of an indigent youth for whom
29 the appellate defender is assigned as attorney.

1 (c) ~~(b)~~ Provide investigatory and other services necessary for
2 a complete appellate review or appropriate ~~post conviction~~
3 **postconviction or postdisposition** remedy, **as applicable.**

4 (d) ~~(e)~~ Accept only that number of assignments and maintain a
5 caseload which will ~~insure~~ **ensure** quality ~~criminal defense~~
6 appellate **defense** services **for indigent adults and youth** consistent
7 with the funds appropriated by the state. However, the number of
8 cases assigned to the appellate defender office ~~shall~~ **must** not be
9 less than 25% of the total ~~criminal defense~~ appellate **defense** cases
10 for ~~indigents~~ **indigent adults and youth** pending before the
11 appellate courts of this state.

12 (e) ~~(d)~~ Maintain a repository of briefs prepared by the
13 appellate defender and make those briefs available to private
14 attorneys providing ~~criminal defense~~ appellate **defense** services for
15 ~~indigents~~ **indigent adults and youth.**

16 (f) ~~(e)~~ Perform other duties required by law as directed by
17 the commission.

18 Sec. 7. (1) The appellate defender may appoint special
19 assistant appellate defenders to ~~represent~~ **do any of the following:**

20 (a) **Represent** indigent ~~persons~~ **adults** or ~~to~~ **otherwise** assist
21 in the representation of ~~an~~ indigent ~~person~~ **adults** at any stage of
22 appellate or ~~post conviction~~ **postconviction** proceedings, upon rules
23 adopted by the commission. ~~Special~~

24 (b) **Represent indigent youth or otherwise assist in the**
25 **representation of indigent youth at any stage of appellate**
26 **proceedings, upon rules adopted by the commission.**

27 (2) **A special** assistant appellate ~~defenders~~ **defender** shall be
28 paid on a contract basis approved by the commission within funds
29 available to the commission. ~~and shall~~

1 (3) A special assistant appellate defender is not ~~be~~-subject
2 to the restrictions on the practice of law ~~contained in~~-applicable
3 to the appellate defender, deputy appellate defender, and assistant
4 appellate defender under section 4.

5 Sec. 8a. (1) An indigent defense system is responsible for the
6 payment of reasonable fees and expenses for the services provided
7 by locally appointed private counsel under section 2.

8 (2) The commission shall establish a standard procedure for
9 both of the following:

10 (a) The payment of locally appointed private counsel by
11 indigent defense systems as described in subsection (1).

12 (b) The reimbursement of indigent defense systems as described
13 in subsection (4).

14 (3) The standard procedure established under subsection (2) (a)
15 must include rates and policies that are consistent with the
16 standards established under section 11(2) (b) of the Michigan
17 indigent defense commission act, 2013 PA 93, MCL 780.991.

18 (4) Subject to appropriation, if an indigent defense system
19 provides payment to locally appointed private counsel under
20 subsection (2) pursuant to the rates and policies established under
21 subsection (3), the state shall reimburse the system for 1/2 of the
22 cost to the system. After a system has complied with subsection (2)
23 for 3 full fiscal years, the state shall reimburse the system for
24 all costs exceeding 1/2 of the system's average annual pre-
25 reimbursement cost during its first 3 years of compliance. It is
26 the intent of the legislature to fully fund this reimbursement.

13. Traditional Waivers 00607'23

Juveniles: other; factors in designating or waiving certain juvenile cases; require the court to consider, and place certain limits on consent calendar plans.

Juveniles: other; Juveniles: juvenile justice services; Courts: family division;

HOUSE BILL NO. _____

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"

by amending sections 2d, 2f, and 4 of chapter XIIA (MCL 712A.2d, 712A.2f, and 712A.4), section 2d as amended by 2020 PA 389, section 2f as added by 2016 PA 185, and section 4 as amended by 1996 PA 409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER XIIA

Sec. 2d. (1) In a petition or amended petition alleging that a



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1 juvenile is within the court's jurisdiction under section 2(a)(1)
2 of this chapter for a specified juvenile violation, the prosecuting
3 attorney may designate the case as a case in which the juvenile is
4 to be tried in the same manner as an adult. An amended petition
5 making a designation under this subsection must be filed only by
6 leave of the court.

7 (2) In a petition alleging that a juvenile is within the
8 court's jurisdiction under section 2(a)(1) of this chapter for an
9 offense other than a specified juvenile violation, the prosecuting
10 attorney may request that the court designate the case as a case in
11 which the juvenile is to be tried in the same manner as an adult.
12 The court may designate the case following a hearing if it
13 determines that the best interests of the juvenile and the public
14 would be served by the juvenile being tried in the same manner as
15 an adult. In determining whether the best interests of the juvenile
16 and the public would be served, the court shall consider all of the
17 following factors, giving greater weight to the seriousness of the
18 alleged offense and the juvenile's prior delinquency record than to
19 the other factors:

20 (a) The seriousness of the alleged offense in terms of
21 community protection, including, but not limited to, the existence
22 of any aggravating factors recognized by the sentencing guidelines,
23 **and** the use of a firearm or other dangerous weapon. ~~and the~~
24 ~~impact on any victim.~~

25 (b) The juvenile's culpability in committing the alleged
26 offense, including, but not limited to, the level of the juvenile's
27 participation in planning and carrying out the offense and the
28 existence of any aggravating or mitigating factors recognized by
29 the sentencing guidelines.



1 (c) The juvenile's prior record of delinquency ~~including, but~~
2 ~~not limited to, any record of detention, any police record, any~~
3 ~~school record, or any other evidence indicating prior delinquent~~
4 ~~behavior.~~ **that would be a crime if committed by an adult.**

5 (d) The juvenile's programming history, including, but not
6 limited to, **any out-of-home placement or treatment** and the
7 juvenile's past willingness to participate meaningfully in
8 available programming.

9 (e) The adequacy of the ~~punishment or programming~~ available to
10 **rehabilitate and hold accountable the juvenile** in the juvenile
11 justice system **and the juvenile's amenability to treatment.**

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

13 (g) **The juvenile's developmental maturity, emotional health,**
14 **and mental health.**

15 (h) **If the juvenile is a member of a federally recognized**
16 **Indian tribe, culturally honoring traditional values of the**
17 **juvenile's tribe.**

18 (i) **The impact on any victim.**

19 (3) If a case is designated under this section, the case must
20 be set for trial in the same manner as the trial of an adult in a
21 court of general criminal jurisdiction unless a probable cause
22 hearing is required under subsection (4).

23 (4) If the petition in a case designated under this section
24 alleges an offense that if committed by an adult would be a felony
25 or punishable by imprisonment for more than 1 year, the court shall
26 conduct a probable cause hearing not later than 14 days after the
27 case is designated to determine whether there is probable cause to
28 believe the offense was committed and whether there is probable
29 cause to believe the juvenile committed the offense. This hearing

1 may be combined with the designation hearing under subsection (2)
2 for an offense other than a specified juvenile offense. A probable
3 cause hearing under this section is the equivalent of the
4 preliminary examination in a court of general criminal jurisdiction
5 and satisfies the requirement for that hearing. A probable cause
6 hearing must be conducted by a judge other than the judge who will
7 try the case if the juvenile is tried in the same manner as an
8 adult.

9 (5) If the court determines there is probable cause to believe
10 the offense alleged in the petition was committed and probable
11 cause to believe the juvenile committed the offense, the case must
12 be set for trial in the same manner as the trial of an adult in a
13 court of general criminal jurisdiction.

14 (6) If the court determines that an offense did not occur or
15 there is not probable cause to believe the juvenile committed the
16 offense, the court shall dismiss the petition. If the court
17 determines there is probable cause to believe another offense was
18 committed and there is probable cause to believe the juvenile
19 committed that offense, the court may further determine whether the
20 case should be designated as a case in which the juvenile should be
21 tried in the same manner as an adult as provided in subsection (2).
22 If the court designates the case, the case must be set for trial in
23 the same manner as the trial of an adult in a court of general
24 criminal jurisdiction.

25 (7) If a case is designated under this section, the
26 proceedings are criminal proceedings and must afford all procedural
27 protections and guarantees to which the juvenile would be entitled
28 if being tried for the offense in a court of general criminal
29 jurisdiction. A plea of guilty or nolo contendere or a verdict of

1 guilty must result in entry of a judgment of conviction. The
2 conviction must have the same effect and liabilities as if it had
3 been obtained in a court of general criminal jurisdiction.

4 (8) Following a judgment of conviction, the court shall enter
5 a disposition or impose a sentence authorized under section
6 ~~18(1)(p)~~ **18(1)(o)** of this chapter.

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

9 (a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,
10 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328,
11 MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,
12 750.349, 750.520b, 750.529, 750.529a, and 750.531.

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

17 (i) A loaded or unloaded firearm, whether operable or
18 inoperable.

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

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

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

28 (c) A violation of section 186a of the Michigan penal code,
29 1931 PA 328, MCL 750.186a, regarding escape or attempted escape

1 from a juvenile facility, but only if the juvenile facility from
2 which the juvenile escaped or attempted to escape was 1 of the
3 following:

4 (i) A high-security or medium-security facility operated by the
5 ~~family independence agency~~ **department** or a county juvenile agency.

6 (ii) A high-security facility operated by a private agency
7 under contract with the ~~family independence agency~~ **department** or a
8 county juvenile agency.

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

11 (e) An attempt to commit a violation described in subdivisions
12 (a) to (d).

13 (f) Conspiracy to commit a violation described in subdivisions
14 (a) to (d).

15 (g) Solicitation to commit a violation described in
16 subdivisions (a) to (d).

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

20 (i) Any other offense arising out of the same transaction as
21 an offense described in subdivisions (a) to (g) if the juvenile is
22 alleged in the petition to have committed an offense described in
23 subdivisions (a) to (g).

24 Sec. 2f. (1) If the court determines that formal jurisdiction
25 should not be acquired over a juvenile, the court may proceed in an
26 informal manner referred to as a consent calendar.

27 (2) A case ~~shall~~ **must** not be placed on the consent calendar
28 unless the juvenile and the parent, guardian, or legal custodian
29 and the prosecutor agree to have the case placed on the consent

1 calendar.

2 (3) The court may transfer a case from the formal calendar to
3 the consent calendar at any time before disposition. A case
4 involving the alleged commission of an offense as that term is
5 defined in section 31 of the William Van Regenmorter crime victim's
6 rights act, 1985 PA 87, MCL 780.781, ~~shall~~**must** only be placed on
7 the consent calendar upon compliance with the procedures set forth
8 in section 36b of the William Van Regenmorter crime victim's rights
9 act, 1985 PA 87, MCL 780.786b.

10 (4) After a case is placed on the consent calendar, the
11 prosecutor shall provide the victim with notice as required by
12 article 2 of the William Van Regenmorter crime victim's rights act,
13 1985 PA 87, MCL 780.781 to 780.802.

14 (5) Consent calendar cases must be maintained in the following
15 nonpublic manner:

16 (a) Access to consent calendar case records ~~shall~~**must** be
17 provided to the juvenile, the juvenile's parents, guardian, or
18 legal custodian, the guardian ad litem, counsel for the juvenile,
19 the department of health and human services if related to an
20 investigation of neglect and abuse, law enforcement personnel,
21 prosecutor, and other courts. However, consent calendar case
22 records ~~shall~~**must** not be disclosed to federal agencies or military
23 recruiters. ~~For purposes of this subsection, As used in this~~
24 **subdivision**, "case records" includes the pleadings, motions,
25 authorized petitions, notices, memoranda, briefs, exhibits,
26 available transcripts, findings of the court, register of actions,
27 consent calendar case plan, and court orders related to the case
28 placed on the consent calendar.

29 (b) The contents of the confidential file ~~, as defined in MCR~~



1 ~~3.903, shall~~ **must** continue to be maintained confidentially. **As used**
2 **in this subdivision, "confidential file" means that term as defined**
3 **in MCR 3.903.**

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

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

13 (a) The plan may include a provision requiring the juvenile,
14 parent, guardian, or legal custodian to reimburse the court for the
15 cost of the consent calendar services for the juvenile. The
16 reimbursement amount ~~shall~~ **must** be reasonable, taking into account
17 the juvenile's income and resources. The plan ~~shall~~ **must** also
18 include a requirement that the juvenile pay restitution under the
19 William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL
20 780.751 to 780.834.

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

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

29 (d) ~~(e)~~ The consent calendar case plan is not an order of the

1 court, but ~~shall~~**must** be included as a part of the case record.

2 (e) ~~(d)~~ Violation of the terms of the consent calendar case
3 plan may result in the court's returning the case to the formal
4 calendar for further proceedings consistent with subsection (10).

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

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

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

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

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

27 (11) Statements made by the juvenile during the proceeding on
28 the consent calendar ~~shall~~**must** not be used against the juvenile at
29 a trial on the formal calendar on the same charge.

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

14 Sec. 4. (1) If a juvenile 14 years of age or older is accused
15 of an act that if committed by an adult would be a felony, the
16 judge of the family division of circuit court in the county in
17 which the offense is alleged to have been committed may waive
18 jurisdiction under this section upon motion of the prosecuting
19 attorney. After waiver, the juvenile may be tried in the court
20 having general criminal jurisdiction of the offense.

21 (2) Before conducting a hearing on the motion to waive
22 jurisdiction, the court shall give notice of the hearing in the
23 manner provided by supreme court rule to the juvenile and the
24 prosecuting attorney and, if addresses are known, to the juvenile's
25 parents or guardians. The notice ~~shall~~**must** state clearly that a
26 waiver of jurisdiction to a court of general criminal jurisdiction
27 has been requested and that, if granted, the juvenile can be
28 prosecuted for the alleged offense as though ~~he or she~~**the juvenile**
29 were an adult.

1 (3) Before the court waives jurisdiction, the court shall
2 determine on the record if there is probable cause to believe that
3 an offense has been committed that if committed by an adult would
4 be a felony and if there is probable cause to believe that the
5 juvenile committed the offense. Before a juvenile may waive a
6 probable cause hearing under this subsection, the court shall
7 inform the juvenile that a waiver of this subsection waives the
8 preliminary examination required by ~~under~~ chapter VI of the code of
9 criminal procedure, ~~Act No. 175 of the Public Acts of 1927, being~~
10 ~~sections 766.1 to 766.18 of the Michigan Compiled Laws.1927 PA 175,~~
11 **MCL 766.1 to 766.18.**

12 (4) Upon a showing of probable cause under subsection (3), the
13 court shall conduct a hearing to determine if the best interests of
14 the juvenile and the public would be served by granting a waiver of
15 jurisdiction to the court of general criminal jurisdiction. In
16 making its determination, the court shall consider all of the
17 following criteria, giving greater weight to the seriousness of the
18 alleged offense and the juvenile's prior record of delinquency than
19 to the other criteria:

20 (a) The seriousness of the alleged offense in terms of
21 community protection, including, but not limited to, the existence
22 of any aggravating factors recognized by the sentencing guidelines,
23 **and** the use of a firearm or other dangerous weapon. ~~and the~~
24 ~~impact on any victim.~~

25 (b) The culpability of the juvenile in committing the alleged
26 offense, including, but not limited to, the level of the juvenile's
27 participation in planning and carrying out the offense and the
28 existence of any aggravating or mitigating factors recognized by
29 the sentencing guidelines.

1 (c) The juvenile's prior record of delinquency ~~including, but~~
2 ~~not limited to, any record of detention, any police record, any~~
3 ~~school record, or any other evidence indicating prior delinquent~~
4 ~~behavior.~~ **that would be a crime if committed by an adult.**

5 (d) The juvenile's programming history, including, but not
6 limited to, **any out-of-home placement or treatment** and the
7 juvenile's past willingness to participate meaningfully in
8 available programming.

9 (e) The adequacy of the ~~punishment or programming~~ available to
10 **rehabilitate and hold accountable the juvenile** in the juvenile
11 justice system **and the juvenile's amenability to treatment.**

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

13 (g) **The juvenile's developmental maturity, emotional health,**
14 **and mental health.**

15 (h) **If the juvenile is a member of a federally recognized**
16 **Indian tribe, culturally honoring traditional values of the**
17 **juvenile's tribe.**

18 (i) **The impact on any victim.**

19 (5) If the court determines that there is probable cause to
20 believe that an offense has been committed that if committed by an
21 adult would be a felony and that the juvenile committed the
22 offense, the court shall waive jurisdiction of the juvenile if the
23 court finds that the juvenile has previously been subject to the
24 jurisdiction of the circuit court under this section, ~~or section~~
25 ~~606 of the revised judicature act of 1961, Act No. 236 of the~~
26 ~~Public Acts of 1961, being section 600.606 of the Michigan Compiled~~
27 ~~Laws, or the recorder's court of the city of Detroit under this~~
28 ~~section or section 10a(1)(c) of Act No. 369 of the Public Acts of~~
29 ~~1919, being section 725.10a of the Michigan Compiled Laws.~~ **1961 PA**

1 236, MCL 600.606.

2 (6) If legal counsel has not been retained or appointed to
3 represent the juvenile, the court shall advise the juvenile and ~~his~~
4 ~~or her~~ **the juvenile's** parents, guardian, custodian, or guardian ad
5 litem of the juvenile's right to representation and appoint legal
6 counsel. If the court appoints legal counsel, the judge may assess
7 the cost of providing legal counsel as costs against the juvenile
8 or those responsible for ~~his or her~~ **the juvenile's** support, or
9 both, if the persons to be assessed are financially able to comply.

10 (7) Legal counsel shall have access to records or reports
11 provided and received by the judge as a basis for decision in
12 proceedings for waiver of jurisdiction. A continuance ~~shall~~ **must** be
13 granted at legal counsel's request if any report, information, or
14 recommendation not previously available is introduced or developed
15 at the hearing and the interests of justice require a continuance.

16 (8) The court shall enter a written order either granting or
17 denying the motion to waive jurisdiction and the court shall state
18 on the record or in a written opinion the court's findings of fact
19 and conclusions of law forming the basis for entering the order. If
20 a juvenile is waived, a transcript of the court's findings or a
21 copy of the written opinion ~~shall~~ **must** be sent to the court of
22 general criminal jurisdiction.

23 (9) If the court does not waive jurisdiction, a transcript of
24 the court's findings or, if a written opinion is prepared, a copy
25 of the written opinion ~~shall~~ **must** be sent to the prosecuting
26 attorney, juvenile, or juvenile's attorney upon request.

27 (10) If the court waives jurisdiction, the juvenile shall be
28 arraigned on an information filed by the prosecutor in the court of
29 general criminal jurisdiction. The probable cause finding under



1 subsection (3) satisfies the requirements of, and is the equivalent
2 of, the preliminary examination required ~~by~~**under** chapter VI of Act
3 ~~No. 175 of the Public Acts of 1927.~~**the code of criminal procedure,**
4 **1927 PA 175, MCL 766.1 to 766.18.**

5 (11) As used in this section, "felony" means an offense
6 punishable by imprisonment for more than 1 year or an offense
7 designated by law as a felony.



5. Validated Detention Screening Tool 00612'23

Juveniles: other; detention of juveniles in certain circumstances; modify.

Juveniles: other; Juveniles: juvenile justice services; Criminal procedure: other;

HOUSE BILL NO. _____

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"

by amending sections 15 and 16 of chapter XIIA (MCL 712A.15 and 712A.16), section 15 as amended by 2020 PA 389 and section 16 as amended by 2019 PA 102.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XIIA

2

Sec. 15. (1) In the case of a juvenile concerning whom a

3

complaint has been made or a petition has been filed under this



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H00612'23

5. Validated Detention Screening Tool 00612'23

2

1 chapter, the court may order the juvenile, pending ~~the~~ hearing,
2 detained in a facility as the court designates. The court may
3 release the juvenile, pending ~~the~~ hearing, ~~in~~ into the custody of a
4 parent, guardian, or custodian, to be brought before the court at
5 the time designated. As used in this subsection, "petition"
6 includes all of the following:

7 (a) Petition.

8 (b) Supplemental petition.

9 (c) Petition for revocation of probation.

10 (d) Supplemental petition alleging a violation of a personal
11 protection order.

12 (e) A petition or supplemental petition alleging that a
13 juvenile violated a court order under section 2(a)(2) to (4) of
14 this chapter.

15 (2) Custody, pending hearing, is **subject to subsection (3) and**
16 limited to the following children:

17 (a) Those whose home conditions make immediate removal
18 necessary.

19 (b) Those who have a record of unexcused failures to appear at
20 juvenile court proceedings.

21 (c) Those who have failed to remain in a detention or
22 nonsecure facility or placement in violation of a court order.

23 (d) Those whose offenses are so serious that release would
24 endanger public safety.

25 (e) Those who have allegedly violated a personal protection
26 order and for whom it appears there is a substantial likelihood of
27 retaliation or continued violation.

28 (f) Those who have allegedly violated a court order under
29 section 2(a)(2) to (4) of this chapter.



1 (3) Before a juvenile may be detained in a secure facility
2 before trial, a person or agency designated by the court shall use
3 a detention screening tool on the juvenile. Before detaining a
4 juvenile, the court shall consult the results of the detention
5 screening tool and follow any rules regarding its use that are
6 promulgated by the supreme court. The court shall share the results
7 of the detention screening tool with all parties before a
8 juvenile's detention hearing. The supreme court administrative
9 office in collaboration with local courts shall determine the
10 appropriate detention screening tool. Any statement or other
11 information obtained as a result of participating in a screening
12 under this subsection is confidential and is exempt from disclosure
13 under the freedom of information act, 1976 PA 442, MCL 15.231 to
14 15.246, and must not be used in any future juvenile delinquency
15 proceeding.

16 (4) ~~(3)~~ If a juvenile is taken into custody for violating a
17 court order under section 2(a)(2) to (4) of this chapter and is
18 detained in a secure facility, the petitioner shall ensure that an
19 appropriately trained, licensed, or certified mental health or
20 substance abuse professional interviews the juvenile in person
21 within 24 hours to assess the immediate mental health and substance
22 abuse needs of the juvenile. The assessment may alternatively be
23 done upon filing the petition, ~~prior to any~~ **before an** order for
24 placement in a secure facility. Within 48 hours of the placement in
25 the secure facility, the petitioner shall submit the assessment to
26 the court and the court shall conduct a hearing to determine all of
27 the following:

28 (a) If there is reasonable cause to believe that the juvenile
29 violated the court order.



1 (b) The appropriate placement of the juvenile pending the
2 disposition of the alleged violation, including if the juvenile
3 should be placed in a secure facility.

4 (5) ~~(4)~~—A child taken into custody under section 2(b) of this
5 chapter or subsection (2) (a) must not be detained in ~~any~~~~a~~ secure
6 facility or in a cell or other secure area of ~~any~~~~a~~ secure facility
7 designed to incarcerate adults.

8 (6) ~~(5)~~—A juvenile taken into custody under section 2(a)(2) to
9 (4) of this chapter must not be detained in a cell or other secure
10 area of ~~any~~~~a~~ secure facility designed to incarcerate adults unless
11 either of the following applies:

12 (a) The juvenile is under the jurisdiction of the court under
13 section 2(a)(1) of this chapter for an offense which, if committed
14 by an adult, would be a felony.

15 (b) Until September 30, 2021, the juvenile is not less than 17
16 years of age and is under the jurisdiction of the court under a
17 supplemental petition under section 2(h) of this chapter. Beginning
18 October 1, 2021, the juvenile is not less than 18 years of age and
19 is under the jurisdiction of the court under a supplemental
20 petition under section 2(h) of this chapter.

21 Sec. 16. (1) If a juvenile under the age of 18 years is taken
22 into custody or detained, the juvenile ~~shall~~~~must~~ not be confined
23 in ~~any~~~~a~~ police station, prison, jail, lock-up, or reformatory or
24 transported with, or compelled or permitted to associate or mingle
25 with, criminal or dissolute persons. Except as otherwise provided
26 in section ~~15(3), (4), and (5)~~~~15~~ of this chapter, the court may
27 order a juvenile 15 years of age or older whose habits or conduct
28 are considered a menace to other juveniles, or who may not
29 otherwise be safely detained, placed in a jail or other place of

5. Validated Detention Screening Tool 00612'23

5

1 detention for adults, but in a room or ward separate from adults
2 and for not more than 30 days, unless longer detention is necessary
3 for the service of process.

4 (2) The county board of commissioners in each county or of
5 counties contracting together may provide for the diagnosis,
6 treatment, care, training, and detention of juveniles in a child
7 care home or facility conducted as an agency of the county if the
8 home or facility meets **the** licensing standards established under
9 1973 PA 116, MCL 722.111 to 722.128. The court or a court-approved
10 agency may arrange for the boarding of juveniles in any of the
11 following:

12 (a) If a juvenile is within the court's jurisdiction under
13 section 2(a) of this chapter, a suitable foster care home subject
14 to the court's supervision. If a juvenile is within the court's
15 jurisdiction under section 2(b) of this chapter, the court shall
16 not place a juvenile in a foster care home subject to the court's
17 supervision.

18 (b) A child caring institution or child placing agency
19 licensed by the department to receive for care juveniles within the
20 court's jurisdiction.

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

24 (3) If a detention home or facility is established as an
25 agency of the county, the judge may appoint a superintendent and
26 other necessary employees for the home or facility who shall
27 receive compensation as provided by the county board of
28 commissioners of the county. This section does not alter or
29 diminish the legal responsibility of the department or a county



5. Validated Detention Screening Tool 00612'23

1 juvenile agency to receive juveniles committed by the court.

2 (4) If the court under subsection (2) arranges for the board
3 of juveniles temporarily detained in private homes or in a child
4 caring institution or child placing agency, a reasonable sum fixed
5 by the court for ~~their~~**the juvenile's** board ~~shall~~**must** be paid by
6 the county treasurer as provided in section 25 of this chapter.

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

10 (6) A juvenile detention home described in subsection (3)
11 ~~shall be~~**is** operated under the direction of the county board of
12 commissioners or, in a county that has an elected county executive,
13 under the county executive's direction. A different method for
14 directing the operation of a detention home may be agreed to in any
15 county by the chief judge of the circuit court in that county and
16 the county board of commissioners or, in a county that has an
17 elected county executive, the county executive.

18 Enacting section 1. This amendatory act does not take effect
19 unless Senate Bill No.____ or House Bill No.____ (request no.
20 00605'23) of the 102nd Legislature is enacted into law.



4. Validated Risk & Mental Health Screening Tools 00611'23

Courts: family division; use of screening tool for minors sought to be placed on the consent calendar; require.
Courts: family division; Juveniles: criminal procedure; Juveniles: juvenile justice services;

HOUSE BILL NO. _____

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 2f of chapter XIIA (MCL 712A.2f), as added by
2016 PA 185.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XIIA

2

Sec. 2f. (1) ~~If~~ **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



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H00611'23

4. Validated Risk & Mental Health Screening Tools 00611'23

2

1 as a consent calendar.

2 (2) A case ~~shall~~**must** not be placed on the consent calendar
3 unless ~~the~~**all of the following apply:**

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

7 (b) **The court considers the results of the risk screening tool**
8 **and mental health screening tool conducted on the juvenile by a**
9 **designated court officer who is trained in those screening tools.**

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

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

14 (a) Be research based and nationally validated for use with
15 juveniles.

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

17 (4) **The supreme court shall create guidelines on the use of**
18 **risk screening tools and mental health screening tools described in**
19 **subsection (2).**

20 (5) ~~(3)~~**The Subject to subsection (2), the court may transfer**
21 a case from the formal calendar to the consent calendar at any time
22 before disposition. A case involving the alleged commission of an
23 offense as that term is defined in section 31 of the William Van
24 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.781,
25 ~~shall~~**must** only be placed on the consent calendar upon compliance
26 with the procedures set forth in section 36b of the William Van
27 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.786b.

28 (6) ~~(4)~~**After a case is placed on the consent calendar, the**
29 **prosecutor shall provide the victim with notice as required by**



4. Validated Risk & Mental Health Screening Tools 00611'23

3

1 article 2 of the William Van Regenmorter crime victim's rights act,
2 1985 PA 87, MCL 780.781 to 780.802.

3 (7) ~~(5)~~ Consent calendar cases must be maintained in the
4 following nonpublic manner:

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

19 (b) The contents of the confidential file ~~, as defined in MCR~~
20 ~~3.903,~~ ~~shall~~**must** continue to be maintained confidentially. **As used**
21 **in this subdivision**, "confidential file" means that term as defined
22 in MCR 3.903.

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



1 juvenile is accused and are not subject to subpoena or any other
2 court process for use in any other proceeding or for any other
3 purpose.

4 (8) ~~(6)~~—The court shall conduct a consent calendar conference
5 with the juvenile; ~~—~~the juvenile's attorney, if any; ~~—~~and the
6 juvenile's parent, guardian, or legal custodian to discuss the
7 allegations. The prosecuting attorney and victim may be, but are
8 not required to be, present.

9 (9) ~~(7)~~—If it appears to the court that the juvenile has
10 engaged in conduct that would subject the juvenile to the
11 jurisdiction of the court, the court shall issue a written consent
12 calendar case plan. All of the following apply to a consent
13 calendar case plan:

14 (a) The plan may include a provision requiring the juvenile,
15 parent, guardian, or legal custodian to reimburse the court for the
16 cost of the consent calendar services for the juvenile. The
17 reimbursement amount ~~shall~~**must** be reasonable, taking into account
18 the juvenile's income and resources. The plan ~~shall~~**must** also
19 include a requirement that the juvenile pay restitution under the
20 William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL
21 780.751 to 780.834.

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

25 (c) The consent calendar case plan is not an order of the
26 court, but ~~shall~~**must** be included as a part of the case record.

27 (d) Violation of the terms of the consent calendar case plan
28 may result in the court's returning the case to the formal calendar
29 for further proceedings consistent with subsection ~~(10)~~**(12)**.



1 (10) ~~(8)~~—The court shall not enter an order of disposition in
2 a case while it is on the consent calendar.

3 (11) ~~(9)~~—Upon **the juvenile's** successful completion ~~by the~~
4 ~~juvenile~~ of the consent calendar case plan, the court shall close
5 the case and shall destroy all records of the proceeding in
6 accordance with the records management policies and procedures of
7 the state court administrative office, established in accordance
8 with supreme court rules.

9 (12) ~~(10)~~—If it appears to the court at any time that
10 proceeding on the consent calendar is not in the best interest of
11 either the juvenile or the public, the court shall proceed as
12 follows:

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

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

24 (13) ~~(11)~~—Statements made by the juvenile during the
25 proceeding on the consent calendar ~~shall~~**must** not be used against
26 the juvenile at a trial on the formal calendar on the same charge.

27 (14) ~~(12)~~—Upon a judicial determination that the juvenile has
28 completed the terms of the consent calendar case plan, the court
29 shall report the successful completion of the consent calendar to



4. Validated Risk & Mental Health Screening Tools 00611'23

6

1 the juvenile and the department of state police. The department of
2 state police shall maintain a nonpublic record of the case. This
3 record ~~shall~~**must** be open to the courts of this state, another
4 state, or the United States, the department of corrections, law
5 enforcement personnel, and prosecutors ~~only~~ for use **only** in the
6 performance of their duties or to determine whether an employee of
7 the court, department, law enforcement agency, or prosecutor's
8 office has violated ~~his or her~~ conditions of employment or whether
9 an applicant meets criteria for employment with the court,
10 department, law enforcement agency, or prosecutor's office.

11 Enacting section 1. This amendatory act does not take effect
12 unless Senate Bill No.____ or House Bill No.____ (request no.
13 00605'23) of the 102nd Legislature is enacted into law.



5. Validated Risk & Needs Assessment 00609'23

Courts: family division; use of risk and needs assessment for juveniles in the juvenile justice system before disposition; require.

Courts: family division; Juveniles: criminal procedure; Juveniles: juvenile justice services;

HOUSE BILL NO. _____

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 18 of chapter XIIA (MCL 712A.18), as amended by
2022 PA 209.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XIIA

2

Sec. 18. (1) If the court finds that a juvenile concerning

3

whom a petition is filed is not within this chapter, the court

4

shall enter an order dismissing the petition. Except as otherwise



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1 provided in subsection (10) **and subject to subsection (11)**, if the
2 court finds that a juvenile is within this chapter, the court shall
3 order the juvenile returned to ~~his or her~~ **the juvenile's** parent if
4 the return of the juvenile to ~~his or her~~ **the juvenile's** parent
5 would not cause a substantial risk of harm to the juvenile or
6 society. ~~The~~ **Subject to subsection (11)**, the court may also enter
7 any of the following orders of disposition that are appropriate for
8 the welfare of the juvenile and society in view of the facts proven
9 and ascertained:

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

13 (b) Place the juvenile on probation, or under supervision in
14 the juvenile's own home or in the home of an adult who is related
15 to the juvenile. As used in this subdivision, "related" means a
16 relative as that term is defined in section 13a of this chapter.
17 The court shall order the terms and conditions of probation or
18 supervision, including reasonable rules for the conduct of the
19 parents, guardian, or custodian, if any, as the court determines
20 necessary for the physical, mental, or moral well-being and
21 behavior of the juvenile. The court may order that the juvenile
22 participate in a juvenile drug treatment court under chapter 10A of
23 the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to
24 600.1088. The court also shall order, as a condition of probation
25 or supervision, that the juvenile shall pay the minimum state cost
26 prescribed by section 18m of this chapter.

27 (c) If a juvenile is within the court's jurisdiction under
28 section 2(a) of this chapter, or under section 2(h) of this chapter
29 for a supplemental petition, place the juvenile in a suitable

5. Validated Risk & Needs Assessment 00609'23

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1 foster care home subject to the court's supervision. If a juvenile
2 is within the court's jurisdiction under section 2(b) of this
3 chapter, the court shall not place a juvenile in a foster care home
4 subject to the court's supervision.

5 (d) Except as otherwise provided in this subdivision, place
6 the juvenile in or commit the juvenile to a private institution or
7 agency approved or licensed by the department's division of child
8 welfare licensing for the care of juveniles of similar age, sex,
9 and characteristics. If the juvenile is not a ward of the court,
10 the court shall commit the juvenile to the department or, if the
11 county is a county juvenile agency, to that county juvenile agency
12 for placement in or commitment to an institution or agency as the
13 department or county juvenile agency determines is most
14 appropriate, subject to any initial level of placement the court
15 designates.

16 (e) Except as otherwise provided in this subdivision, commit
17 the juvenile to a public institution, county facility, institution
18 operated as an agency of the court or county, or agency authorized
19 by law to receive juveniles of similar age, sex, and
20 characteristics. If the juvenile is not a ward of the court, the
21 court shall commit the juvenile to the department or, if the county
22 is a county juvenile agency, to that county juvenile agency for
23 placement in or commitment to an institution or facility as the
24 department or county juvenile agency determines is most
25 appropriate, subject to any initial level of placement the court
26 designates. In a placement under subdivision (d) or a commitment
27 under this subdivision, except to a state institution or a county
28 juvenile agency, the juvenile's religious affiliation must be
29 protected by placement or commitment to a private child placing or



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

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

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

26 (h) Appoint a guardian under section 5204 of the estates and
27 protected individuals code, 1998 PA 386, MCL 700.5204, in response
28 to a petition filed with the court by a person interested in the
29 juvenile's welfare. If the court appoints a guardian as authorized



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1 by this subdivision, it may dismiss the petition under this
2 chapter.

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

4 (j) If the court finds that a juvenile has violated a
5 municipal ordinance or a state or federal law, order the juvenile
6 to pay a civil fine in the amount of the civil or penal fine
7 provided by the ordinance or law. Money collected from fines levied
8 under this subsection must be distributed as provided in section 29
9 of this chapter.

10 (k) If the court finds that the juvenile has violated a court
11 order under section 2(a)(2) to (4) of this chapter, order the
12 juvenile to be placed in a secure facility. A court order under
13 this subdivision must state all of the following:

14 (i) The court order the juvenile violated.

15 (ii) The factual basis for determining that there was
16 reasonable cause to believe that the juvenile violated the court
17 order.

18 (iii) The court's finding of fact to support a determination
19 that there is no appropriate less restrictive alternative placement
20 available considering the best interests of the juvenile.

21 (iv) The length of time, not to exceed 7 days, that the
22 juvenile may remain in the secure facility and the plan for the
23 juvenile's release from the facility.

24 (v) That the order may not be renewed or extended.

25 (l) For a second or subsequent violation of a court order under
26 section 2(a)(2) to (4) of this chapter, issue a second or
27 subsequent order under subdivision (k), but only if the court finds
28 both of the following:

29 (i) The juvenile violated a court order after the date that the



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1 court issued the first order under subdivision (k).

2 (ii) The court has procedures in place to ensure that a
3 juvenile held in a secure facility by a court order is not in
4 custody more than 7 days or the length of time authorized by the
5 court, whichever is shorter.

6 (m) If a juvenile is within the court's jurisdiction under
7 section 2(a)(1) of this chapter, order the juvenile's parent or
8 guardian to personally participate in treatment reasonably
9 available in the parent's or guardian's location.

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

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

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



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

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

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

6 (vi) If the court must commit the juvenile to a county juvenile
7 agency, the county juvenile agency is able to place the juvenile in
8 a juvenile boot camp program.

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



1 before sentencing. In determining whether to enter an order of
2 disposition or impose a sentence under this subdivision, the court
3 shall consider all of the following factors, giving greater weight
4 to the seriousness of the offense and the juvenile's prior record:

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

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

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

19 (iv) The juvenile's programming history, including, but not
20 limited to, the juvenile's past willingness to participate
21 meaningfully in available programming.

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

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

25 (p) In a proceeding under section 2(b) or (c) of this chapter,
26 if a juvenile is removed from the parent's custody at any time, the
27 court shall permit the juvenile's parent to have regular and
28 frequent parenting time with the juvenile. Parenting time between
29 the juvenile and ~~his or her~~ **the juvenile's** parent ~~shall~~ **must** not be

1 less than 1 time every 7 days unless the court determines either
2 that exigent circumstances require less frequent parenting time or
3 that parenting time, even if supervised, may be harmful to the
4 juvenile's life, physical health, or mental well-being. If the
5 court determines that parenting time, even if supervised, may be
6 harmful to the juvenile's life, physical health, or mental well-
7 being, the court may suspend parenting time until the risk of harm
8 no longer exists. The court may order the juvenile to have a
9 psychological evaluation or counseling, or both, to determine the
10 appropriateness and the conditions of parenting time.

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

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

29 (3) An order of disposition placing a juvenile in the



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1 juvenile's own home under subsection (1)(b) may contain a provision
2 for reimbursement by the juvenile, parent, guardian, or custodian
3 to the court for the cost of service. If an order is entered under
4 this subsection, an amount due must be determined and treated in
5 the same manner provided for an order entered under subsection (2).

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

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

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

25 (7) If the court finds that a juvenile comes under section 30
26 of this chapter, the court shall order the juvenile or the
27 juvenile's parent to pay restitution as provided in sections 30 and
28 31 of this chapter and in sections 44 and 45 of the William Van
29 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.794 and



1 780.795.

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

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

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

9 (9) If the court finds that the juvenile is in intentional
10 default of the payment of restitution, a court may, as provided in
11 section 30 of this chapter, revoke or alter the terms and
12 conditions of probation for nonpayment of restitution. If a
13 juvenile who is ordered to engage in community service
14 intentionally refuses to perform the required community service,
15 the court may revoke or alter the terms and conditions of
16 probation.

17 (10) The court shall not enter an order of disposition for a
18 juvenile offense as defined in section 1a of 1925 PA 289, MCL
19 28.241a, or a judgment of sentence for a conviction until the court
20 has examined the court file and has determined that the juvenile's
21 biometric data have been collected and forwarded as required by
22 section 3 of 1925 PA 289, MCL 28.243, and the juvenile's
23 fingerprints have been taken and forwarded as required by the sex
24 offenders registration act, 1994 PA 295, MCL 28.721 to 28.730. If a
25 juvenile's biometric data have not been collected or a juvenile has
26 not had ~~his or her~~ **the juvenile's** fingerprints taken, the court
27 shall do either of the following:

28 (a) Order the juvenile to submit himself or herself to the
29 police agency that arrested or obtained the warrant for the

1 juvenile's arrest so the juvenile's biometric data can be collected
2 and forwarded and ~~his or her~~ **the juvenile's** fingerprints can be
3 taken and forwarded.

4 (b) Order the juvenile committed to the sheriff's custody for
5 collecting and forwarding the juvenile's biometric data and taking
6 and forwarding the juvenile's fingerprints.

7 (11) A designated court officer shall conduct a risk and needs
8 assessment for each juvenile before disposition. The following
9 procedure applies to a risk and needs assessment conducted under
10 this subsection:

11 (a) The results of the risk and needs assessment, and a
12 dispositional recommendation made by the designated court officer
13 who performed the risk and needs assessment, must be shared with
14 the court and each party to the proceeding, including the juvenile,
15 counsel for the juvenile, and the prosecuting attorney.

16 (b) The results of the risk and needs assessment must be used
17 to inform a dispositional recommendation and to determine the most
18 appropriate disposition for the juvenile commensurate with all of
19 the following factors:

20 (i) Public safety.

21 (ii) Victim interests.

22 (iii) Rehabilitation of the juvenile.

23 (iv) Improved juvenile outcomes, including, but not limited to,
24 educational advancement.

25 (12) The court shall consider the results of the risk and
26 needs assessment conducted under subsection (11) when making a
27 dispositional decision regarding a juvenile found within this
28 chapter, including, but not limited to, any of the following
29 decisions:



1 (a) Whether to place a juvenile under supervision, including
2 the length, level, and conditions of this supervision.

3 (b) Whether to place a juvenile on probation.

4 (c) Whether to place a juvenile in out-of-home care.

5 (13) For the duration of each order of disposition for a
6 juvenile found within this chapter, the court shall require a new
7 risk and needs assessment for the juvenile, to be conducted,
8 shared, and used in the same manner as described in subsection
9 (11), if any of the following conditions occur:

10 (a) Six months have passed since the juvenile's last risk and
11 needs assessment.

12 (b) The juvenile experiences a major life event.

13 (c) There is a major change in the juvenile's proceedings.

14 (14) A risk and needs assessment conducted under subsection
15 (11) must meet both of the following requirements:

16 (a) Is research based and nationally validated for use with
17 juveniles.

18 (b) Complies with the guidelines created under subsection
19 (15).

20 (15) The supreme court shall create guidelines on the use of
21 risk and needs assessments under this section.

22 (16) A designated court officer who conducts risk and needs
23 assessments under subsection (11) must be trained on the
24 appropriate use of the applicable risk and needs assessment
25 selected by the court.

26 (17) A risk and needs assessment conducted as part of a
27 proceeding under this section and any information obtained from a
28 minor in the court of the assessment, including any admission,
29 confession, or incriminating evidence, are not admissible into

1 evidence in any adjudicatory hearing in which the minor is accused
2 and are not subject to subpoena or any other court process for use
3 in any other proceeding or for any other purpose.

4 (18) ~~(11)~~—Upon final disposition, conviction, acquittal, or
5 dismissal of an offense within the court's jurisdiction under
6 section 2(a)(1) of this chapter, using forms approved by the state
7 court administrator, the clerk of the court entering the final
8 disposition, conviction, acquittal, or dismissal shall immediately
9 advise the department of state police of that final disposition,
10 conviction, acquittal, or dismissal as required by section 3 of
11 1925 PA 289, MCL 28.243. The report to the department of state
12 police must include information as to the finding of the judge or
13 jury and a summary of the disposition or sentence imposed.

14 (19) ~~(12)~~—If the court enters an order of disposition based on
15 an act that is a juvenile offense as **that term is** defined in
16 section 1 of 1989 PA 196, MCL 780.901, the court shall order the
17 juvenile to pay the assessment as provided in that act. If the
18 court enters a judgment of conviction under section 2d of this
19 chapter for an offense that is a felony, misdemeanor, or ordinance
20 violation, the court shall order the juvenile to pay the assessment
21 as provided in 1989 PA 196, MCL 780.901 to 780.911.

22 (20) ~~(13)~~—If the court has entered an order of disposition or
23 a judgment of conviction for a listed offense as **that term is**
24 defined in section 2 of the sex offenders registration act, 1994 PA
25 295, MCL 28.722, the court, the department, or the county juvenile
26 agency shall register the juvenile or accept the juvenile's
27 registration as provided in the sex offenders registration act,
28 1994 PA 295, MCL 28.721 to 28.730.

29 (21) ~~(14)~~—If the court enters an order of disposition placing



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

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



1 court shall include the basis for that determination on the record
2 and include the determination in the order of disposition.

3 (23) ~~(16)~~—The court shall not impose a sentence of
4 imprisonment in the county jail under subsection (1)(o) unless the
5 present county jail facility for the juvenile's imprisonment meets
6 all requirements under federal law and regulations for housing
7 juveniles. The court shall not impose the sentence until it
8 consults with the sheriff to determine when the sentence will begin
9 to ensure that space will be available for the juvenile.

10 (24) ~~(17)~~—In a proceeding under section 2(h) of this chapter,
11 this section only applies to a disposition for a violation of a
12 personal protection order and subsequent proceedings.

13 (25) ~~(18)~~—If a juvenile is within the court's jurisdiction
14 under section 2(a)(1) of this chapter, the court shall order the
15 juvenile to pay costs as provided in section 18m of this chapter.

16 (26) ~~(19)~~—A juvenile who has been ordered to pay the minimum
17 state cost as provided in section 18m of this chapter as a
18 condition of probation or supervision and who is not in willful
19 default of the payment of the minimum state cost may petition the
20 court at any time for a remission of the payment of any unpaid
21 portion of the minimum state cost. If the court determines that
22 payment of the amount due will impose a manifest hardship on the
23 juvenile or ~~his or her~~ **the juvenile's** immediate family, the court
24 may remit all or part of the amount of the minimum state cost due
25 or modify the method of payment.

26 Enacting section 1. This amendatory act does not take effect
27 unless Senate Bill No.____ or House Bill No.____ (request no.
28 00605'23) of the 102nd Legislature is enacted into law.



Public Policy Position
Bill Package Implementing the Task Force on Juvenile Justice Reform
Recommendations

Explanation:

The Committee voted to support those bills that aligned with the recommendations of the Task Force on Juvenile Justice Reform that were previously supported by the Board of Commissioners, to propose amendments that would align bills with Board-supported Task Force recommendations, and to oppose bills that did not align with the Board-supported Task Force recommendations, as follows:

The Committee voted to **support** #1 (Child Care Fund, #605'23), #2 (Diversion Act, #610'23), #3 (Validated Risk & Needs Assessment (disposition), #609'23), #4 (Validated Risk & Mental Health Screening Tools, #611'23), #6 (MIDC, #1330'23), and #9 (Fines & Fees, #1332'23, 1332'23a, 1332'23b, and 1332'23c), as each of these is consistent with its associated recommendation from the Task Force on Juvenile Justice Reform, each of which was previously supported by the committee and the Board of Commissioners. The Committee also recommends that tribal courts be exempted from assessment tool requirements, as there are presently no assessments validated for tribal populations.

Position Vote:

Voted For position: 18
Voted against position: 0
Abstained from vote: 0
Did not vote (absent): 9

The Committee voted to **support** #5 (Validated Detention Screening Tool, #612'23) with **an amendment**, consistent with the Board's position on the underlying Task Force recommendation, that: "Any statements, admissions, confessions, or incriminating evidence obtained from a minor in the course of a screening under this section are not admissible into evidence in any adjudicatory hearing in which the minor is accused and are not subject to subpoena or any other court purpose for use in any other proceeding or for any other purpose." The Committee also recommends that tribal courts be exempted from assessment tool requirements, as there are presently no assessments validated for tribal populations.

Position Vote:

Voted For position: 18
Voted against position: 0
Abstained from vote: 0
Did not vote (absent): 9

The Committee voted to **support** #7 (SADO, #1329'23), consistent with both the Board's position on the underlying Task Force recommendation, with **two amendments**:

- a. Add a new subsection (d) to Section 1a, defining "local contribution" in a manner that

incorporates proposed new language in the MIDC Act addressing annually compounding inflationary increases to local costs:

(d) "Local contribution" means an indigent defense system's average annual expenditure for attorney fees and expenses during the first 3 full fiscal years in which the system has complied with the standard procedure established under subsection 8a(2), excluding expenditures reimbursed under subsection 8a(4). If the Consumer Price Index has increased since November 1 of the prior state fiscal year, the local contribution must be adjusted and compounded annually by that number or 3%, whichever is less.

b. Revise Section 8a with reference to the newly defined "local contribution" as follows:

(4) Subject to appropriation, if an indigent defense system provides payment to locally appointed private counsel under subsection (2) pursuant to the rates and policies established under subsection (3), the state shall reimburse the system for 1/2 of the ~~cost~~ expenditures to the system. After a system has complied with subsection (2) for 3 full fiscal years, the state shall reimburse the system for all ~~costs~~ expenditures exceeding ~~1/2 of the system's average annual pre-reimbursement cost during its first 3 years of compliance~~ the system's local contribution. It is the intent of the legislature to fully fund this reimbursement.

Position Vote:

Voted For position: 18
Voted against position: 0
Abstained from vote: 0
Did not vote (absent): 9

The Committee voted to **oppose** #11 (Competency Evaluations, #1594'23 and 1594'23a) as drafted. The bills only partially accomplish Task Force Recommendation 12c and fail to accomplish Task Force Recommendation 12. Additionally, the language is convoluted and difficult to follow.

Position Vote:

Voted For position: 18
Voted against position: 0
Abstained from vote: 0
Did not vote (absent): 9

The Committee voted to **support** #12 (Pre-Court Diversion & Consent Calendar, #606'23) **with amendments** to eliminate the possibility of restitution being used to exclude eligibility for pre-court diversion and the consent calendar, and to provide adequate criteria for determining when diversion should be extended beyond 3 months.

Position Vote:

Voted For position: 18
Voted against position: 0
Abstained from vote: 0
Did not vote (absent): 9

The Committee voted to **oppose** #13 (Traditional Waivers, #607'23) because the creation of, and recommendations made by, a statewide study committee on juvenile waivers, proposed in Task Force Recommendation #13, should precede any amendments to the statute.

Position Vote:

Voted For position: 18
Voted against position: 0
Abstained from vote: 0
Did not vote (absent): 9

Keller-Permissibility Explanation:

The Committee found that #8 (Per Diem Rates, #608'23) and #10 (Children's Ombudsman, #1940'23) are not *Keller*-permissible, in keeping with the prior determination of the Board of Commissioners.

Position Vote:

Voted For position: 18
Voted against position: 0
Abstained from vote: 0
Did not vote (absent): 9

The Committee found that the following bills are *Keller*-permissible as each is reasonably related to the functioning of the courts, while some are also reasonably related to the availability of legal services.

1. Child Care Fund, #605'23
2. Diversion Act, #610'23
3. Validated Risk & Needs Assessment (disposition), #609'23
4. Validated Risk & Mental Health Screening Tools, #611'23
5. Validated Detention Screening Tool, #612'23
6. MIDC, #1330'23
7. SADO, #1329'23
9. Fines & Fees, #1332'23, 1332'23a, 1332'23b, and 1332'23c
11. Competency Evaluations, #1594'23 and 1594'23a
12. Pre-Court Diversion & Consent Calendar, #606'23
13. Traditional Waivers, #607'23

Position Vote:

Voted For position: 18
Voted against position: 0
Abstained from vote: 0
Did not vote (absent): 9

Contact Persons:

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Public Policy Position
Bill Package Implementing the Task Force on Juvenile Justice Reform
Recommendations

Explanation:

The Committee supports **#1 (Child Care Fund, #605'23)**.

Position Vote:

Voted For position: 16
Voted against position: 1
Abstained from vote: 2
Did not vote (absent): 7

The Committee supports **#2 (Diversion Act, #610'23)**.

Position Vote:

Voted For position: 13
Voted against position: 5
Abstained from vote: 1
Did not vote (absent): 7

The Committee supports **#3 (Validated Risk & Needs Assessment prior to disposition, #609'23)**.

Position Vote:

Voted For position: 11
Voted against position: 6
Abstained from vote: 1
Did not vote (absent): 8

The Committee supports **#4 (Validated Risk & Mental Health Screening Tools, #611'23)**.

Position Vote:

Voted For position: 12
Voted against position: 6
Abstained from vote: 1
Did not vote (absent): 7

The Committee supports **#5 (Validated Detention Screening Tool, #612'23)** with amendment that any statements made during an assessment must not be admitted as evidence at an adjudicative hearing, that risk assessment tools must be peer validated and free from bias, and that information used to validate the tools must be available to public inspection. Subsection 3 of this bill prohibits statements provided during an assessment from being used under narrower circumstances than

recommended by the SBM. This bill would exempt statements from FOIA and prohibit use in “future juvenile delinquency proceedings.” The Committee supports with amended language that tracks that used in #3 and #4.

Position Vote:

Voted For position: 14
Voted against position: 2
Abstained from vote: 3
Did not vote (absent): 7

The Committee supports **#6 (MIDC, #1330’23)**.

Position Vote:

Voted For position: 17
Voted against position: 1
Abstained from vote: 1
Did not vote (absent): 7

The Committee supports **#7 (SADO, #1329’23)** with amendments identified by SADO: Add subsection (d) to Section 1a, to define and incorporate “local contribution” consistent with the new language proposed in the MIDC Act that addresses the process for accounting for annual inflationary increases to local costs related to indigent defense; Revise section 8a to incorporate the newly defined “local contribution.”

Position Vote:

Voted For position: 14
Voted against position: 2
Abstained from vote: 3
Did not vote (absent): 7

The Committee supports **#9 (Fines & Fees, #1332’23, 1332’23a, 1332’23b, and 1332’23c)**.

Position Vote:

Voted For position: 14
Voted against position: 2
Abstained from vote: 3
Did not vote (absent): 7

The Committee supports **#11 (Competency Evaluations, #1594’23 and 1594’23a)** with amendments to specifically state the presumed age of competence will align with age of jurisdiction and refine the definition of a restoration service provider.

Position Vote:

Voted For position: 11
Voted against position: 7
Abstained from vote: 1

Did not vote (absent): 7

The Committee supports **#12 (Pre-Court Diversion & Consent Calendar, #606'23)** with amendments to eliminate the possibility that restitution can be used to exclude eligibility for diversion and the consent calendar.

Position Vote:

Voted For position: 12
Voted against position: 5
Abstained from vote: 2
Did not vote (absent): 7

The Committee supports **#13 (Traditional Waivers, #607'23)**.

Position Vote:

Voted For position: 12
Voted against position: 6
Abstained from vote: 1
Did not vote (absent): 7

Keller Permissibility Explanations

The Committee found that the following bills are Keller-permissible as each is reasonably related to the functioning of the courts, while some are also reasonably related to the availability of legal services.

1. Child Care Fund, #605'23
2. Diversion Act, #610'23
3. Validated Risk & Needs Assessment (disposition), #609'23
4. Validated Risk & Mental Health Screening Tools, #611'23
5. Validated Detention Screening Tool, #612'23
6. MIDC, #1330'23
7. SADO, #1329'23
9. Fines & Fees, #1332'23, 1332'23a, 1332'23b, and 1332'23c
11. Competency Evaluations, #1594'23 and 1594'23a
12. Pre-Court Diversion & Consent Calendar, #606'23
13. Traditional Waivers, #607'23

Position Vote:

Voted For position: 19
Voted against position: 0
Abstained from vote: 0
Did not vote (absent): 7



CRIMINAL JURISPRUDENCE & PRACTICE COMMITTEE

The Committee found that #8 (Per Diem Rates, #608'23) and #10 (Children's Ombudsman, #1940'23) are not Keller-permissible, in keeping with the prior determination of the Board of Commissioners.

Position Vote:

Voted For position: 18

Voted against position: 1

Abstained from vote: 0

Did not vote (absent): 7

Contact Persons:

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DRAFT 3

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 6 and 6a of chapter V (MCL 765.6 and 765.6a),
section 6 of chapter V as amended by 2004 PA 167, and by adding
section 6g to chapter V.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER V

1
2 Sec. 6. (1) ~~Except as otherwise provided by law, Unless~~
3 **section 15 of article I of the state constitution of 1963 applies,**
4 a person accused of a criminal offense is entitled to **release on**
5 **personal recognizance or bail that is not excessive.** ~~The amount of~~



1 ~~bail shall not be excessive. The court in fixing the amount of the~~
2 ~~bail shall consider and make findings on the record as to each of~~
3 ~~the following:~~

4 ~~(a) The seriousness of the offense charged.~~

5 ~~(b) The protection of the public.~~

6 ~~(c) The previous criminal record and the dangerousness of the~~
7 ~~person accused.~~

8 ~~(d) The probability or improbability of the person accused~~
9 ~~appearing at the trial of the cause.~~

10 ~~(2) If the court fixes a bail amount under subsection (1) and~~
11 ~~allows for the posting of a 10% deposit bond, the person accused~~
12 ~~may post bail by a surety bond in an amount equal to 1/4 of the~~
13 ~~full bail amount fixed under subsection (1) and executed by a~~
14 ~~surety approved by the court.~~

15 ~~(3) If a person is arrested for an ordinance violation or a~~
16 ~~misdemeanor and if the defendant's operator's or chauffeur's~~
17 ~~license is not expired, suspended, revoked, or cancelled, the court~~
18 ~~may require the defendant, in place of other security for the~~
19 ~~defendant's appearance in court for trial or sentencing or, as a~~
20 ~~condition for release of the defendant on personal recognizance, to~~
21 ~~surrender to the court his or her operator's or chauffeur's~~
22 ~~license. The court shall issue to the defendant a receipt for the~~
23 ~~license, as provided in section 311a of the Michigan vehicle code,~~
24 ~~1949 PA 300, MCL 257.311a. If the trial date is set at the~~
25 ~~arraignment, the court shall specify on the receipt the date on~~
26 ~~which the defendant is required to appear for trial. If a trial~~
27 ~~date is not set at the arraignment, the court shall specify on the~~
28 ~~receipt a date on which the receipt expires. By written notice the~~
29 ~~court may extend the expiration date of the receipt, as needed, to~~



1 ~~secure the defendant's appearance for trial and sentencing. The~~
2 ~~written notice shall instruct the person to whom the receipt was~~
3 ~~issued to attach the notice to the receipt. Upon its attachment to~~
4 ~~the receipt, the written notice shall be considered a part of the~~
5 ~~receipt for purposes of determining the expiration date. At the~~
6 ~~conclusion of the trial or imposition of sentence, as applicable,~~
7 ~~the court shall return the license to the defendant unless other~~
8 ~~disposition of the license is authorized by law.~~

9 (2) In making any pretrial release decision, the court shall
10 make a determination on the record as to whether a defendant poses
11 a clear and convincing risk of any of the following:

12 (a) Nonappearance.

13 (b) Absconding.

14 (c) Personal harm to another reasonably identifiable person or
15 the community at large.

16 (3) The court must base its determination of risk under
17 subsection (2) on the specific facts and circumstances applicable
18 to the particular defendant, and shall consider the following
19 factors:

20 (a) The nature, seriousness, and circumstances of the alleged
21 offense.

22 (b) The threat to the community, including any victims or
23 witnesses.

24 (c) The weight of the evidence against the defendant in the
25 present case.

26 (d) The defendant's criminal history, including any history of
27 nonappearance or absconding within the previous 2 years, and the
28 defendant's adult criminal history.

29 (e) Any juvenile adjudications that are substantially similar



1 to the current charges that occurred within the previous 3 years.

2 (f) Whether the defendant has another pending criminal charge
3 or is under criminal justice supervision, including probation or
4 parole.

5 (g) Any other relevant information, including information
6 provided by the defendant, prosecutor, victim, or a pretrial
7 services agency.

8 (h) The defendant's place and length of residence, community
9 ties, and employment and education commitments, but only as
10 mitigating factors that support release.

11 (4) According to the court's determination of risks described
12 under subsection (2), the court shall enter 1 of the following
13 orders:

14 (a) Personal recognizance bond with standard conditions. If
15 the court does not find any of the risks described under subsection
16 (2), or determines that any risk found can be mitigated by imposing
17 standard conditions of release, the defendant must be released on a
18 personal recognizance bond with standard conditions. Standard
19 conditions under this section are limited to the following:

20 (i) The defendant shall appear as required.

21 (ii) Except as otherwise provided in this subparagraph, if the
22 defendant is a resident of this state, the defendant shall not
23 change residence from this state without the permission of the
24 court. This condition may be waived by the court.

25 (iii) The defendant shall not engage in any illegal activity
26 while released.

27 (iv) The defendant shall immediately notify the court, in
28 writing, of any change of address or telephone number.

29 (v) The defendant shall not travel out of state without



1 permission of the court.

2 (b) Release with nonmonetary conditions beyond the standard
3 conditions. If the court finds any of the risks described under
4 subsection (2) apply, the court must impose the least restrictive
5 nonmonetary condition or conditions of release that reasonably
6 address the risk, subject to section 6b of this chapter.

7 (c) Release with secured money bond as provided under this
8 subdivision. Notwithstanding the court's discretion to deny bail
9 under section 15 of article I of the state constitution of 1963, if
10 the court finds any risk as under subsection (2) (b) or (c) applies,
11 the court determines that no combination of nonmonetary conditions
12 of release will reasonably address the risk, and if any of the
13 following circumstances apply, the court may require secured money
14 bond:

15 (i) The defendant is charged with an assaultive crime.

16 (ii) The defendant is charged with a listed offense.

17 (iii) The defendant is charged with a serious misdemeanor.

18 (iv) The defendant is charged with a violation of section 625
19 of the Michigan vehicle code, 1949 PA 300, MCL 257.625, or a local
20 ordinance substantially corresponding to section 625 of the
21 Michigan vehicle code, 1949 PA 300, MCL 257.625.

22 (v) The defendant is charged with a felony not otherwise
23 included under subparagraphs (i) to (iv) that is punishable by
24 imprisonment for 5 or more years.

25 (vi) The defendant is arrested and charged with a new offense
26 that involves harm to a person or property that is substantially
27 similar to an offense for which the defendant is awaiting trial and
28 which was allegedly committed while the defendant was on pretrial
29 release.



1 (vii) The defendant absconds in the present case while on any
2 form of pretrial release.

3 (5) The court shall not set an amount of secured money bond
4 based on a preestablished bail schedule, such as a schedule of bond
5 amounts fixed according to the nature of the charge.

6 (6) Except for circumstances described under subsection
7 (4) (c), the court shall not require a defendant to pay money to be
8 released from custody pretrial.

9 (7) If the court sets secured money bond under subsection
10 (4) (c), the court shall conduct an inquiry into the defendant's
11 ability to pay as set out in section 6a of this chapter.

12 (8) Each defendant released under this section must receive
13 automated text or mail reminders for required court appearances
14 from the court or the applicable pretrial services agency. The
15 court shall ask every defendant to provide a telephone number at
16 which the defendant can receive text messages. Text message
17 reminders must be sent to the number provided by the defendant
18 unless the defendant informs the court that the defendant does not
19 wish to receive text message reminders, in which case the defendant
20 must be sent mail reminders instead.

21 (9) As used in this section:

22 (a) "Abscond" means failure to appear with the willful intent
23 to avoid or delay adjudication. There is a rebuttable presumption
24 of absconding if more than 30 days have elapsed from the date of
25 the defendant's missed court appearance and the defendant has
26 failed to appear.

27 (b) "Assaultive crime" includes any of the following:

28 (i) A violation described in section 9a of chapter X.

29 (ii) A violation of chapter XI of the Michigan penal code, 1931



1 PA 328, MCL 750.81 to 750.90h, not otherwise included in
2 subparagraph (i).

3 (iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,
4 or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,
5 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or
6 any other violent felony.

7 (c) "Clear and convincing" means that the evidence is highly
8 and substantially more likely to be true than untrue. This standard
9 of proof requires that the fact finder must be convinced that the
10 contention is highly probable. Clear and convincing evidence may be
11 established by any of the following:

12 (i) Established past conduct.

13 (ii) Testimony, including hearsay testimony, from a reliable
14 witness.

15 (iii) Review of police reports, witness statements, criminal
16 history information, or any other documentation in court records.

17 (d) "Harm to the community at large" means that clear and
18 convincing evidence demonstrates that the defendant's conduct would
19 likely result in personal harm to another person, even if that
20 person cannot be specifically identified.

21 (e) "Listed offense" means that term as defined in section 2
22 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

23 (f) "Nonappearance" means a failure to appear without the
24 intent to avoid or delay adjudication.

25 (g) "Personal harm" means bodily injury or emotional distress
26 as that term is defined in section 411h of the Michigan penal code,
27 MCL 750.411h, that can be specifically articulated on the record.

28 (h) "Serious misdemeanor" means that term as defined in
29 section 61 of the William Van Regenmorter crime victim's rights



1 act, 1985 PA 87, MCL 780.811.

2 (i) "Violent felony" means a felony, an element of which
3 involves a violent act or threat of a violent act against any other
4 person.

5 Sec. 6a. (1) ~~Before granting an application for bail, a court~~
6 ~~shall require a cash bond or a surety other than the applicant if~~
7 ~~the applicant~~

8 ~~(1) Is charged with a crime alleged to have occurred while on~~
9 ~~bail pursuant to a bond personally executed by him; or~~

10 ~~(2) Has been twice convicted of a felony within the preceding~~
11 ~~5 years.~~ Before setting a monetary or nonmonetary condition of bond
12 under section 6 of this chapter, the court must determine ability
13 to pay using financial information provided by the defendant on a
14 financial disclosure form. The court shall not detain a defendant
15 solely due to an inability to pay. The court should not detain any
16 defendant because of the unavailability of nonmonetary conditions.

17 (2) The court or holding facility shall provide a financial
18 disclosure form, developed by the state court administrative
19 office, to each defendant before arraignment for use by the court
20 at the defendant's arraignment. At or before arraignment, the court
21 shall provide a copy of the completed form to the prosecuting
22 attorney and defense counsel in the case. The court shall not draw
23 any adverse inference against a defendant, if a defendant is
24 incapable of answering every question on the financial information
25 form, particularly while the defendant is incarcerated. A defendant
26 may refuse to fill out the financial information form in its
27 entirety. If the defendant refuses to fill out a financial
28 information form, the court is not required to conduct an ability
29 to pay inquiry under this section. The form must contain the



1 following language or substantially similar language displayed in a
2 prominent position:

3 "Warning: You may be required to affirm the accuracy of this
4 form under oath at your arraignment. Filing an intentionally
5 inaccurate statement of finances may result in perjury charges
6 or action for contempt of court. By signing this form, you
7 authorize anyone possessing any information or records
8 pertaining to your personal finances or income to provide such
9 information to the courts.".

10 (3) If the court determines that the information provided by
11 the defendant on the form is not reliable, it shall do both of the
12 following:

13 (a) By inquiry, allow the defendant to correct the information
14 immediately on the record without penalty.

15 (b) State on the record if it is not using the information
16 provided, and its basis to reject the reliability of the
17 information.

18 (4) The inquiry required under this section must allow the
19 prosecutor of the case, defense counsel, and defendant an
20 opportunity to provide the court information pertinent to the
21 defendant's ability to pay bail.

22 (5) The information that is admissible under this section may
23 be provided to the court by proffer and may include statements by
24 individuals other than the defendant.

25 (6) The court, in determining ability to pay, may consider all
26 of the following:

27 (a) All personal financial resources available to the
28 defendant within 24 hours from any lawful personal sources.

29 (b) Any debts, financial obligations, or dependents.



1 (c) The defendant's basic living expenses, including, but not
2 limited to, food, shelter, clothing, transportation expenses,
3 necessary medical expenses, or child support.

4 (d) Any other special circumstances that may have bearing on
5 the defendant's ability to pay.

6 (7) All information offered to the court under this section is
7 admissible for the purposes of a hearing conducted under this
8 section if it is relevant and reliable, without regard to whether
9 it would be otherwise admissible under the rules of evidence of
10 this state.

11 (8) Any statements made by a defendant under this section are
12 admissible at a future proceeding for the purposes of impeachment
13 but are not admissible for the purposes of proving the defendant's
14 guilt.

15 (9) A defendant who knowingly misrepresents the defendant's
16 financial status on the financial disclosure form may be found in
17 contempt of court and may be punished as provided in section 1715
18 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.1715.

19 Sec. 6g. (1) Each district and circuit court of this state
20 shall submit a quarterly report to the state court administrative
21 office that provides data on every bond decision issued by the
22 court for the previous quarter. The report required under this
23 section must include the following information for each bond
24 decision:

25 (a) Type of bond, including personal recognizance with
26 standard conditions, nonmonetary conditions beyond the standard
27 conditions, money bail with a 10% deposit bond or a cash bond for
28 the full bail amount set by the court, or denial of bond.

29 (b) Whether the defendant was detained or released.



1 (c) For bonds that included money bail, amount of money bail
2 requested.

3 (d) Judge or magistrate issuing the bond.

4 (e) Charge on which the defendant was released or detained.

5 (f) Demographic characteristics of the defendant released or
6 detained.

7 (g) Any failures to appear in court after release on bond.

8 (h) Any rearrests during the pretrial period, including any
9 rearrests for an assaultive crime.

10 (i) Any significant liberty restraints imposed.

11 (2) The supreme court may promulgate court rules regarding
12 additional requirements for the type and format of data that are
13 required to be submitted to the state court administrative office
14 under this section.

15 Enacting section 1. This amendatory act takes effect January
16 1, 2025.

17 Enacting section 2. This amendatory act does not take effect
18 unless all of the following bills of the 102nd Legislature are
19 enacted into law:

20 (a) Senate Bill No. ____ or House Bill No. ____ (request no.
21 00502'23 a).

22 (b) Senate Bill No. ____ or House Bill No. ____ (request no.
23 01606'23).

24 (c) Senate Bill No. ____ or House Bill No. ____ (request no.
25 01607'23).



DRAFT 3

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 6b of chapter V (MCL 765.6b), as amended by
2014 PA 316, and by adding section 6f to chapter V.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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6

CHAPTER V

Sec. 6b. (1) ~~A judge or district court magistrate may release
a defendant under this subsection subject to conditions reasonably
necessary for the protection of 1 or more named persons. If a judge
or district court magistrate releases a defendant under this
subsection subject to protective conditions, subject to conditions~~



1 in excess of the standard conditions listed in section 6 of this
2 chapter, including, but not limited to, conditions reasonably
3 necessary for the protection of 1 or more reasonably identifiable
4 persons or the community at large, the judge or district court
5 magistrate shall make a finding of the need for ~~protective~~the
6 conditions and inform the defendant on the record, either orally or
7 by a writing that is personally delivered to the defendant, of the
8 specific conditions imposed and that if the defendant violates a
9 condition of release, ~~he or she~~the defendant will be subject to
10 arrest without a warrant and may have ~~his or her~~bail forfeited or
11 revoked and new conditions of release imposed, in addition to the
12 penalty provided under section 3f of chapter XI and any other
13 penalties that may be imposed if the defendant is found in contempt
14 of court. Before imposing a condition under this section, the court
15 shall do both of the following:

16 (a) Consider whether a referral to the relevant pretrial
17 services agency to provide support and supervision would be
18 sufficient to address any pretrial risks posed by the defendant,
19 and, if sufficient, refer the defendant to the pretrial services
20 agency.

21 (b) State on the record the reasoning for imposing each
22 condition, including an explanation indicating the reason the
23 condition is necessary and why it is the least restrictive means of
24 addressing any risk posed by the defendant's release.

25 (2) If the court imposes a condition that constitutes a
26 significant liberty restraint, the defendant may request a hearing
27 to reevaluate the condition after being in compliance with the
28 condition for not less than 60 days.

29 (3) Upon request by the defendant under subsection (2), the



1 court must conduct a hearing to reevaluate the condition that
2 constitutes a significant liberty restraint.

3 (4) Unless 1 or more of the following circumstances apply,
4 there is a rebuttable presumption that a significant liberty
5 restraint must be discontinued if the defendant has demonstrated
6 compliance with the significant liberty restraint for not less than
7 60 days:

8 (a) The defendant is charged with an assaultive crime.

9 (b) The defendant is charged with a listed offense.

10 (c) The defendant is charged with an offense related to
11 domestic violence.

12 (5) The prosecutor of the case may overcome the presumption
13 under subsection (4) if the prosecutor shows the significant
14 liberty restraint remains necessary by clear and convincing
15 evidence, notwithstanding the defendant's compliance with it, to
16 prevent the defendant from absconding or to address a risk of
17 personal harm to another reasonably identifiable person or the
18 community at large.

19 (6) Nothing in subsection (2), (3), (4), or (5) prevents the
20 court from reevaluating, amending, or discontinuing conditions at
21 the court's discretion.

22 (7) ~~(2)~~An order or amended order issued under subsection (1)
23 ~~shall~~**must** contain all of the following:

24 (a) A statement of the defendant's full name.

25 (b) A statement of the defendant's height, weight, race, sex,
26 date of birth, hair color, eye color, and any other identifying
27 information the judge or district court magistrate considers
28 appropriate.

29 (c) A statement of the date the conditions become effective.



1 (d) A statement of the date on which the order will expire.

2 (e) A statement of the conditions imposed.

3 **(f) A statement of the necessity of each condition imposed.**

4 **(8)** ~~(3)~~—An order or amended order issued under this subsection
5 and subsection (1) may impose a condition that the defendant not
6 purchase or possess a firearm. However, if the court orders the
7 defendant to carry or wear an electronic monitoring device as a
8 condition of release as described in subsection ~~(6)~~, **(9)**, the court
9 shall also impose a condition that the defendant not purchase or
10 possess a firearm.

11 ~~(4) The judge or district court magistrate shall immediately~~
12 ~~direct the issuing court or a law enforcement agency within the~~
13 ~~jurisdiction of the court, in writing, to enter an order or amended~~
14 ~~order issued under subsection (1) or subsections (1) and (3) into~~
15 ~~LEIN. If the order or amended order is rescinded, the judge or~~
16 ~~district court magistrate shall immediately order the issuing court~~
17 ~~or law enforcement agency to remove the order or amended order from~~
18 ~~LEIN.~~

19 ~~(5) The issuing court or a law enforcement agency within the~~
20 ~~jurisdiction of the court shall immediately enter an order or~~
21 ~~amended order into LEIN or shall remove the order or amended order~~
22 ~~from the law enforcement information network upon expiration of the~~
23 ~~order or as directed by the court under subsection (4).~~

24 **(9)** ~~(6) If a~~ **The court may order a defendant to wear an**
25 **electronic monitoring device for the purpose of location monitoring**
26 **only if both of the following circumstances apply:**

27 **(a) The defendant** ~~who~~ **is charged with a crime involving**
28 **domestic violence, or any other assaultive crime, is released under**
29 **this subsection and subsection (1), the judge or district court**



1 ~~magistrate may order the defendant to wear an electronic monitoring~~
2 ~~device as a condition of release. or a listed offense.~~

3 (b) The court finds by clear and convincing evidence that the
4 defendant poses a risk of absconding or of personal harm to another
5 reasonably identifiable person or the community at large.

6 (10) With the informed consent of the victim, the court may
7 also order the defendant to provide the victim of the charged crime
8 with an electronic receptor device capable of receiving the global
9 positioning system information from the electronic monitoring
10 device worn by the defendant that notifies the victim if the
11 defendant is located within a proximity to the victim as determined
12 by the judge or district court magistrate in consultation with the
13 victim. The victim ~~shall~~**must** also be furnished with a telephone
14 contact with the local law enforcement agency to request immediate
15 assistance if the defendant is located within that proximity to the
16 victim. In addition, the victim may provide the court with a list
17 of areas from which ~~he or she~~**the victim** would like the defendant
18 excluded. The court shall consider the victim's request and shall
19 determine which areas the defendant ~~shall~~**must** be prohibited from
20 accessing. The court shall instruct the entity monitoring the
21 defendant's position to notify the proper authorities if the
22 defendant violates the order. In determining whether to order a
23 defendant to wear an electronic monitoring device **for the purpose**
24 **of location monitoring**, the court shall consider the likelihood
25 that the defendant's participation in electronic monitoring will
26 deter the defendant from seeking to kill, physically injure, stalk,
27 or otherwise threaten the victim ~~prior to~~**before** trial. The victim
28 may request the court to terminate the victim's participation in
29 the monitoring of the defendant at any time. The court shall not



1 impose sanctions on the victim for refusing to participate in
 2 monitoring under this subsection. ~~A defendant described in this~~
 3 ~~subsection shall only be released if he or she agrees to pay the~~
 4 ~~cost of the device and any monitoring as a condition of release or~~
 5 ~~to perform community service work in lieu of paying that cost. An~~
 6 electronic monitoring device ordered to be worn under this
 7 subsection shall **must** provide reliable notification of removal or
 8 tampering. As used in this subsection, ÷

9 ~~(a) "Assaultive crime" means that term as defined in section~~
 10 ~~9a of chapter X.~~

11 ~~(b) "Domestic violence" means that term as defined in section~~
 12 ~~1 of 1978 PA 389, MCL 400.1501.~~

13 ~~(c) "Electronic monitoring device" includes any electronic~~
 14 ~~device or instrument that is used to track the location of an~~
 15 ~~individual or to monitor an individual's blood alcohol content, but~~
 16 ~~does not include any technology that is implanted or violates the~~
 17 ~~corporeal body of the individual.~~

18 ~~(d) "Informed"~~ **informed** consent" means that the victim was
 19 given information concerning all of the following before consenting
 20 to participate in electronic monitoring:

21 ~~(a) (i)~~—The victim's right to refuse to participate in that
 22 monitoring and the process for requesting the court to terminate
 23 the victim's participation after it has been ordered.

24 ~~(b) (ii)~~—The manner in which the monitoring technology
 25 functions and the risks and limitations of that technology, and the
 26 extent to which the system will track and record the victim's
 27 location and movements.

28 ~~(c) (iii)~~—The boundaries imposed on the defendant during the
 29 monitoring program.



1 (d) ~~(iv)~~—Sanctions that the court may impose on the defendant
2 for violating an order issued under this subsection.

3 (e) ~~(v)~~—The procedure that the victim is to follow if the
4 defendant violates an order issued under this subsection or if
5 monitoring equipment fails to operate properly.

6 (f) ~~(vi)~~—Identification of support services available to assist
7 the victim to develop a safety plan to use if the court's order
8 issued under this subsection is violated or if the monitoring
9 equipment fails to operate properly.

10 (g) ~~(vii)~~—Identification of community services available to
11 assist the victim in obtaining shelter, counseling, education,
12 child care, legal representation, and other help in addressing the
13 consequences and effects of domestic violence.

14 (h) ~~(viii)~~—The nonconfidential nature of the victim's
15 communications with the court concerning electronic monitoring and
16 the restrictions to be imposed upon the defendant's movements.

17 (11) If an order in excess of the standard conditions of
18 release listed in section 6 of this chapter includes a no-contact
19 order, electronic monitoring imposed under subsection (9), or
20 another condition required for the protection of 1 or more named
21 persons, the judge or district court magistrate shall immediately
22 direct the issuing court or a law enforcement agency within the
23 jurisdiction of the court, in writing, to enter such an order or
24 amended order into LEIN. The entry into LEIN required under this
25 subsection must include the statement of the conditions imposed
26 under the order. If the order or amended order is rescinded, the
27 judge or district court magistrate must immediately order the
28 issuing court or law enforcement agency to remove the order or
29 amended order from LEIN.



1 (12) The issuing court or a law enforcement agency within the
2 jurisdiction of the court must immediately enter an order or
3 amended order into LEIN or must remove the order or amended order
4 from LEIN upon expiration of the order or as directed by the court
5 under subsection (11).

6 (13) ~~(7)~~—A judge or district court magistrate may release
7 under this subsection a defendant subject to conditions reasonably
8 necessary for the protection of the public if the defendant has
9 submitted to a preliminary roadside analysis that detects the
10 presence of alcoholic liquor, a controlled substance, or other
11 intoxicating substance, or any combination of them, and that a
12 subsequent chemical test is pending. The judge or district court
13 magistrate shall inform the defendant on the record, either orally
14 or by a writing that is personally delivered to the defendant, of
15 all of the following:

16 (a) That if the defendant is released under this subsection,
17 ~~he or she~~ **the defendant** shall not operate a motor vehicle under the
18 influence of alcoholic liquor, a controlled substance, or another
19 intoxicating substance, or any combination of them, as a condition
20 of release.

21 (b) That if the defendant violates the condition of release
22 under subdivision (a), ~~he or she~~ **the defendant** will be subject to
23 arrest without a warrant, shall have ~~his or her~~ bail forfeited or
24 revoked, and shall not be released from custody prior to
25 arraignment.

26 (14) ~~(8)~~—The judge or district court magistrate shall
27 immediately direct the issuing court or a law enforcement agency
28 within the jurisdiction of the court, in writing, to enter an order
29 or amended order issued under subsection ~~(7)~~ **(13)** into LEIN. If the



1 order or amended order is rescinded, the judge or district court
 2 magistrate shall immediately order the issuing court or law
 3 enforcement agency to remove the order or amended order from LEIN.

4 (15) ~~(9)~~—The issuing court or a law enforcement agency within
 5 the jurisdiction of the court shall immediately enter an order or
 6 amended order into LEIN. If the order or amended order is
 7 rescinded, the court or law enforcement agency shall immediately
 8 remove the order or amended order from LEIN upon expiration of the
 9 order under subsection ~~(8)~~ **(13)**.

10 (16) ~~(10)~~ **Except for the limitations on the use of**
 11 **significant liberty restraints, this** section does not limit the
 12 authority of judges or district court magistrates to impose
 13 protective or other release conditions under other applicable
 14 statutes or court rules. ~~, including ordering a defendant to wear~~
 15 ~~an electronic monitoring device.~~

16 (17) ~~(11)~~—As used in this section: ~~τ~~

17 (a) "Assaultive crime" includes any of the following:

18 (i) A violation described in section 9a of chapter X.

19 (ii) A violation of chapter XI of the Michigan penal code, 1931
 20 PA 328, MCL 750.81 to 750.90h, not otherwise included in
 21 subparagraph (i).

22 (iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b,
 23 or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a,
 24 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or
 25 any other felony which involves a violent act or threat of a
 26 violent act against any other person.

27 (b) "Domestic violence" means that term as defined in section
 28 1 of 1978 PA 389, MCL 400.1501.

29 (c) "Electronic monitoring device" includes any electronic



1 device or instrument that is used to monitor the location of a
2 person or to monitor or detect a person's blood alcohol content. No
3 condition of release shall include any technology that is implanted
4 or violates the corporeal body of the person.

5 (d) "LEIN" means the law enforcement information network
6 regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL
7 28.211 to 28.215, or by the department of state police.

8 (e) "Listed offense" means that term as defined in section 2
9 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

10 (f) "No-contact order" means an order of the court requiring a
11 defendant to stay away from or have no contact with a specific
12 person or location.

13 (g) "Personal harm" means bodily injury or emotional distress,
14 as defined in section 411h of the Michigan penal code, 1931 PA 328,
15 MCL 750.411h, that can be specifically articulated on the record.

16 (h) "Significant liberty restraint" means any condition that
17 requires drug or alcohol testing, electronic monitoring, or in-
18 person reporting outside of regularly scheduled court events.
19 Significant liberty restraint does not include a no-contact order.

20 Sec. 6f. (1) If, as the result of a pretrial release decision,
21 a defendant remains incarcerated 48 hours after the pretrial
22 release decision is made, defense counsel or the prosecuting
23 attorney may petition the court to conduct a due process hearing
24 within 48 hours of the petition as provided in this section. The
25 standard of review at a hearing conducted under this section must
26 be de novo.

27 (2)

28 All of the following apply to a due process hearing under this
29 section:



1 (a) If available, the judge who is assigned to preside over
2 the case after arraignment shall preside over the due process
3 hearing.

4 (b) The scope of the hearing must be limited to the pretrial
5 release decision, including any monetary or nonmonetary conditions
6 of release.

7 (c) The defendant has a right to be represented by counsel,
8 review evidence the prosecutor may introduce before the hearing,
9 present evidence, and proffer information.

10 (d) The defendant has a right to present and cross-examine
11 witnesses, except the defendant may not call adversarial witnesses,
12 including, but not limited to, any victim or victims in the case.

13 (e) The rules of evidence of this state do not apply.

14 (f) Statements made at the hearing by the defendant are not
15 admissible for the purpose of proving the defendant's guilt in a
16 subsequent proceeding but may be admissible for impeachment
17 purposes.

18 (3) The court shall not issue an order for pretrial detention
19 or continue a condition of release that results in detention of the
20 defendant before trial at the due process hearing unless the court
21 finds on the record by clear and convincing evidence that the
22 defendant poses a risk of absconding or causing personal harm to
23 another reasonably identifiable person or the community at large
24 and that no less restrictive conditions can reasonably address the
25 risk.

26 (4) As used in this section:

27 (a) "Clear and convincing" means that the evidence is highly
28 and substantially more likely to be true than untrue. This standard
29 of proof requires that the fact finder must be convinced that the



1 contention is highly probable. Clear and convincing evidence may be
2 established by any of the following:

3 (i) Established past conduct.

4 (ii) Testimony, including hearsay testimony, from a reliable
5 witness.

6 (iii) Review of police reports, witness statements, criminal
7 history information, or any other documentation in court records.

8 (b) "Harm to the community at large" means that clear and
9 convincing evidence demonstrates that the defendant's conduct would
10 likely result in personal harm to another person, even if that
11 person cannot be specifically identified.

12 (c) "Personal harm" means bodily injury or emotional distress
13 as defined in section 411h of the Michigan penal code, 1931 PA 328,
14 MCL 750.411h, that can be specifically articulated on the record.

15 Enacting section 1. This amendatory act takes effect January
16 1, 2025.

17 Enacting section 2. This amendatory act does not take effect
18 unless Senate Bill No.____ or House Bill No.____ (request no.
19 00502'23) of the 102nd Legislature is enacted into law.



Criminal procedure: other; certain definitions in the code of criminal procedure and time period required for disposition of criminal charges; provide for.
Criminal procedure: other;

DRAFT 1

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 1 of chapter I and section 1 of chapter VIII
(MCL 761.1 and 768.1), section 1 of chapter I as amended by 2017 PA
2.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1
2
3

CHAPTER I

Sec. 1. As used in this act:

(a) "Abscond" means failure to appear with the willful intent



1 to avoid or delay adjudication. There is a rebuttable presumption
2 of absconding if more than 30 days have elapsed from the date of
3 the defendant's missed court appearance and the defendant has
4 failed to appear.

5 (b) ~~(a)~~—"Act" or "doing of an act" includes an omission to
6 act.

7 (c) ~~(b)~~—"Clerk" means the clerk or a deputy clerk of the
8 court.

9 (d) ~~(e)~~ "Complaint" means a written accusation, under oath or
10 upon affirmation, that a felony, misdemeanor, or ordinance
11 violation has been committed and that the person named or described
12 in the accusation is guilty of the offense.

13 (e) ~~(d)~~—"County juvenile agency" means that term as defined in
14 section 2 of the county juvenile agency act, 1998 PA 518, MCL
15 45.622.

16 (f) ~~(e)~~—"Federal law enforcement officer" means an officer or
17 agent employed by a law enforcement agency of the United States
18 government whose primary responsibility is enforcing laws of the
19 United States.

20 (g) ~~(f)~~—"Felony" means a violation of a penal law of this
21 state for which the offender, upon conviction, may be punished by
22 imprisonment for more than 1 year or an offense expressly
23 designated by law to be a felony.

24 (h) ~~(g)~~—"Indictment" means 1 or more of the following:

25 (i) An indictment.

26 (ii) An information.

27 (iii) A presentment.

28 (iv) A complaint.

29 (v) A warrant.



1 (vi) A formal written accusation.

2 (vii) Unless a contrary intention appears, a count contained in
3 any document described in subparagraphs (i) through (vi).

4 (i) ~~(h)~~ "Jail", "prison", or a similar word includes a
5 juvenile facility in which a juvenile has been placed pending trial
6 under section 27a of chapter IV.

7 (j) ~~(i)~~ "Judicial district" means the following:

8 (i) With regard to the circuit court, the county.

9 (ii) With regard to municipal courts, the city in which the
10 municipal court functions or the village served by a municipal
11 court under section 9928 of the revised judicature act of 1961,
12 1961 PA 236, MCL 600.9928.

13 (iii) With regard to the district court, the county, district,
14 or political subdivision in which venue is proper for criminal
15 actions.

16 (k) ~~(j)~~ "Juvenile" means a person within the jurisdiction of
17 the circuit court under section 606 of the revised judicature act
18 of 1961, 1961 PA 236, MCL 600.606.

19 (l) ~~(k)~~ "Juvenile facility" means a county facility, an
20 institution operated as an agency of the county or family division
21 of the circuit court, or an institution or agency described in the
22 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to
23 803.309, to which a juvenile has been committed under section 27a
24 of chapter IV.

25 (m) ~~(l)~~ "Magistrate" means a judge of the district court or a
26 judge of a municipal court. Magistrate does not include a district
27 court magistrate, except that a district court magistrate may
28 exercise the powers, jurisdiction, and duties of a magistrate if
29 specifically provided in this act, the revised judicature act of



1 1961, 1961 PA 236, MCL 600.101 to 600.9947, or any other statute.
 2 This definition does not limit the power of a justice of the
 3 supreme court, a circuit judge, or a judge of a court of record
 4 having jurisdiction of criminal cases under this act, or deprive
 5 ~~him or her~~ **a justice or judge** of the power to exercise the
 6 authority of a magistrate.

7 (n) ~~(m)~~—"Minor offense" means a misdemeanor or ordinance
 8 violation for which the maximum permissible imprisonment does not
 9 exceed 92 days and the maximum permissible fine does not exceed
 10 \$1,000.00.

11 (o) ~~(n)~~—"Misdemeanor" means a violation of a penal law of this
 12 state that is not a felony or a violation of an order, rule, or
 13 regulation of a state agency that is punishable by imprisonment or
 14 a fine that is not a civil fine.

15 (p) **"Nonappearance" means a failure to appear without the**
 16 **intent to avoid or delay adjudication.**

17 (q) ~~(e)~~—"Ordinance violation" means either of the following:

18 (i) A violation of an ordinance or charter of a city, village,
 19 township, or county that is punishable by imprisonment or a fine
 20 that is not a civil fine.

21 (ii) A violation of an ordinance, rule, or regulation of any
 22 other governmental entity authorized by law to enact ordinances,
 23 rules, or regulations that is punishable by imprisonment or a fine
 24 that is not a civil fine.

25 (r) ~~(p)~~—"Person", "accused", or a similar word means an
 26 individual or, unless a contrary intention appears, a public or
 27 private corporation, partnership, or unincorporated or voluntary
 28 association.

29 (s) ~~(q)~~—"Property" includes any matter or thing upon or in



1 respect to which an offense may be committed.

2 (t) ~~(s)~~ "Prosecuting attorney" means the prosecuting attorney
3 for a county, an assistant prosecuting attorney for a county, the
4 attorney general, the deputy attorney general, an assistant
5 attorney general, a special prosecuting attorney, or, in connection
6 with the prosecution of an ordinance violation, an attorney for the
7 political subdivision or governmental entity that enacted the
8 ordinance, charter, rule, or regulation upon which the ordinance
9 violation is based.

10 (u) ~~(s)~~ "Recidivism" means any rearrest, **recharge**,
11 reconviction, or reincarceration in prison or jail for a felony or
12 misdemeanor offense, **an ordinance violation**, or a probation or
13 parole violation of an individual as measured first after 3 years
14 and again after 5 years from the date of his or her release from
15 incarceration, placement on probation, or conviction, whichever is
16 later.

17 (v) ~~(t)~~ "Taken", "brought", or "before" a magistrate or judge
18 for purposes of criminal arraignment or the setting of bail means
19 either of the following:

20 (i) Physical presence before a judge or district court
21 magistrate.

22 (ii) Presence before a judge or district court magistrate by
23 use of 2-way interactive video technology.

24 (w) ~~(u)~~ "Technical parole violation" means a violation of the
25 terms of a parolee's parole order that is not a violation of a law
26 of this state, a political subdivision of this state, another
27 state, or the United States or of tribal law.

28 (x) ~~(v)~~ "Technical probation violation" means a violation of
29 the terms of a probationer's probation order that is not a



1 violation of a law of this state, a political subdivision of this
2 state, another state, or the United States or of tribal law.

3 (y) "Without unnecessary delay" means not more than 24 hours
4 after a person is arrested or, upon a showing of good cause, not
5 more than 48 hours after a person is arrested.

6 (z) ~~(w)~~ "Writing", "written", or a similar term refers to
7 words printed, painted, engraved, lithographed, photographed,
8 copied, traced, or otherwise made visible to the eye.

9 CHAPTER VIII

10 Sec. 1. (1) The people of this state and persons charged with
11 crime are entitled to and shall have a speedy trial and
12 determination of all prosecutions. ~~and it is hereby made~~ **It is** the
13 duty of all public officers having duties to perform in any
14 criminal case, to bring such case to a final determination without
15 delay except as may be necessary to secure to the accused a fair
16 and impartial trial. **Except as provided in subsection (2), a**
17 **defendant must be tried, and a final determination of the charge**
18 **must be made, not more than 18 months after arrest or the issuance**
19 **of an appearance ticket.**

20 (2) The time period in subsection (1) may be tolled if any of
21 the following apply:

22 (a) The defendant explicitly waives the time period on the
23 record.

24 (b) The delay is attributable to the defendant.

25 (c) The delay is necessary to accommodate the request of any
26 victim or victims in the case, if the court finds on the record
27 that the request is reasonable and that exceptional circumstances
28 justify granting the request.

29 (d) The delay is attributable to an act of God, including, but



1 not limited to, a fire, earthquake, hurricane, storm, pandemic, or
2 similar natural disaster or phenomenon.

3 (e) The delay is otherwise justified by good cause found on
4 the record, but not including delays caused by docket congestion.

5 (3) If a defendant is not tried or a final determination on
6 the charge or charges is not made within the time period under
7 subsection (1) and none of the circumstances under subsection (2)
8 apply, then the charge against the defendant must be dismissed with
9 prejudice.

10 (4) It is the responsibility of the court to ensure that
11 judicial or docket delays do not result in case dismissal under
12 this section.

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



Public Policy Position
Revised Pretrial Reform Bail Package

Support

Explanation:

The Committee voted to support the revised versions of former House Bills 5436, 5437, and 5438 and believes that these bills, taken together with the remaining bills in this pretrial reform package previously supported by SBM, will provide for a more uniform and fair system of pretrial detention decision-making that will better serve defendants, the courts, and the public.

Position Vote:

Voted For position: 18

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 9

Keller Permissibility Explanation:

The Committee agreed that this legislation is *Keller*-permissible in that it will affect the functioning of the courts by securing the presence of defendants at court proceedings and promoting the responsible use of limited judicial resources. The Committee took note of the fact that this was also the Board of Commissioner's *Keller* determination on this package and the previous versions of these three bills in the prior legislative session.

Contact Persons:

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Lore A. Rogers rogersl4@michigan.gov

**Public Policy Position
Revised Pretrial Reform Bill Package**

Support

Explanation:

The SBM Board of Commissioners voted to support HB 5436 (uniform pretrial decision-making framework), HB 5437 (due process protections for pretrial decisions), HB 5438 (statutory right to speedy trial within 18 months) and in the last legislative session. Having reviewed the proposed revisions to these bills, the Committee recommends that the Board maintain its current position of support for the three bills, as revised.

Position Vote:

Voted For position: 11

Voted against position: 8

Abstained from vote: 0

Did not vote (absent): 7

Contact Persons:

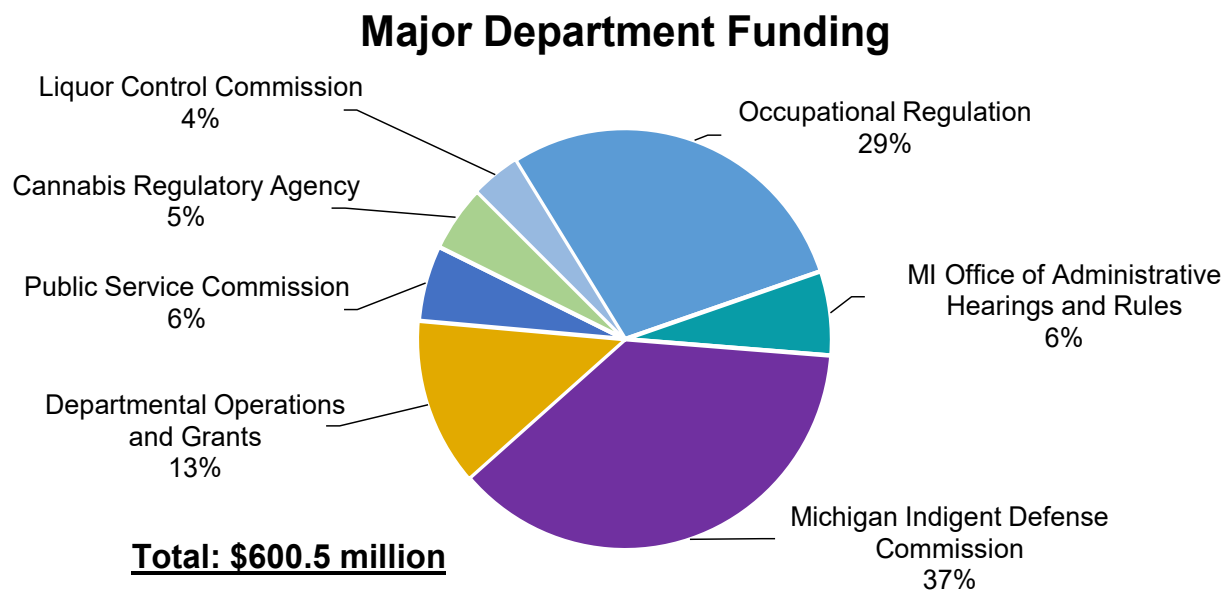
Nimish R. Ganatra ganatran@washtenaw.org

Sofia V. Nelson snelson@sado.org

Department of Licensing and Regulatory Affairs Governor's Recommended Budget for Fiscal Years 2024 and 2025

The Department of Licensing and Regulatory Affairs (LARA) serves as the state's primary regulatory agency, providing oversight for a wide range of program areas, including health and childcare, business, construction, cannabis, indigent criminal defense, liquor, and professional occupations.

The Governor's recommended budget for fiscal years 2024 and 2025 includes total ongoing funding of \$588.6 million, of which \$260.3 million comes from the state's general fund. The Governor also recommends \$11.9 million in one-time funding in fiscal year 2024, \$6.4 million of which comes from the general fund.



Highlights

The Governor's recommended budget includes new initiatives and continues support for the following key LARA programs:

- \$220.9 million for Michigan Indigent Defense Commission Grants** (\$220.6 million general fund) for 120 local trial court funding units to continue the implementation of requirements for the effective and fair assistance of counsel for indigent criminal defendants across the state. This represents a \$72 million dollar increase over fiscal year 2023 to cover the costs associated with meeting existing minimum standards, as well as a newly approved standard related to attorney compensation (approved in October of 2022) that will ensure adequate compensation and resources for defense counsel. An additional \$413,000 is provided to the Michigan Indigent Defense Commission to bolster staffing to provide funding for employees to ensure compliance with grants and assist with implementation.

Licensing and Regulatory Affairs

- ♦ **\$33.8 million for the Cannabis Regulatory Agency** (all state restricted funds) to regulate the state's cannabis and hemp industries to ensure compliance with consumer health, safety, and welfare regulations. This includes \$4.4 million for a new Cannabis Regulatory Agency Reference Laboratory which will serve a critical regulatory function for the confirmation of results during audits, investigations, and product safety recalls, and serve as a site for national validation for the development of standard cannabis testing methods.
 - ♦ Additionally, excise tax collections from adult-use cannabis sales are forecast to result in the following fiscal year 2024 distributions: \$71.7 million to qualifying local counties and cities, \$83.6 million to the school aid fund for K-12 education, and \$83.6 million for road and bridge repair and maintenance.
- ♦ **\$5 million for the Michigan Saves Green Bank** (general fund), to build upon previous investments and continue to leverage private investment in clean energy improvements for Michigan's residents and businesses. By providing a credit enhancement to lenders, the green bank incentivizes lenders to provide more favorable rates and terms for renewable energy improvements benefitting property owners and the environment. This \$5 million investment is expected to leverage \$150 million in private capital for clean energy improvements across the state.
- ♦ **\$3.6 million to continue modernization of state licensing systems**, which are critical tools for LARA's regulatory duties. This investment continues support for ongoing system modernizations in two key program areas:
 - ♦ The **Corporations Online Filing System (\$2.7 million restricted funds)** is undergoing replacement to better support the increased volume of new business entities, improve security controls, and provide a simplified public portal to benefit users who rely on it for business filings.
 - ♦ The **Michigan Liquor Control Commission (MLCC) Sales, Inventory and Purchasing (SIPS) system** is supported with \$900,000 from the Information Technology Investment Fund in the Department of Technology, Management and Budget for the final phase of the replacement and modernization of this 40-year-old system which serves over 13,000 licensee and retail users. The replacement of this system will increase efficiency, provide for more accurate reporting, and enhance the user experience.
- ♦ An additional **\$3.3 million for the Child Care Licensing Bureau** (general fund) to strengthen the regulatory bureau charged with protecting the health, safety, and welfare of children in child care settings. This investment will support additional staff that will focus on a range of duties including the processing of background checks for child care workers, coordinating the development of educational resources, working with providers to ensure all health and safety requirements are met, and conducting special investigations. Through these investments, Michigan continues its efforts towards achieving expanded access to affordable, quality child care across the state.

- ♦ **\$1.2 million for the Bureau of Survey and Certification** (general fund) to support additional inspection activity at health care facilities statewide, thereby ensuring Michigan residents have access to safe, quality healthcare.
 - ♦ **\$335,000** (restricted funds) to address a **backlog of consumer complaints against licensed residential builders and contractors**. These funds are recommended in a fiscal year 2023 supplemental to accelerate efforts to work through the backlog.
-

Department of Licensing and Regulatory Affairs
Governor's Recommended Budget for Fiscal Years 2024 and 2025
 \$ in Thousands

FY 2024 Adjustments

	<u>GF/GP</u>	<u>GROSS</u>
FY 2023 Original Enacted	\$213,822.4	\$539,834.4
Removal of FY 2023 One-Time Funding	(\$4,500.0)	(\$8,343.6)
FY 2024 Ongoing Investments		
Michigan Indigent Defense Commission - Increased Costs for Minimum Standard 8, Attorney Compensation	\$42,155.5	\$42,155.5
Child Care Licensing Bureau - Increased funding for child care staff background checks and operational support for 7.0 new FTEs	\$3,100.0	\$3,100.0
Michigan Indigent Defense Commission Operations - Funding to support 2.0 staff	\$413.0	\$413.0
Cannabis Regulatory Agency Reference Laboratory - Operations and 6.0 staff	\$0.0	\$1,600.0
Public Service Commission - Gas Safety and Operations Staffing for more inspections	\$0.0	\$813.4
Michigan Liquor Control Commission - Support for 3.0 additional staff	\$0.0	\$514.6
FY 2024 Reductions	\$0.0	\$0.0
FY 2024 Baseline Adjustments		
Michigan Indigent Defense Commission Grants - Funding for existing standards	\$29,844.5	\$29,844.5
Child Care Licensing Bureau Annual Licensing and Maintenance	\$600.0	\$600.0
Michigan Liquor Control Commission Law Enforcement Grants	\$0.0	\$1,500.0
Corporations Online Filing System Maintenance	\$0.0	\$1,000.0
Michigan Liquor Control Commission SIPS Licensing and Maintenance Costs	\$0.0	\$900.0
Property Management Savings - Shift internal savings to support program costs	\$0.0	\$375.0
Industrial Hemp Funding Shift from MDARD to LARA - Executive Reorganization 2022-1	\$0.0	\$300.0
MiLogin Rate Increase	\$0.0	\$100.0
Bureau of Fire Services Aboveground Storage Tank Fees - Recognize increased revenue	\$0.0	\$100.0
Public Service Commission Underground Natural Gas Storage Inspection Program	\$0.0	\$73.9
Low Carbon Grant Program Removal	(\$25,000.0)	(\$25,000.0)
Employee Payroll Related Adjustments	(\$104.3)	(\$1,311.4)
Other Technical Adjustments	\$0.0	\$1.9
FY 2024 Total Executive Recommendation - Ongoing Funding	\$260,331.1	\$588,571.2
FY 2024 One-Time Investments		
Michigan Saves Green Bank - Credit enhancement to incentivize renewable energy improvements	\$5,000.0	\$5,000.0
Bureau of Survey and Certification - Support inspection activity at health care facilities	\$1,200.0	\$1,200.0
Corporations Online Filing System Modernization	\$0.0	\$2,700.0
Cannabis Regulatory Agency Reference Laboratory - Laboratory buildout	\$0.0	\$2,800.0
Child Care Licensing Bureau Background Check Authorization Increase - System upgrades	\$200.0	\$200.0
FY 2024 Total Executive Recommendation - One-Time Funding	\$6,400.0	\$11,900.0
FY 2024 Total Executive Recommendation - Ongoing and One-Time	\$266,731.1	\$600,471.2
\$ Change from FY 2023 - Total Funding	\$52,908.7	\$60,636.8
% Change from FY 2023 - Total Funding	24.7%	11.2%

Department of Licensing and Regulatory Affairs
Governor's Recommended Budget for Fiscal Years 2024 and 2025
 \$ in Thousands

FY 2025 Adjustments

	<u>GF/GP</u>	<u>GROSS</u>
FY 2024 Total Executive Recommendation	\$266,731.1	\$600,471.2
Removal of FY 2024 One-Time Funding	(\$6,400.0)	(\$11,900.0)
FY 2025 Total Executive Recommendation	\$260,331.1	\$588,571.2
\$ Change from FY 2024 - Total Funding	(\$6,400.0)	(\$11,900.0)
% Change from FY 2024 - Total Funding	(2.4%)	(2.0%)



MICHIGAN INDIGENT DEFENSE COMMISSION

House LARA Appropriations Subcommittee
February 28, 2023

Kristen Staley

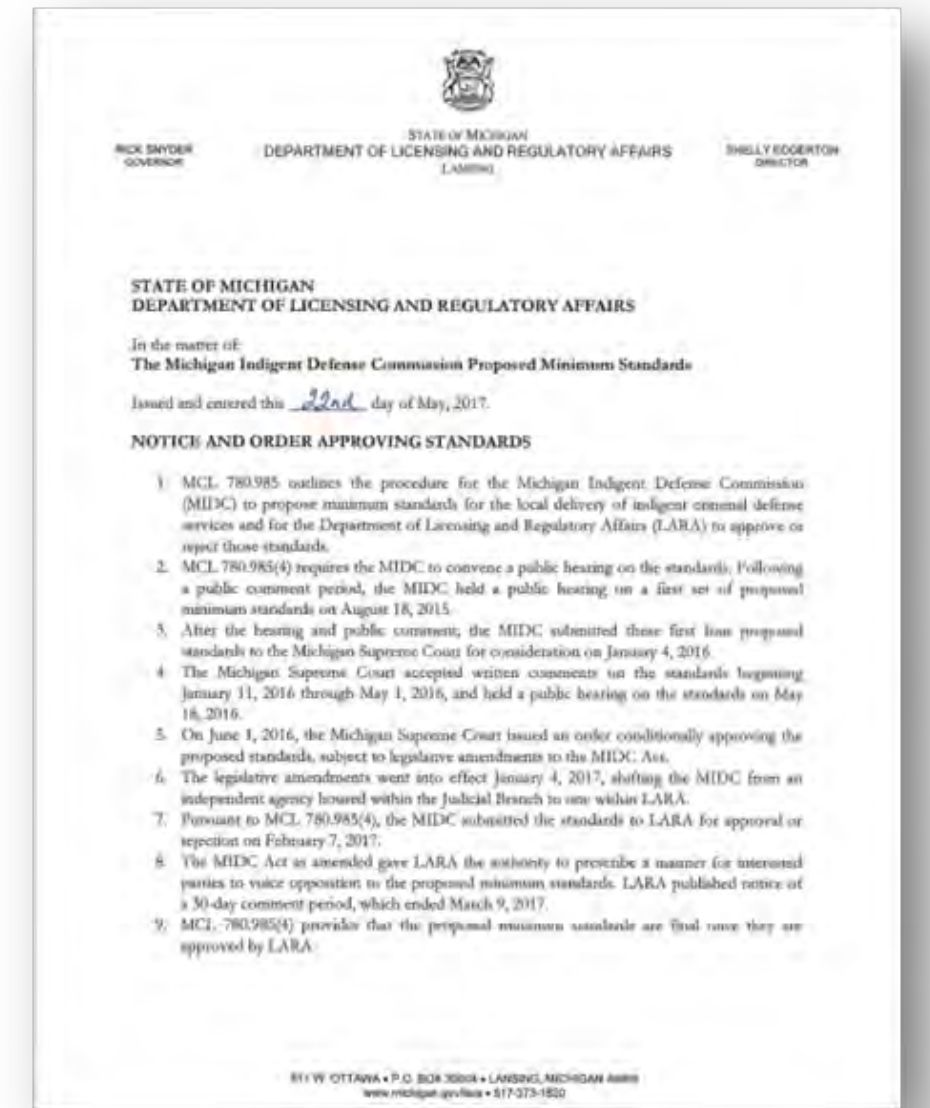
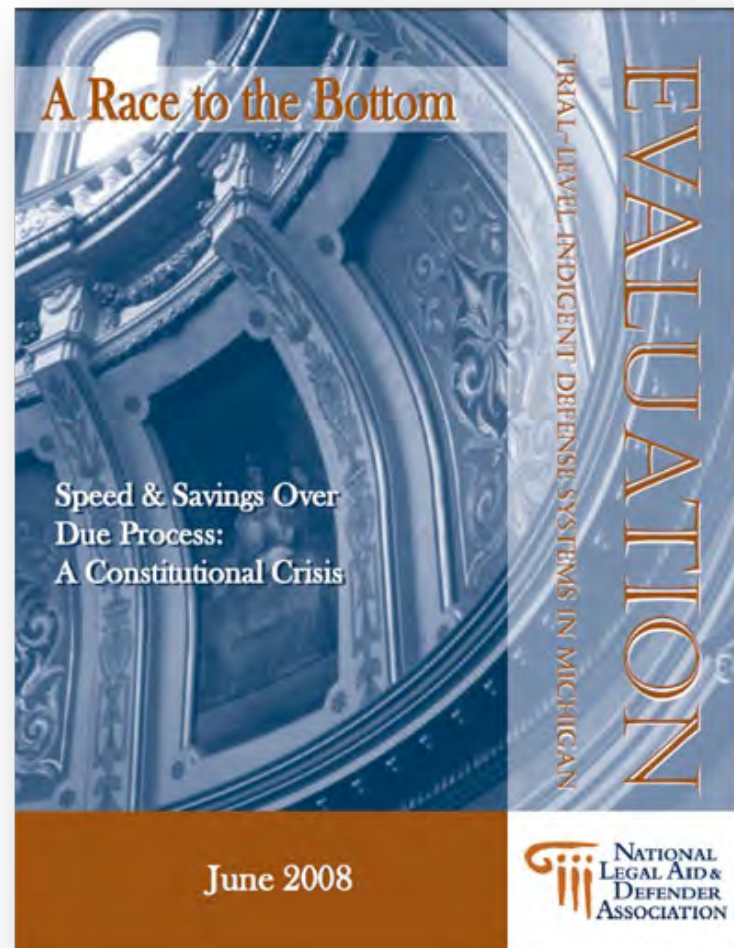
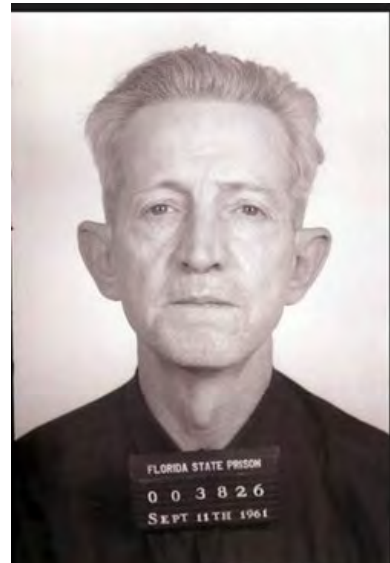
Executive Director

www.michiganidc.gov

517-657-3066

LARA-MIDC-Info@michigan.gov

Laying the Foundation for the MIDC Act



The MIDC Act

Public Act 93 of 2013
MCL 780.981 et seq.

We are required by [statute](#) to:

- Develop minimum standards for the local delivery of indigent defense services;
- Administer grants for local systems to come into compliance with standards;
- Ensure compliance of standards;
- Collect data; and
- Encourage best practices in indigent defense services.

Michigan Supreme Court

Michigan House of Representatives

Michigan Senate

State Budget Office

Michigan Judges Association

Michigan District Judges Association

State Bar of Michigan

Criminal Defense Association of Michigan

Prosecuting Attorney Association of Michigan

Michigan Association of Counties

Michigan Municipal League/Michigan Township Association

General Public



MIDC Commissioners include
19 stakeholders from the
criminal justice community

Approved & Implemented



Training and education



Initial client meeting



Investigators and experts



Counsel at first appearance



Independence from the judiciary

Approved & Not Fully Implemented



Indigency Determination

(By end of FY23)



Attorney Compensation

(Expected by end of FY24)

Pending Full Approval



Caseloads



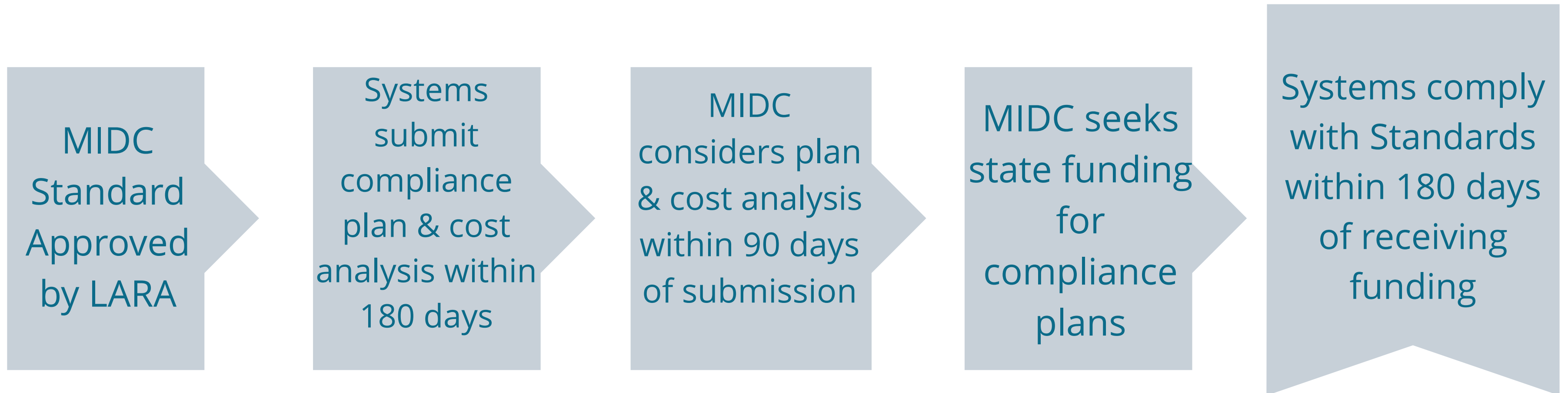
Attorney Qualification & Review

MIDC Minimum Standards



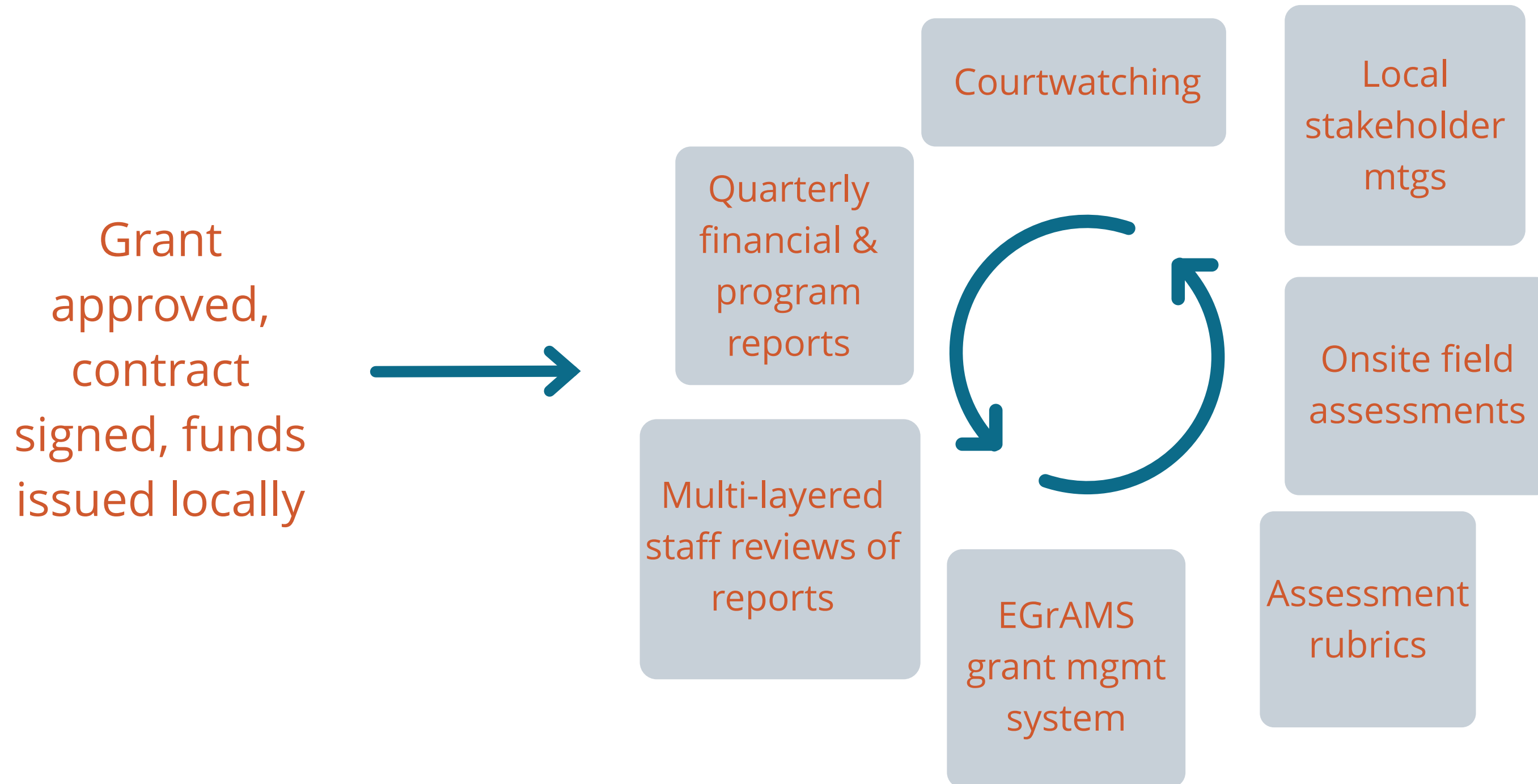
MIDC Annual Grant Process

"The MIDC shall not approve a cost analysis or portion of a cost analysis unless it is reasonably and directly related to an indigent defense function." MCL § 780.993(4)

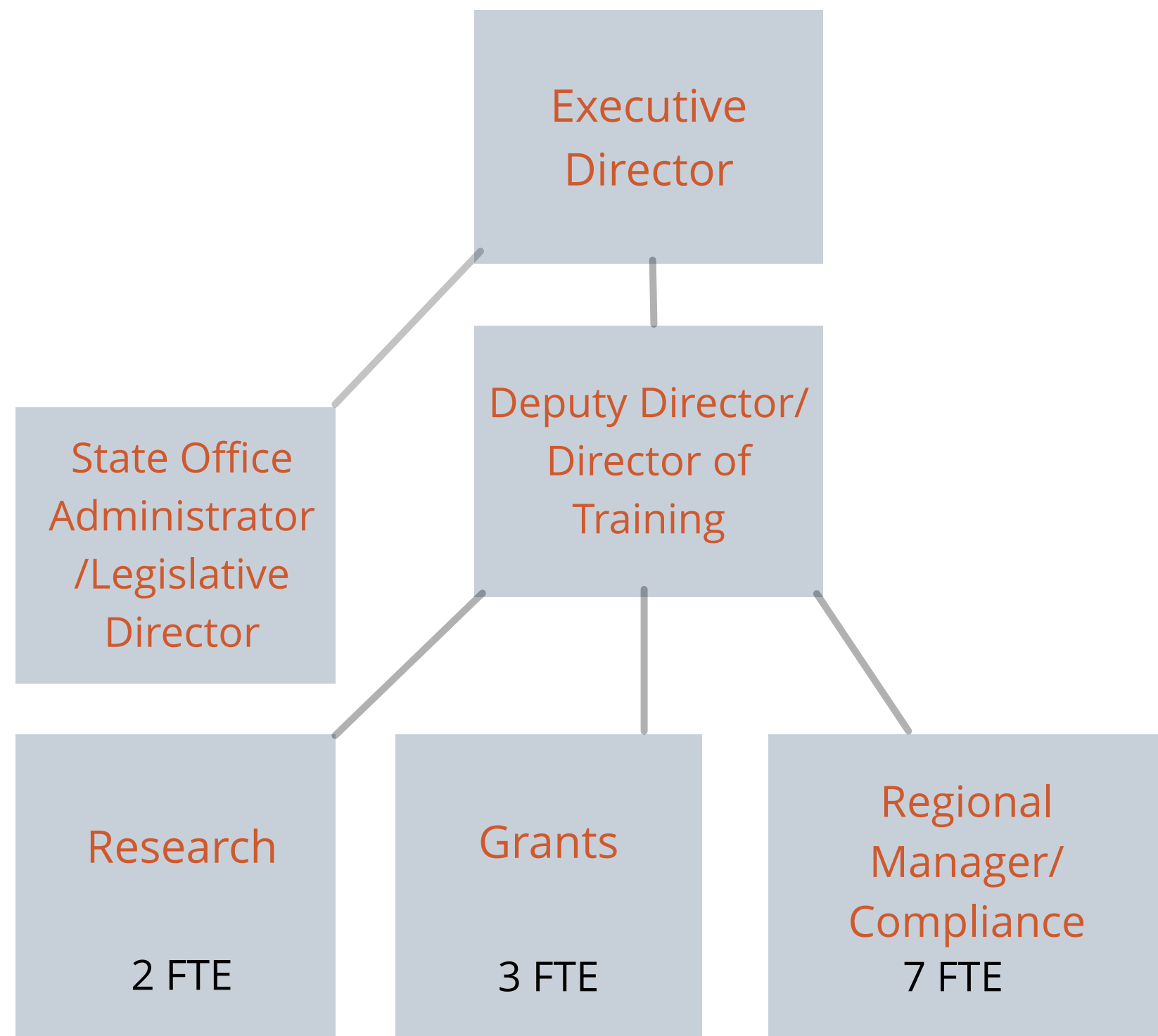


MIDC Annual Compliance Process

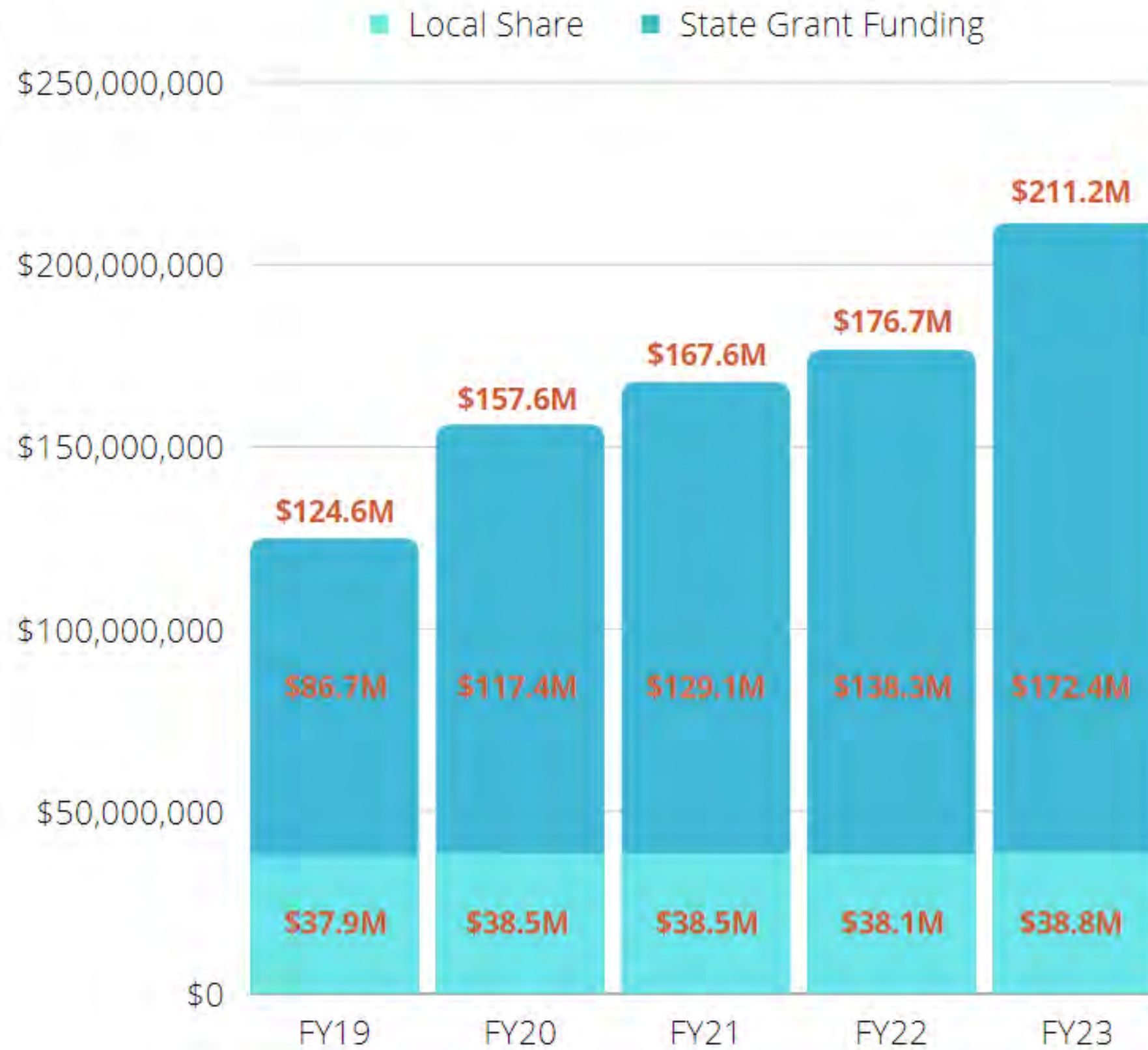
The MIDC has the authority and duty to "[i]nvestigate, audit, and review the operation of indigent criminal defense services to assure compliance with the commission's minimum standards, rules, and procedures." MCL §780.989(1)(b).



The MIDC staff serves a critical role

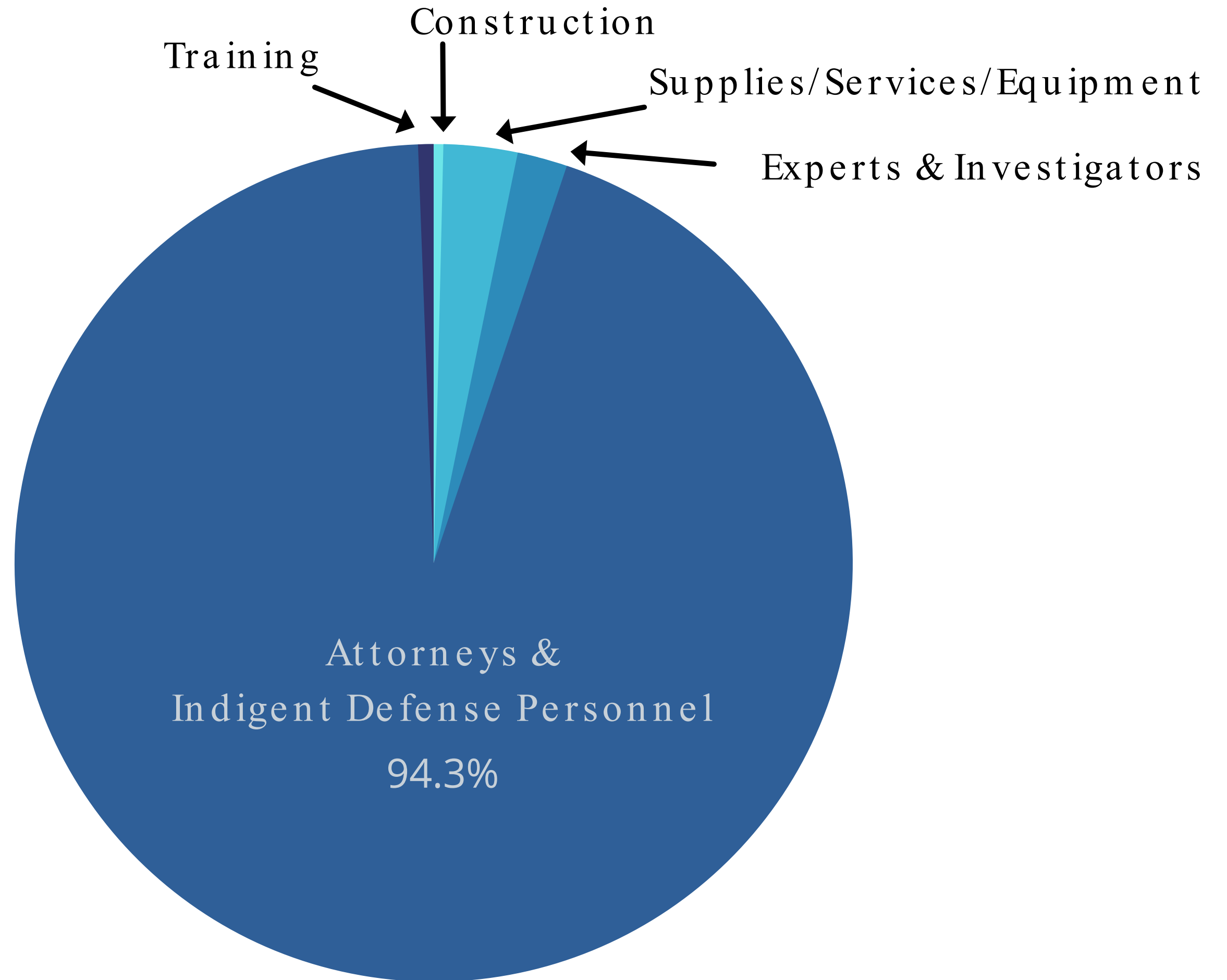


- 15 staff members support 19 Commissioners and 133 funding units across Michigan
- 6 regional managers, licensed attorneys experienced in public defense, assess compliance, provide technical assistance, primary point of local contact.
- Grant director and 2 analysts oversee all aspects of over \$211 million in compliance grants
- Training director and compliance analyst monitor continuing education requirements for about 1800 attorneys statewide
- Research director and analyst assess standards, collect and assess compliance data to improve local practices



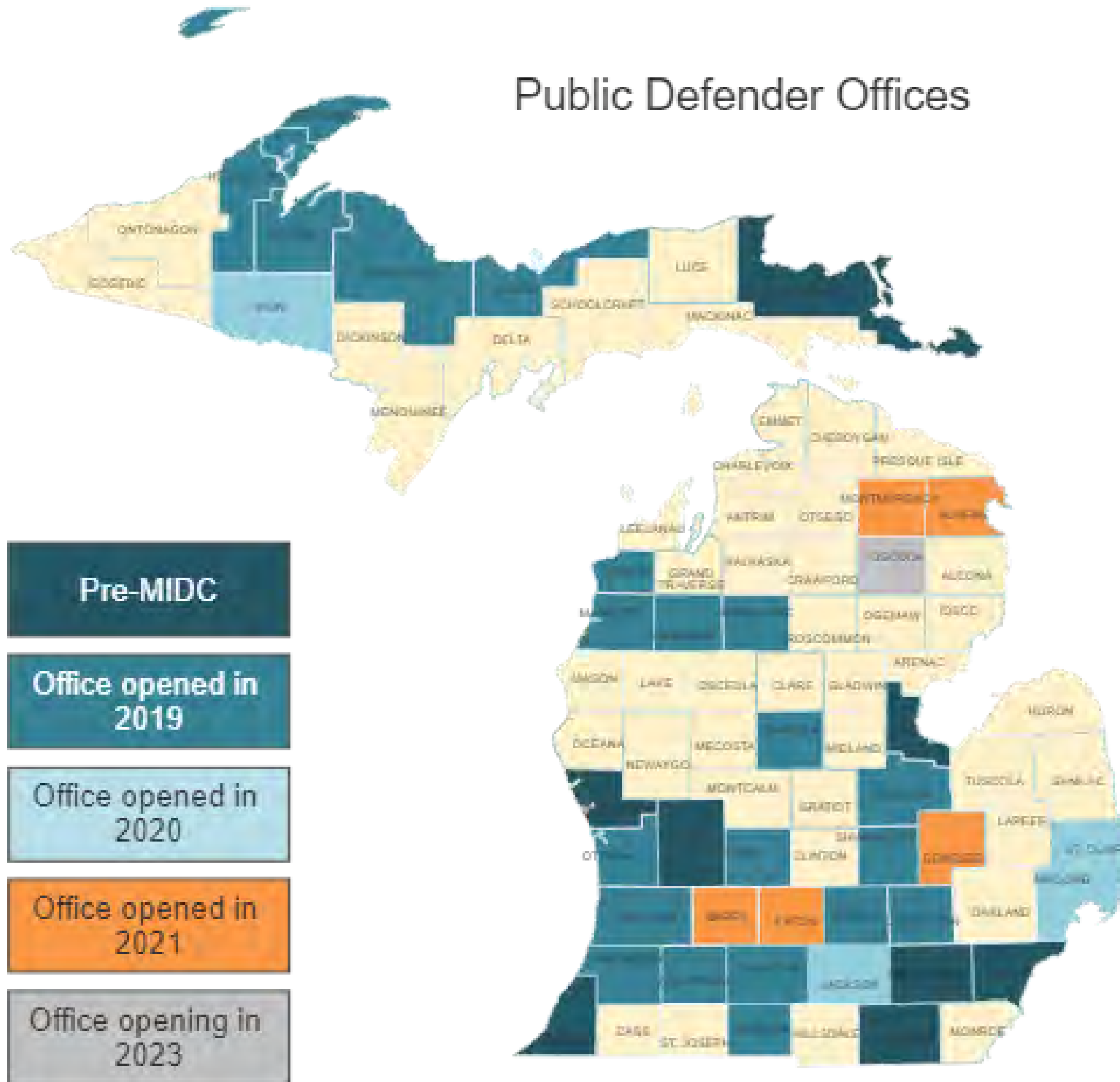
MIDC Approved
 Indigent Defense
 System Costs:
 State & Local Funding
 Cost Share

The funds appropriated for MIDC grants are distributed directly to 133 local systems, defined as trial court funding units. The majority of the funds support attorneys and other personnel providing services to clients.

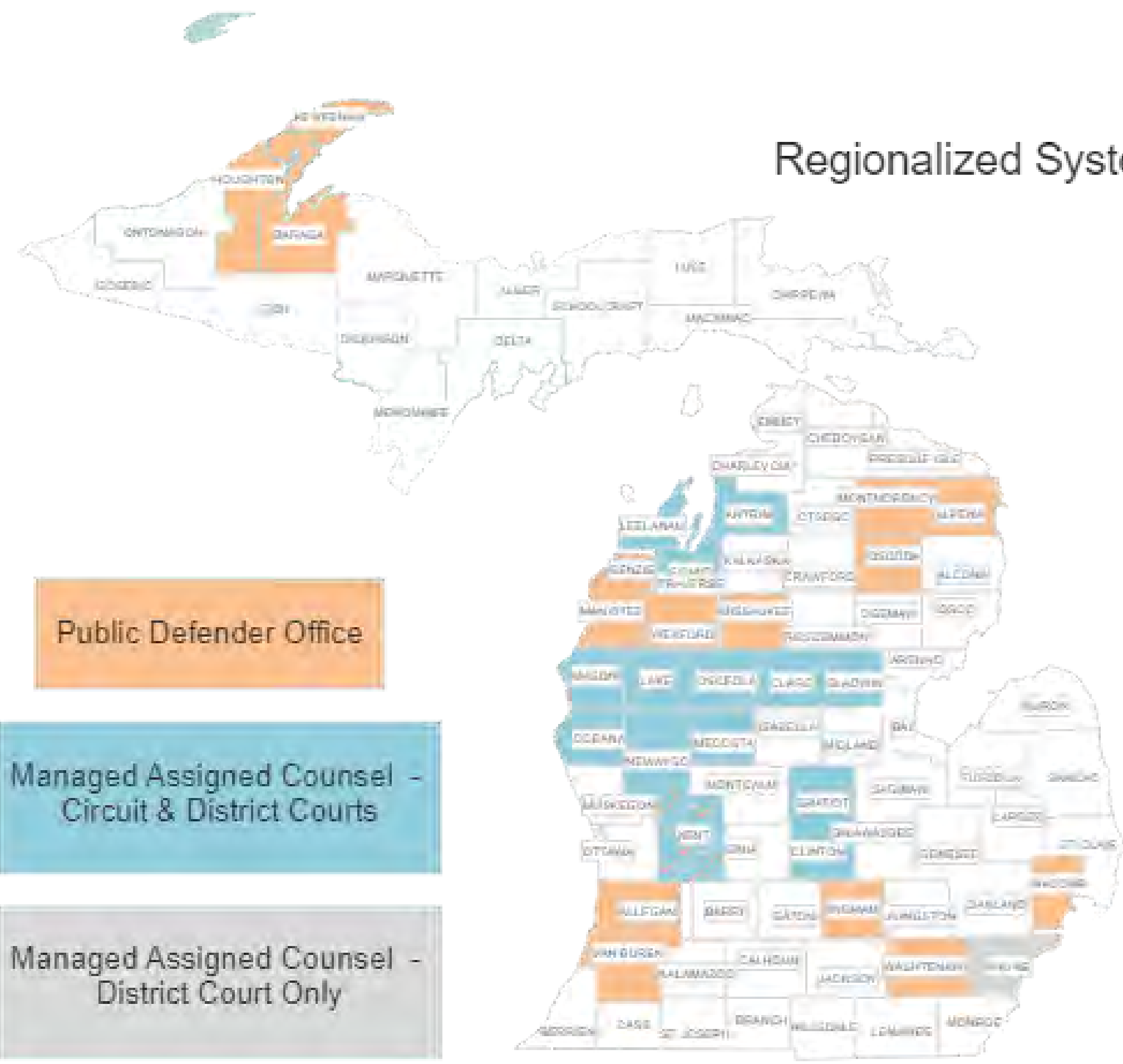


**MIDC Compliance Grant:
Local Spending
FY22**

Public Defender Offices



Regionalized Systems - FY23



- Regionalized Wayne Districts and Municipalities
 - D 16 - Livonia
 - D 17 - Redford
 - D 19 - Dearborn
 - D 20 - Dearborn Heights
 - D 21 - Garden City
 - D 22 - Inkster
 - D 23- Taylor
 - D 24 - Allen Park
 - D 27 - Wyandotte
 - D 28 - Southgate
 - D 29 - Wayne
 - D 30 - Highland Park
 - D 31 - Hamtramck
 - D 32a - Harper Woods
 - D 33 - Trenton
 - D 34 - Romulus
 - D 35 - Plymouth
 - Grosse Pointe City
 - Grosse Pointe Farms/Shores
 - Grosse Pointe Park
- Regionalized Kent Districts
 - D59-1 - Grandville
 - D59-2 - Walker
 - D62a Wyoming
 - D62b - Kentwood

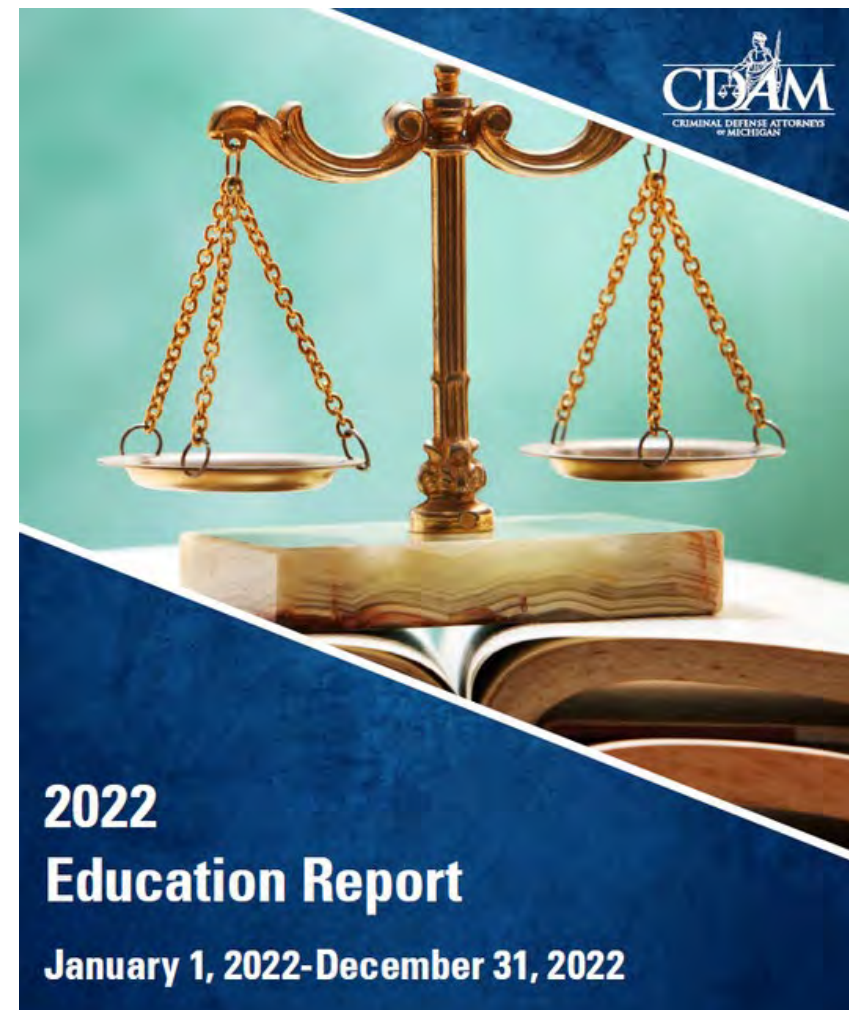
Education and Training of Defense Counsel

Criminal defense attorneys must have reasonable knowledge of the relevant law and be able to defend a client's case.

80% of the 1,877 attorneys representing indigent clients met or exceeded the MIDC's training requirements in FY22.

We partner with state and nat'l leaders, ensuring thousands of annual training hours:

Criminal Defense Attorneys of Michigan, SADO's Criminal Defense Resource Center, SBM, NAPD, etc.



3175 hours of hands-on skills training completed by 384 attorneys through a unique **Byrne JAG** funded program managed by the MIDC

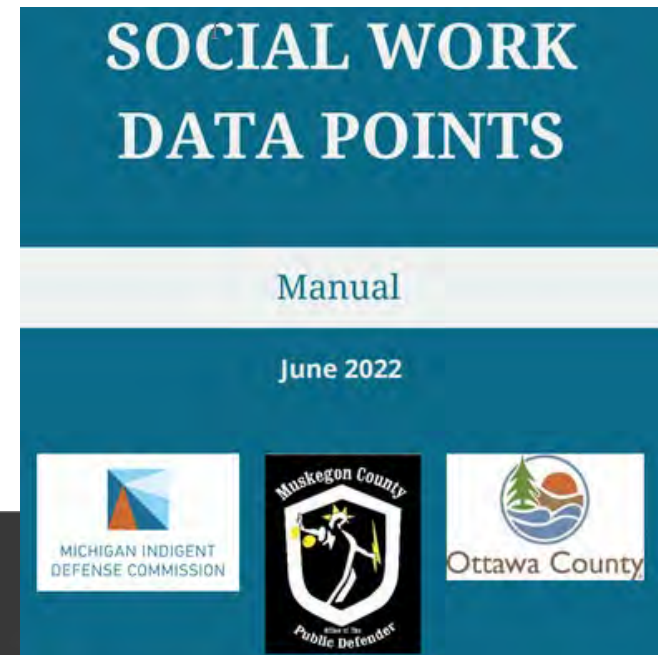
Experts & Investigators

Counsel has a duty to conduct independent investigations in all cases and to continually evaluate for any need of appropriate investigations or expert assistance in specialized areas beyond the lawyer's expertise.

Attorney use of expert and investigator resources increased by nearly 200% since FY19, dramatically changing the culture of public defense statewide.

Michigan's public defender offices employ 48 investigator positions. Some also use paralegals or graduate interns to assist in investigative work.

MIDC grants support 51 social workers and client advocates in 27 counties, creating a new workforce of holistic defenders.



Wayne State to pilot holistic defense partnership for law and social work students

May 24, 2021



Counsel at First Appearance & Other Critical Stages

People facing criminal charges have a constitutional right to counsel as soon as their liberty is jeopardized by a judge or magistrate.

83% of Michiganders with counsel at arraignments are represented by assigned counsel.

In FY22, over 229,000 people were represented by appointed counsel at arraignment.

Prior to the MIDC, attorneys were present at only 1,000 arraignments per year.



MICHIGAN

State reform will cut the clout of judges in picking lawyers for poor people

M.L. Elrick Detroit Free Press

Published 6:18 p.m. ET Oct. 30, 2020 | Updated 4:37 p.m. ET Oct. 31, 2020

[View Comments](#)



Judges are poised to lose their power to choose lawyers for poor people under a new state reform effort.

The Michigan Department of Licensing and Regulatory Affairs, which has been working for the past several years to improve the quality of criminal defense for poor people, on Thursday approved making changes to the way lawyers for the indigent are selected.

99% of indigent defense systems are fully independent from the judiciary.

MIDC Indigency Standard, being implemented now, ensures equal access to counsel and erases patchwork definitions of who qualifies for help.

Low-income defendants in Michigan get easier access to no-cost criminal defense



MIDC Operations:
\$3,167,400

FY24 Exec. Rec. includes an additional \$404,400 to fund 2 FTEs to ensure sound financial stewardship, proper compliance oversight, and technical assistance for current and recently approved standards.

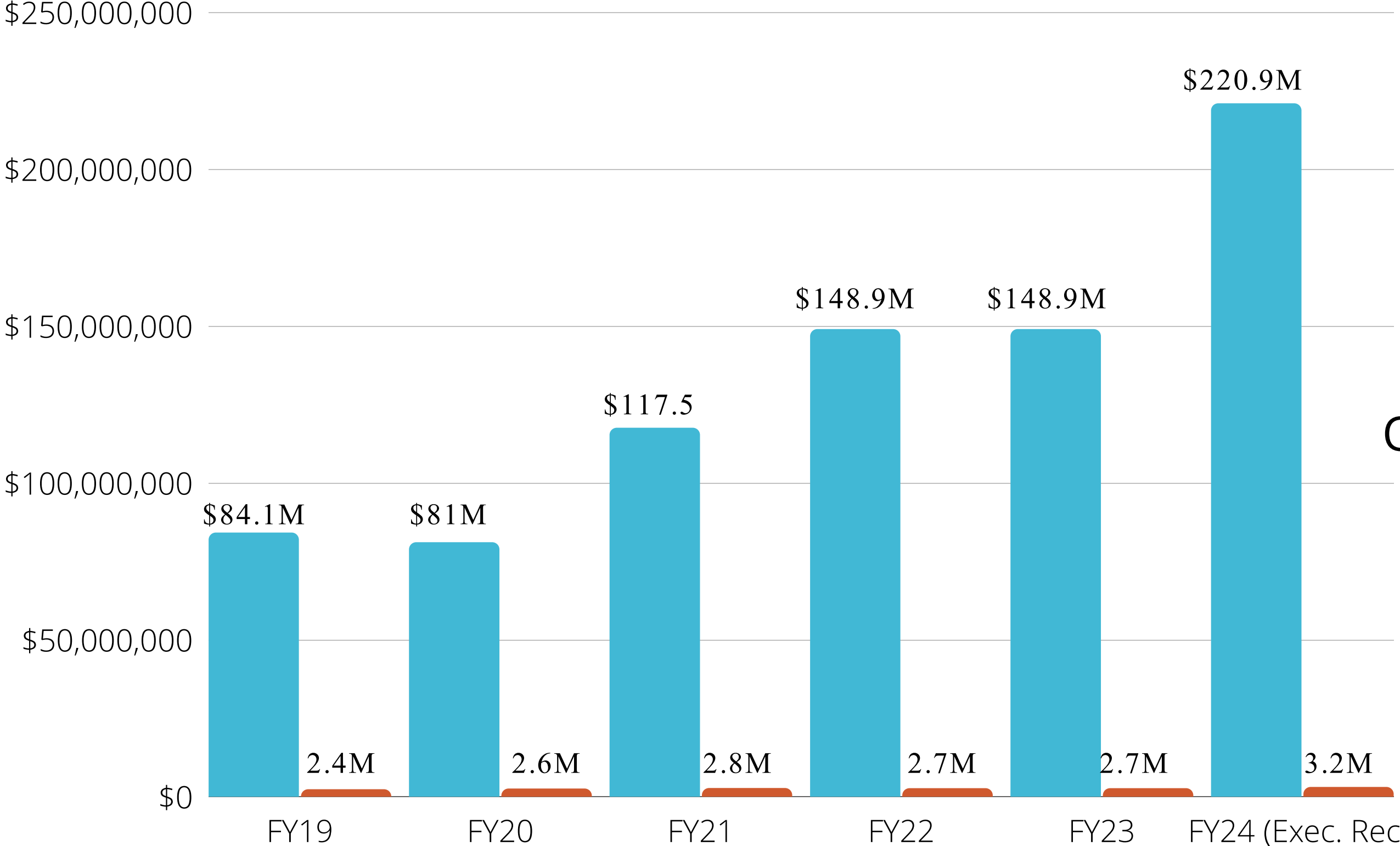
MIDC Compliance Grants -
State Share: \$220,917,400

MIDC's Minimum Standard on Attorney Compensation will incentivize quality defense. An estimated first year of statewide implementation for the new standard is an additional \$72 million.



State Appropriations

■ State Grants to Local Systems ■ MIDC Operations



FY24 Exec. Rec
Grants: \$220,917,400
Operations: \$3,167,400

Attorney Compensation Standard

- Attorneys must receive prompt compensation at a reasonable rate, using the AG office as a guideline for salaried defenders.
- Attorneys must be reimbursed for reasonable case-related expenses.
- Attorney hourly rates shall be at least \$100 per hours for misdemeanor, \$110 per hour for non-life offense felonies, and \$120 per hour for life offense felonies and will include annual cost of living increases.

LARA Director Orlene Hawks Signs New Indigent Defense Standard Ensuring Adequate Compensation and Resources for Defense Counsel

October 28, 2022

Standard 8 Removes Disincentives in Public Defense Compensation Positioning Michigan as a National Leader in Indigent Defense

LANSING, MI – Orlene Hawks, the Director of the Department of Licensing and Regulatory Affairs, approved the Michigan Indigent Defense Commission's (MIDC) proposed [Standard 8](#). This will ensure attorneys have the time, fees, and resources to provide effective assistance that is constitutionally guaranteed to indigent Michigan citizens facing criminal charges.

“For decades, inadequate and stagnant pay has created a workforce of Michigan appointed attorneys who defend the poor in direct conflict with their own well-being and economic interests,” says **MIDC Chair Christine Green**. “We know that about 23% of appointed criminal defense attorneys have reported missing or making late payments on student loans due to financial stress, 15% have a second job, and 10% are on government assistance. Standard 8 is simply critical to attracting and maintaining the highest quality defenders.”



Dedicated to improving indigent
defense services statewide.

Explore our Policies & Reports for more information.

[POLICIES & REPORTS](#)



Welcome to MIDC

The Michigan Indigent Defense Commission (MIDC) was created by legislation in 2013 after an [advisory commission recommended improvements](#) to the state's legal system. The MIDC works to ensure the state's public defense system is fair, cost-effective and constitutional while simultaneously protecting public safety and accountability.

We have answers to [frequently asked questions](#) here.

Publications

FEBRUARY 1, 2023
MIDC Meeting – February 7, 2023

DECEMBER 14, 2022
MIDC Meeting – December 20, 2022

OCTOBER 7, 2022
MIDC Meeting – October 11, 2022

AUGUST 18, 2022
MIDC Meeting – August 23, 2022

Latest News

OCTOBER 28, 2022
LARA Director Orlene Hawks Signs New Indigent Defense Standard Ensuring Adequate Compensation and Resources for Defense Counsel

SEPTEMBER 19, 2022
Governor Whitmer Appoints Mathes, Reappoints Fisher, Jones, and Walker to MIDC

APRIL 20, 2022
MIDC 2021 Annual Report

Kristen Staley

Executive Director

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MICHIGAN INDIGENT
DEFENSE COMMISSION

Judiciary

Governor's Recommended Budget for Fiscal Years 2024 and 2025

The Judiciary comprises the Supreme Court, the Court of Appeals, as well as the Judicial Tenure Commission and the State Appellate Defender's Office. The Judiciary budget supports local trial courts through the payment of judges' salaries, grants for problem solving courts and specialty programs, technological assistance, reimbursements for court caseloads, and juror compensation.

The Governor's recommended budget for fiscal years 2024 and 2025 includes total ongoing funding of \$349.9 million, of which \$244.6 million comes from the state's general fund. The Governor also recommends \$4.8 million in one-time funding in fiscal year 2024, all of which comes from the general fund.

Highlights

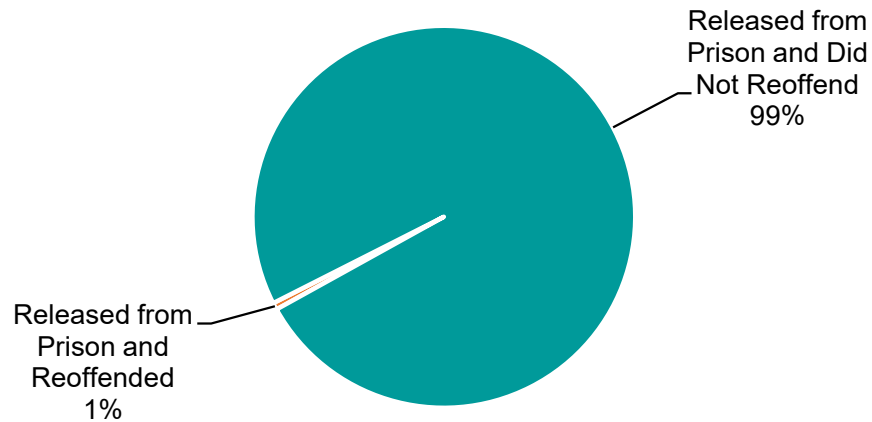
The Governor's recommended budget increases funding for judicial branch programs focusing on access to justice, fairness in the judicial process, and support for trial courts.

- ♦ **\$12.5 million to support the ongoing implementation of the statewide judicial case management system** (general fund), providing additional personnel and other operational costs as trial courts migrate from a locally managed system to the state managed system. This includes funding to offset user fees paid by trial courts currently using the state system.
- ♦ **\$4.5 million to continue a statewide court data transparency project** (general fund). This project includes a data collection and quality assessment, improved data collection, reporting and analysis, and publication of court data through a public portal. The resulting portal data will inform community efforts to develop data-driven criminal justice policies and goals addressing disparities, public safety issues, court efficiency efforts, and other areas of local interest and need.
- ♦ **\$3.2 million for grants to counties for Michigan Appellate Assigned Counsel System roster attorneys** (general fund) to increase compensation paid to assigned appellate counsel for indigent defendants. This funding ensures that the pay provided to assigned appellate counsel is on par with the compensation of trial-level indigent defense counsel under the attorney compensation standard newly approved by the Michigan Indigent Defense Commission.
- ♦ **\$2.5 million for the State Appellate Defender's Office to support the resentencing of juvenile offenders serving a life sentence** (general fund). This funding will support the continued resentencing of juvenile offenders who are serving life without parole in accordance with U.S. Supreme Court and recent Michigan Supreme Court decisions.

Judiciary

- ◆ **\$2.0 million to establish a Juvenile Justice Services Division** (general fund) within the State Court Administrative Office, implementing a key recommendation of the Michigan Task Force on Juvenile Justice Reform. The division will coordinate statewide court policies, data collection and reporting, develop screening and assessment tools and provide technical assistance and quality assurance.
 - ◆ **\$556,900 to create a juvenile justice unit within the State Appellate Defender's Office** (general fund) to provide appellate counsel for indigent youth in juvenile delinquency cases, implementing a recommendation of the Michigan Task Force on Juvenile Justice.
-

Recidivism of Youthful Offenders Previously Serving a Mandatory Life Sentence is Rare



Judiciary
Governor's Recommended Budget for Fiscal Years 2024 and 2025
 \$ in Thousands

FY 2024 Adjustments

	<u>GF/GP</u>	<u>GROSS</u>
FY 2023 Original Enacted	\$370,774.9	\$483,505.7
Removal of FY 2023 One-Time Funding	(\$151,437.2)	(\$151,437.2)
FY 2024 Ongoing Investments		
Case Management System - Adds personnel and other operating costs as trial courts join the system and backfills local user fees paid by trial courts currently on the system	\$12,500.5	\$4,747.6
Michigan Appellate Assigned Counsel System Roster Attorneys - Provides grants to counties to increase pay of appointed appellate counsel for indigent defendants	\$3,160.7	\$3,160.7
Juvenile Justice Services - Creates division within the branch to implement recommendations of the Juvenile Justice Task Force	\$2,025.0	\$2,025.0
Juvenile Life Resentencing - Expands representation of youthful offenders sentenced to life without parole per People v. Parks and People v. Stovall decisions	\$1,571.5	\$1,571.5
Appellate Youth Defense - Creates new unit for juvenile justice appeals	\$556.9	\$556.9
Justice for All - Process improvements, pilot projects, court training, and community outreach programs to improve access to the civil justice system	\$475.0	\$475.0
Federal SAVES Grant - Spending authorization for a new federal grant supporting child support services for survivors of domestic violence	\$0.0	\$420.0
Supreme Court Security	\$415.0	\$415.0
Judicial Institute - Increases curriculum development, online training modules, and implementation of the mandatory continuing judicial education requirement	\$182.0	\$182.0
FY 2024 Reductions	\$0.0	\$0.0
FY 2024 Baseline Adjustments		
Juvenile Life Resentencing - Continues representation of youthful offenders with mandatory life without parole sentences	\$958.1	\$958.1
District Judges' Compensation - Brings district court judges' salary equal to other trial court judges per 2022 PA 177	\$504.9	\$504.9
Board of Law Examiners - Provides General Fund to backfill reductions in law exam fee revenues	\$162.0	\$162.0
Judicial Compensation - Reduces funding due to statutory judgeship changes	(\$134.6)	(\$134.6)
Employee Payroll Related Adjustments	\$2,784.6	\$2,716.8
Other Technical Adjustments	\$105.4	\$105.4
FY 2024 Total Executive Recommendation - Ongoing Funding	\$244,604.7	\$349,934.8
FY 2024 One-Time Investments		
Statewide Court Data Transparency Project - Improves data collection, reporting, and analysis	\$4,500.0	\$4,500.0
Judicial Institute - Development of a court administration bench book	\$300.0	\$300.0
FY 2024 Total Executive Recommendation - One-Time Funding	\$4,800.0	\$4,800.0
FY 2024 Total Executive Recommendation - Ongoing and One-Time	\$249,404.7	\$354,734.8
\$ Change from FY 2023 - Total Funding	(\$121,370.2)	(\$128,770.9)
% Change from FY 2023 - Total Funding	(32.7%)	(26.6%)

Judiciary
Governor's Recommended Budget for Fiscal Years 2024 and 2025
 \$ in Thousands

FY 2025 Adjustments

	<u>GF/GP</u>	<u>GROSS</u>
FY 2024 Total Executive Recommendation	\$249,404.7	\$354,734.8
Removal of FY 2024 One-Time Funding	(\$4,800.0)	(\$4,800.0)
FY 2025 Total Executive Recommendation	\$244,604.7	\$349,934.8
\$ Change from FY 2024 - Total Funding	(\$4,800.0)	(\$4,800.0)
% Change from FY 2024 - Total Funding	(1.9%)	(1.4%)

House Appropriations Subcommittee on Judiciary



Michigan's Judiciary

FY 2024 Budget Presentation

***GOAL: “An Innovative,
Transparent, and Efficient Justice
System that Works for Everyone”***



February 22, 2023



CHIEF JUSTICE ELIZABETH T. CLEMENT

Today's Agenda



- Justice System Principles
 - Focus on building public trust
- Highlights of Recent Progress
 - Innovation, Partnerships, and Improved Data Management
- Proposals for Change
- Continuing Service Budget Items



Justice System Principles



- Independent
- Transparent
- Consistent
- Equitable
- Accessible
- Efficient
- Accountable
- Innovative
- Data Driven
- Engaged

Commitment to these principles builds **TRUST** with the public we serve.




Online Proceedings Boost Access/Transparency



MiCOURT Virtual Courtroom Directory



Search

BY LOCATION
Locate a virtual courtroom by county or current location (click )

Oakland County

OR

BY JUDGE
Locate a virtual courtroom by Judge or Hearing Officer

Enter Judge or Hearing Officer

Results only include existing Virtual Courtrooms

Click a county to see available virtual courtrooms

Live now Offline Unknown

COVID-19 Each court's local administrative order for *Return to Full Capacity* can be found [here](#).

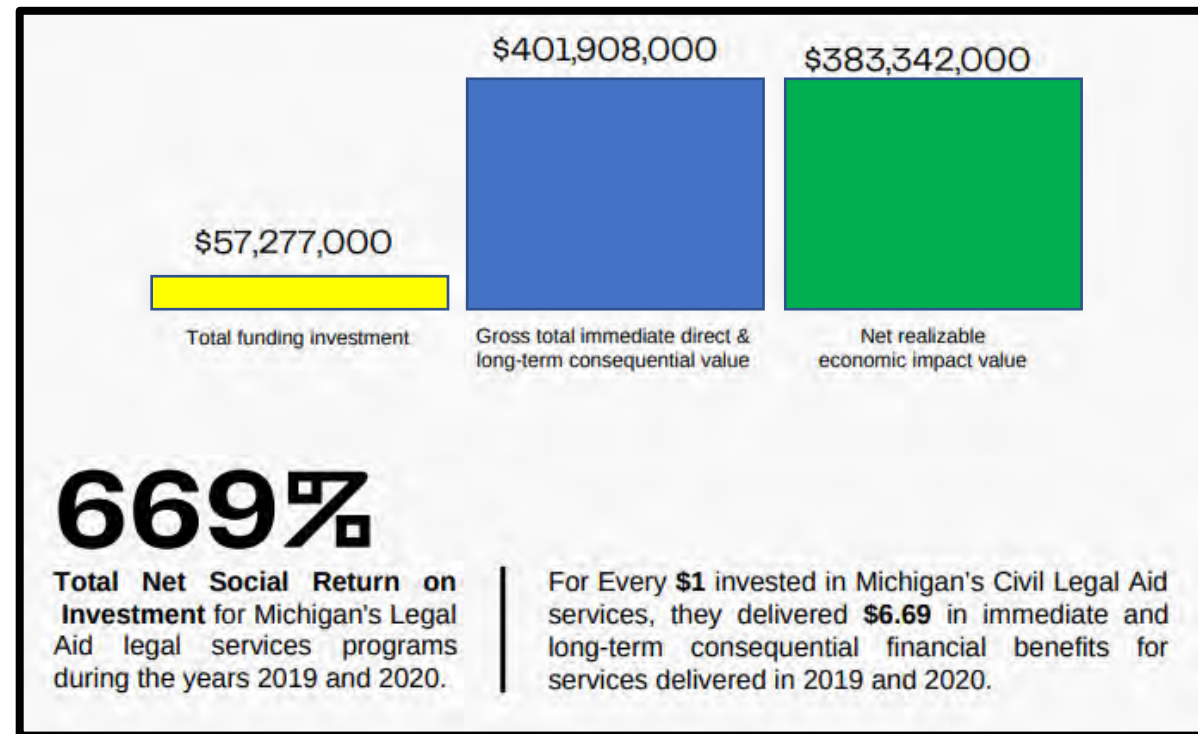
- Virtual Courtroom Directory has been used nearly 700,000 times.
- Trial court YouTube channels have more than 280,000 subscribers.
- YouTube hearings have been viewed by millions.
- Nearly 1,000 court officers have presided over more than EIGHT MILLION HOURS of remote hearings



Justice for All Recent Progress



- Justice for All Commission published two major studies:
 - Social Return on Investment in legal aid is substantial – 669%. That’s nearly \$7 for each \$1.
 - Debt collection lawsuits dominate Michigan courts.
 - JFAC adopted debt collection process simplification recommendations.
- Early in 2023, distributing \$500,000 in grants to expand number of legal self-help centers.
- Forms committee has partnered with national experts to develop simplification plan, including recommendations from debt collection report.



NOTE: Given the effectiveness of civil legal aid, we are also asking for FY23 supplemental funding to make up for the shortfall in the State Court Fund. The pandemic really took a bite out of this fund, and we are asking for \$1 million to make up a portion of the difference.



Eviction Diversion Success



- Partnership with MSHDA and other housing agencies allowed for resources to flow where needed most.
 - Nearly \$1 billion in rental and other assistance.
 - More than 250,000 people were provided assistance through CERA.
- With additional access to counsel and resources, eviction rate plunged.
- After substantial stakeholder engagement and input MSC is considering rules that reflect “lessons learned” from the pandemic, allowing for more families to remain in the homes and for more landlords to get paid.

Eviction Rate by Calendar Year

Year	New Filing Count	Eviction Count	Eviction Rate
2019	147,147	38,592	26%
2020	70,056	11,997	17%
2021	75,257	8,197	11%
2022	122,168	19,483	16%



Technology Improvements Boost Efficiency



Judicial Information Services is Technology Leader

- Web-based case management tools for all JIS courts.
 - Moved more than 5,000 users.
 - Migrated 43 circuit courts to modernized WebTCS
 - Moved 3 district courts to JIS
- Focus on integration
 - Calendar
 - Court displays
 - Court forms
 - Criminal history reporting
 - Prosecutor interface
 - SOS & LEIN
- Email and text reminders for the public
- Case search for authorized background check users.
- Expanded data analytics
 - Internal juvenile data
 - Caseload dashboard



- Statewide e-filing infrastructure continues to expand.
- Focused on reducing integration time and expanding number of courts.
- System makes courts more efficient and saves time and resources for public.



Expanded Online Mediation/Dispute Resolution



www.courts.mi.gov/miresolve

- Michigan is the first state with Online Dispute Resolution services available statewide – MI-Resolve.
- System designed to resolve money disputes, minor landlord/tenant matters (like the return of a damage deposit), contract matters, and neighborhood disputes.
- Piloting kiosks to reach parties without computers or Internet access.
- Recently expanded to include parenting time.





Proposals for Change



Budget Priority: Statewide Case Management System



\$12,500,500



Enabling broader use of online court services and resource sharing (e.g., interpreters, secure digital court recording, transcription)



Eliminating the cost to trial courts for providing those services

Eliminating the need for trial court staff to prepare data reports



Budget Priority: Statewide Case Management System

\$12,500,500



\$3M

for 16 FTEs to provide ongoing support for users and continued infrastructure maintenance as the statewide system increases in size



\$6.5M

to eliminate the User Fee revenue that we currently collect from the courts and replace that with General Funds

\$3M

for other hardware and software needs



Budget Priority: Juvenile Justice Services Division

\$2,025,000



Coordinating the statewide implementation of risk/needs and detention screening and assessment tools

Offering annual certification for juvenile and district probation officers (recommended by Juvenile Justice Task Force)



Providing technical assistance and quality assurance for local implementation of research-based policies, programs, and practices



Helping to coordinate statewide court policies, funding, data collection, and reporting, including Child Care Fund performance measures, such as the use of structured decision-making tools, overrides, and equity



Budget Priority: Juvenile Justice Services Division



\$2,025,000



SCAO may partner with a third party, such as a Michigan university, to support technical assistance and quality-assurance activities.

\$25,000

to fund an annual, in-depth, in-person certification program



\$2M

to hire 13 FTEs to operate the division



Budget Priority: Justice for All Initiative



\$475,000



Continuing to
engage in process
improvement efforts

Planning and launching pilot projects
experimenting with different models of
delivery, access, and making
courthouses more welcoming



Budget Priority: Justice for All Initiative



\$475,000



Training and empowering community leaders and reaching out to the public about the availability of resources and solutions for civil legal issues



Developing training materials for court personnel on critical access to justice topics as outlined in the JFA Strategic Plan



Budget Priority: Justice for All Initiative



\$475,000

\$100,000

to develop and
implement
training modules



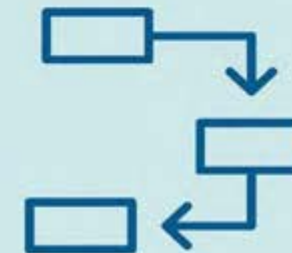
\$75,000

to educate
stakeholders
and the public



\$300,000

for process improvement, pilot projects, non-lawyer
practice pilots, welcoming courthouses



Budget Priority: Michigan Judicial Institute

\$482,000



Tracking
judicial
participation
in mandatory
continuing
education
events



Expanding training
opportunities for
court support staff
through online
learning modules



Developing a
comprehensive
court administration
benchbook on
topics of concern
to chief judges
and court administrators
statewide



Budget Priority: Michigan Judicial Institute



\$482,000

\$152,000

to expand training opportunities by adding 1 FTE (curriculum developer)



\$30,000

to enable software to track attendance at mandatory judicial education events



\$300,000

to contract an attorney to compile a comprehensive court administration benchbook (3-year project)



Budget Priority: Security for MSC Justices



\$415,000



Safeguarding MSC Justices in a time of escalating threats and potential violence against jurists with extra security beyond the Hall of Justice while they conduct official court business

Includes protection while traveling to events at other locations, as well as working remotely from their homes



Budget Priority: Security for MSC Justices



\$415,000

\$8,600

for travel
expenses



\$107,100

to provide unmarked vehicles for all 7 Justices

\$20,500

to provide unmarked vehicles for security detail



\$49,500

for home security
systems for all 7
justices



\$229,300

for salaries, benefits
for 2 FTEs



Budget Priority: FOCB Grant Spending Authority

\$420,000



Increasing safe access to child support services for domestic violence victims/survivors who are not currently receiving them



Based on the 5-year Federal Safe Access for Victims' Economic Security (SAVES) grant awarded to the SCAO Friend of the Court Bureau





Budget Priority: Statewide Court Data Transparency Project

\$4,500,000



Enabling Michigan to become a leader in criminal justice system data transparency that other states will look to as an example

Conducting a pioneering data transparency project in three phases: assessing the data, publishing the data, and creating goals based on the data, such as addressing disparities or public safety issues



Budget Priority: Statewide Court Data Transparency Project



\$4,500,000

\$2M

to work with
Measures for
Justice on this
project



\$500,000

for court
training and
data quality
analysis



\$500,000

for SCAO
Field Services
staffing needs



\$1M

for SCAO Judicial Information
Services (JIS) content
management system (CMS)
updates



\$500,000

for JIS staffing needs



FY 24 - Proposals for Change/Summary



					Ongoing or One-Time
PFC Requests		FTE's	GF/GP	GROSS	
Statewide case management system		16	12,500,500	4,747,600	Ongoing
Juvenile Justice Services Division		13	2,025,000	2,025,000	Ongoing
JFA Process Improvements/Pilot Projects/Training/Outreach		-	475,000	475,000	Ongoing
MJI Curriculum Developer, Software, Trainings		1	182,000	182,000	Ongoing
MJI Contract Attorney		-	300,000	300,000	One-time
Security for Supreme Court Justices		2	415,000	415,000	Ongoing
Spending Authority for FOCB SAVES grant		-	-	420,000	Ongoing
Statewide Court Data Transparency Project		-	4,500,000	4,500,000	One-time
	PFC TOTALS	32	20,397,500	13,064,600	



FY 24 – Current Services Baseline



Additional Budget Goals



\$504,900

Increasing district court judges' salaries, per statute, to address an inequity and put district court judges at the same salary level as probate court judges



\$105,400

Addressing rate increases for armed court security detail, per contract with DK Security

\$162,000

Addressing the Board of Law Examiners' anticipated budget shortfall for FY 2024 due increasing bar exam expenses and flat revenue stream



FY 24 – Current Services Baseline



Additional Budget Goals



\$0

Enabling the hiring of 2 additional FTEs to support Michigan problem-solving courts--with more than 200 programs and counting



\$0

Seeking budget authority to add 2 FTEs to the Michigan Judicial Institute budget



FY 24 – Current Services Baseline/Summary



CSB Requests	FTE's	GF/GP	GROSS	Ongoing or One-Time
District Court Judges salary increase	-	504,900	504,900	Ongoing
DK Security contract increases	-	105,400	105,400	Ongoing
FTE budget authority for Problem Solving Courts	2	-	-	Ongoing
Board of Law Examiners Shortfall	-	162,000	162,000	Ongoing
FTE budget authority for MJJ	2	-	-	Ongoing
CSB TOTALS	4	772,300	772,300	



Highlights of Next Steps



- Data Standardization
 - Getting data right is central to our strategy
 - Statewide case management is central to getting data right
- Juvenile Justice Reform
 - Changes in law, policy, and funding to improve youth outcomes
- Problem-Solving Courts
 - Focus on problem solving in all cases
- Diversity, Equity, and Inclusion
 - Develop policies and standards
 - Assist local courts with DEI plans
 - Help eliminate disparities
- Michigan Judicial Council
 - Uniform data collection and structure
 - More understandable and user-friendly courts
 - Expand educational and other resources to boost access



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ONLINE INFORMATION AND SOCIAL MEDIA

ONE COURT OF JUSTICE WEBSITE
courts.mi.gov


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youtube.com/MichiganCourts

 *Instagram*
instagram.com/msc_1836



**Public Policy Position
Executive Budget for the Department of the Judiciary
for the 2023-2024 Fiscal Year**

**Executive Budget for the Michigan Indigent Defense Commission
for the 2023-2024 Fiscal Year**

Support

Explanation:

The Committee voted unanimously (19) to support the executive recommendations in concept, noting the Committee's support for a properly funded system. The Committee also recognized that there may be a need for additional funding depending on whether and how Michigan moves forward with juvenile justice initiatives. The Committee felt it lacked the expertise to take a position on the specific funding levels proposed in either budget.

Position Vote:

Voted For position: 19

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 7

Keller Permissibility Explanation

Adequate funding of the courts and related agencies (e.g., MIDC) is essential to, and therefore necessarily related to, their proper functioning and to the availability of legal services across the state of Michigan. As such, legislation providing for the budgets for both the Judiciary and the Michigan Indigent Defense Commission satisfy the requirements of *Keller*.

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