

SUBSTITUTE FOR
HOUSE BILL NO. 4628

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:

CHAPTER XIIA

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

8 (2) A case ~~shall~~ **must** not be placed on the consent calendar

1 unless ~~the~~ **all of the following apply:**

2 **(a) The** juvenile and the parent, guardian, or legal custodian
3 and the prosecutor agree to have the case placed on the consent
4 calendar.

5 **(b) The court considers the results of the risk screening tool**
6 **and mental health screening tool conducted on the juvenile by a**
7 **designated individual or agency that is trained in those screening**
8 **tools.**

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

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

13 **(a) Be research based and nationally validated for use with**
14 **juveniles.**

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

16 **(4) The state court administrative office, under the**
17 **supervision and direction of the supreme court, shall create**
18 **guidelines on the use of risk screening tools and mental health**
19 **screening tools described in 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**

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

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 takes effect October
12 1, 2024.

13 Enacting section 2. This amendatory act does not take effect
14 unless Senate Bill No. 418 of the 102nd Legislature is enacted into
15 law.