

# HOUSE BILL NO. 4628

May 23, 2023, Introduced by Reps. Brabec, Hope, Wilson, Tsernoglou, Paiz, Morse, Pohutsky, Miller, Byrnes, Young, Rheingans, Wegela, Dievendorf, Hood, Grant, O'Neal, Breen, Price, Brixie, Tyrone Carter, Hoskins, Morgan, MacDonell, Edwards, Brenda Carter, Glanville, McKinney, Scott, Conlin, Skaggs and Aiyash and referred to the Committee on Criminal Justice.

A bill to amend 1939 PA 288, entitled  
"Probate code of 1939,"  
by amending section 2f of chapter XIIA (MCL 712A.2f), as added by  
2016 PA 185.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER XIIA

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

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

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; ~~7~~—the juvenile's attorney, if any; ~~7~~—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 does not take effect  
12 unless Senate Bill No.\_\_\_\_ or House Bill No. 4624 (request no.  
13 00605'23) of the 102nd Legislature is enacted into law.