



# HOUSE BILL No. 4037

January 11, 1995, Introduced by Reps. Hammerstrom, Dalman, Horton, Crissman, Rhead, Ryan, Walberg, Fitzgerald, Voorhees, Bullard, Bush, Lowe and Hill and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 18d of chapter XIIIA of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

as amended by Act No. 192 of the Public Acts of 1994, being section 712A.18d of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 18d of chapter XIIA of Act No. 288 of  
2 the Public Acts of 1939, as amended by Act No. 192 of the Public  
3 Acts of 1994, being section 712A.18d of the Michigan Compiled  
4 Laws, is amended to read as follows:

## 5 CHAPTER XIIA

6 Sec. 18d. (1) If a child is committed under  
7 section 18(1)(e) of this chapter for an offense that, if commit-  
8 ted by an adult, would be a violation or attempted violation of  
9 section 72, 83, 84, 88, 89, 91, 316, 317, 349, 520b, 520c, 520d,  
10 520g, 529, 529a, or 530 of the Michigan penal code, Act No. 328  
11 of the Public Acts of 1931, being sections 750.72, 750.83,  
12 750.84, 750.88, 750.89, 750.91, 750.316, 750.317, 750.349,  
13 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and  
14 750.530 of the Michigan Compiled Laws, or section 7401(2)(a)(i)  
15 or 7403(2)(a)(i) of the public health code, Act No. 368 of the  
16 Public Acts of 1978, being sections 333.7401 and 333.7403 of the  
17 Michigan Compiled Laws, the court shall conduct a review hearing  
18 to determine whether the child has been rehabilitated and whether  
19 the child presents a serious risk to public safety. If the court  
20 determines that the child has not been rehabilitated or that the  
21 child presents a serious risk to public safety, jurisdiction over  
22 the child shall be continued. In making this determination, the  
23 court shall consider all of the following:

24 (a) The extent and nature of the child's participation in  
25 education, counseling, or work programs.

1 (b) The child's willingness to accept responsibility for  
2 prior behavior.

3 (c) The child's behavior in his or her current placement.

4 (d) The child's prior record and character and his or her  
5 physical and mental maturity.

6 (e) The child's potential for violent conduct as demon-  
7 strated by prior behavior.

8 (f) The recommendations of the institution, agency, or  
9 facility charged with the child's care for the child's release or  
10 continued custody.

11 (g) Other information the prosecuting attorney or child may  
12 submit.

13 (2) THE CHILD HAS THE BURDEN OF PROOF IN DEMONSTRATING  
14 WHETHER THE CHILD HAS BEEN REHABILITATED OR PRESENTS A SERIOUS  
15 RISK TO PUBLIC SAFETY. THE CHILD MAY USE THE COMMITMENT REPORT  
16 REQUIRED BY SUBSECTION (5) IN MEETING THE BURDEN OF PROOF.

17 (3) ~~(2)~~ Unless adjourned for good cause, a review hearing  
18 shall be scheduled and held as near as possible to, but before,  
19 the child's nineteenth birthday. If the institution, agency, or  
20 facility to which the child was committed believes the child has  
21 been rehabilitated and does not present a serious risk to public  
22 safety, the institution, agency, or facility may petition the  
23 court to conduct a review hearing any time before the child  
24 becomes 19 years of age or, if the court has continued jurisdic-  
25 tion under subsection (1), any time before the child becomes 21  
26 years of age.

1       (4) ~~(3)~~ Not less than 14 days before a review hearing is  
2 to be conducted, the prosecuting attorney, THE child, and, if  
3 addresses are known, the child's parent or guardian shall be  
4 notified. The notice shall state that the court may extend  
5 jurisdiction over the child and shall advise the child and the  
6 child's parent or guardian of the right to legal counsel. If  
7 legal counsel has not been retained or appointed to represent the  
8 child, the court shall appoint legal counsel and may assess the  
9 cost of providing counsel as costs against the child or those  
10 responsible for the child's support, or both, if the persons to  
11 be assessed are financially able to comply.

12       (5) ~~(4)~~ The institution, agency, or facility charged with  
13 the care of the child shall prepare commitment reports as pro-  
14 vided in section 5 of the juvenile facilities act, Act No. 73 of  
15 the Public Acts of 1988, being section 803.225 of the Michigan  
16 Compiled Laws, for use by the court at a review hearing held  
17 under this section.