



SENATE BILL No. 684

September 27, 1995, Introduced by Senators BOUCHARD, BENNETT, GOUGEON, STEIL, DE GROW, CARL, SCHUETTE and MC MANUS and referred to the Committee on Judiciary.

A bill to amend section 2 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.2 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

5 CHAPTER XIIIA

6 Sec. 2. The juvenile division of the probate court has the
7 following authority and jurisdiction:

8 (a) Exclusive original jurisdiction superior to and regard-
9 less of the jurisdiction of any other court in proceedings con-
10 cerning a child under 17 years of age who is found within the
11 county if 1 or more of the following applies:

12 (1) Except as otherwise provided in this subparagraph, the
13 child has violated ~~any~~ A municipal ordinance or law of the
14 state or of the United States. The juvenile division of the pro-
15 bate court has jurisdiction over a child ~~+5-~~ 14 years of age or
16 older who is charged with a ~~violation of section 83, 89, 91,~~
17 ~~316, 317, 520b, 529, or 529a of the Michigan penal code, Act~~
18 ~~No. 328 of the Public Acts of 1931, being sections 750.83,~~
19 ~~750.89, 750.91, 750.316, 750.317, 750.520b, 750.529, and 750.529a~~
20 ~~of the Michigan Compiled Laws, or section 7401(2)(a)(i) or~~
21 ~~7403(2)(a)(i) of the public health code, Act No. 368 of the~~
22 ~~Public Acts of 1978, being sections 333.7401 and 333.7403 of the~~
23 ~~Michigan Compiled Laws~~ SPECIFIED JUVENILE VIOLATION, only if the
24 prosecuting attorney files a petition in juvenile court instead
25 of authorizing a complaint and warrant. AS USED IN THIS

1 SUBPARAGRAPH, "SPECIFIED JUVENILE VIOLATION" MEANS ANY OF THE
2 FOLLOWING:

3 (i) A VIOLATION OF SECTION 83, 89, 91, 316, 317, 520B, 529,
4 OR 529A OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC
5 ACTS OF 1931, BEING SECTIONS 750.83, 750.89, 750.91, 750.316,
6 750.317, 750.520B, 750.529, AND 750.529A OF THE MICHIGAN COMPILED
7 LAWS.

8 (ii) A VIOLATION OF SECTION 7401(2)(A)(i) OR 7403(2)(A)(i)
9 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF
10 1978, BEING SECTIONS 333.7401 AND 333.7403 OF THE MICHIGAN
11 COMPILED LAWS.

12 (iii) CONSPIRACY TO COMMIT A VIOLATION DESCRIBED IN
13 SUB-SUBPARAGRAPH (i) OR (ii).

14 (iv) SOLICITATION TO COMMIT A VIOLATION DESCRIBED IN
15 SUB-SUBPARAGRAPH (i) OR (ii).

16 (v) ANY LESSER INCLUDED OFFENSE OF A VIOLATION DESCRIBED IN
17 SUB-SUBPARAGRAPH (i), (ii), (iii), OR (iv) IF THE INDIVIDUAL IS
18 CHARGED WITH A VIOLATION DESCRIBED IN SUB-SUBPARAGRAPH (i), (ii),
19 (iii), OR (iv).

20 (vi) ANY OTHER VIOLATION ARISING OUT OF THE SAME TRANSACTION
21 AS A VIOLATION DESCRIBED IN SUB-SUBPARAGRAPH (i), (ii), (iii), OR
22 (iv) IF THE INDIVIDUAL IS CHARGED WITH A VIOLATION DESCRIBED IN
23 SUB-SUBPARAGRAPH (i), (ii), (iii), OR (iv).

24 (2) The child has deserted his or her home without suffi-
25 cient cause and the court finds on the record that the child has
26 been placed or refused alternative placement or the child and the

1 child's parent, guardian, or custodian have exhausted or refused
2 family counseling.

3 (3) The child is repeatedly disobedient to the reasonable
4 and lawful commands of his or her parents, guardian, or custodian
5 and the court finds on the record by clear and convincing evi-
6 dence that court-accessed services are necessary.

7 (4) The child willfully and repeatedly absents himself or
8 herself from school or other learning program intended to meet
9 the child's educational needs, or repeatedly violates rules and
10 regulations of the school or other learning program, and the
11 court finds on the record that the child, the child's parent,
12 guardian, or custodian, and school officials or learning program
13 personnel have met on the child's educational problems, and edu-
14 cational counseling and alternative agency help have been
15 sought. As used in this subparagraph only, "learning program"
16 means an organized educational program that is appropriate, given
17 the age, intelligence, ability, and any psychological limitations
18 of a child, in the subject areas of reading, spelling, mathemat-
19 ics, science, history, civics, writing, and English grammar.

20 (b) Jurisdiction in proceedings concerning ~~any~~ A child
21 under 18 years of age found within the county:

22 (1) Whose parent or other person legally responsible for the
23 care and maintenance of the child, when able to do so, neglects
24 or refuses to provide proper or necessary support, education, OR
25 medical, surgical, or other care necessary for his or her health
26 or morals, who is subject to a substantial risk of harm to his or
27 her mental well-being, who is abandoned by his or her parents,

1 guardian, or other custodian, or who is without proper custody or
2 guardianship. As used in this subparagraph:

3 (A) "Education" means learning based on an organized educa-
4 tional program that is appropriate, given the age, intelligence,
5 ability, and any psychological limitations of a child, in the
6 subject areas of reading, spelling, mathematics, science, histo-
7 ry, civics, writing, and English grammar.

8 (B) "Without proper custody or guardianship" does not
9 include the situation where a parent has placed the child with
10 another person who is legally responsible for the care and main-
11 tenance of the child and who is able to and does provide the
12 child with proper care and maintenance.

13 (2) Whose home or environment, by reason of neglect, cruel-
14 ty, drunkenness, criminality, or depravity on the part of a
15 parent, guardian, or other custodian, is an unfit place for the
16 child to live in.

17 (3) Whose parent has substantially failed, without good
18 cause, to comply with a limited guardianship placement plan
19 described in section 424a of the revised probate code, Act
20 No. 642 of the Public Acts of 1978, being section 700.424a of the
21 Michigan Compiled Laws, regarding the child.

22 (4) Whose parent has substantially failed, without good
23 cause, to comply with a court-structured plan described in
24 section 424b or 424c of the revised probate code, Act No. 642 of
25 the Public Acts of 1978, being sections 700.424b and 700.424c of
26 the Michigan Compiled Laws, regarding the child.

1 (5) If the child has a guardian under the revised probate
2 code, Act No. 642 of the Public Acts of 1978, being sections
3 700.1 to 700.993 of the Michigan Compiled Laws, and the child's
4 parent meets both of the following criteria:

5 (A) The parent, having the ability to support or assist in
6 supporting the child, has failed or neglected, without good
7 cause, to provide regular and substantial support for the child
8 for a period of 2 years or more before the filing of the petition
9 or, if a support order has been entered, has failed to substan-
10 tially comply with the order for a period of 2 years or more
11 before the filing of the petition.

12 (B) The parent, having the ability to visit, contact, or
13 communicate with the child, has regularly and substantially
14 failed or neglected, without good cause, to do so for a period of
15 2 years or more before the filing of the petition.

16 If a petition is filed in ~~any~~ A probate court alleging
17 that a child is within the provisions of subdivision (b)(1), (2),
18 (3), (4), or (5), and the custody of that child is subject to the
19 prior or continuing order of another court of record of this
20 state, the manner of notice to the other court and the authority
21 of the probate court to proceed is governed by rule of the
22 supreme court.

23 (c) Jurisdiction over children under 18 years of age, juris-
24 diction of whom has been waived to the juvenile division of the
25 probate court by a circuit court pursuant to a provision in a
26 temporary order for custody of children based upon a complaint
27 for divorce or upon a motion pursuant to a complaint for divorce

1 by the prosecuting attorney, in a divorce judgment dissolving a
2 marriage between the parents of the minor children, or by an
3 amended judgment relative to the custody of the child in a
4 divorce.

5 (d) If the court finds on the record that voluntary services
6 have been exhausted or refused, concurrent jurisdiction in pro-
7 ceedings concerning ~~any~~ A child between the ages of 17 and 18
8 found within the county:

9 (1) Who is repeatedly addicted to the use of drugs or the
10 intemperate use of alcoholic liquors.

11 (2) Who repeatedly associates with criminal, dissolute, or
12 disorderly persons.

13 (3) Who is found of his or her own free will and knowledge
14 in a house of prostitution, assignation, or ill-fame.

15 (4) Who repeatedly associates with thieves, prostitutes,
16 pimps, or procurers.

17 (5) Who is willfully disobedient to the reasonable and
18 lawful commands of his or her parents, guardian, or other custo-
19 dian and is in danger of becoming morally depraved.

20 If ~~any~~ A child is brought before the juvenile division of
21 the probate court in a county other than that in which the child
22 resides, the court may enter an order before a hearing transfer-
23 ring the jurisdiction of the matter to the court of the county of
24 residence, which shall not be construed as a legal settlement as
25 ~~defined~~ DESCRIBED in section 55 of the social welfare act, Act
26 No. 280 of the Public Acts of 1939, ~~as amended,~~ being section
27 400.55 of the Michigan Compiled Laws, with the consent of the

1 probate judge of the county of residence. The order, together
2 with a certified copy of the proceedings in the transferring
3 court, shall be delivered to the court of the county of
4 residence.

5 (e) Authority to establish or assist in developing a program
6 or programs within the county to prevent delinquency and provide
7 services to act upon reports submitted to the court related to
8 the behavior of children who do not require formal court juris-
9 diction but otherwise fall within subdivision (a). These serv-
10 ices shall be used only if they are voluntarily accepted by the
11 child and his or her parents, guardian, or custodian.

12 (f) If the court operates a detention home for children
13 within the court's jurisdiction under subdivision (a)(1), author-
14 ity to place a child within that home pending trial if the child
15 is within the circuit court's jurisdiction under section 606 of
16 the revised judicature act of 1961, Act No. 236 of the Public
17 Acts of 1961, being section 600.606 of the Michigan Compiled
18 Laws, or within the recorder's court of the city of Detroit's
19 jurisdiction under section 10a(1)(c) of Act No. 369 of the Public
20 Acts of 1919, being section 725.10a of the Michigan Compiled
21 Laws, and if the circuit court or the recorder's court of the
22 city of Detroit orders the juvenile division of the probate court
23 in the same county to place the child in that home. The juvenile
24 division shall comply with that order.

25 Section 2. This amendatory act shall not take effect unless
26 all of the following bills of the 88th Legislature are enacted
27 into law:

1 (a) Senate Bill No. 685.

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3 (b) Senate Bill No. 686.

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5 (c) Senate Bill No. 687.

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7 (d) Senate Bill No. 688.

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