

HOUSE BILL No. 4208

February 12, 2003, Introduced by Reps. Hardman and Plakas and referred to the Committee on Education.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 2, 6, 6a, and 11 of chapter XIIA (MCL 712A.2, 712A.6, 712A.6a, and 712A.11), section 2 as amended by 2001 PA 11, sections 6 and 11 as amended by 1996 PA 409, and section 6a as added by 1996 PA 252, and by adding sections 11a and 17e to chapter XIIA.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

Sec. 2. The court has the following authority and jurisdiction:

(a) Exclusive original jurisdiction superior to and regardless of the jurisdiction of another court in proceedings concerning a juvenile under 17 years of age who is found within the county if 1 or more of the following applies:

1 (1) Except as otherwise provided in this sub-subdivision, the
2 juvenile has violated any municipal ordinance or law of the state
3 or of the United States. If the court enters into an agreement
4 under section 2e of this chapter, the court has jurisdiction over
5 a juvenile who committed a civil infraction as provided in that
6 section. The court has jurisdiction over a juvenile 14 years of
7 age or older who is charged with a specified juvenile violation
8 only if the prosecuting attorney files a petition in the court
9 instead of authorizing a complaint and warrant. As used in this
10 sub-subdivision, "specified juvenile violation" means 1 or more
11 of the following:

12 (A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,
13 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328,
14 MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,
15 750.349, 750.520b, 750.529, 750.529a, and 750.531.

16 (B) A violation of section 84 or 110a(2) of the Michigan
17 penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile
18 is armed with a dangerous weapon. As used in this paragraph,
19 "dangerous weapon" means 1 or more of the following:

20 (i) A loaded or unloaded firearm, whether operable or
21 inoperable.

22 (ii) A knife, stabbing instrument, brass knuckles, blackjack,
23 club, or other object specifically designed or customarily
24 carried or possessed for use as a weapon.

25 (iii) An object that is likely to cause death or bodily
26 injury when used as a weapon and that is used as a weapon or
27 carried or possessed for use as a weapon.

1 (iv) An object or device that is used or fashioned in a
2 manner to lead a person to believe the object or device is an
3 object or device described in subparagraphs (i) to (iii).

4 (C) A violation of section 186a of the Michigan penal code,
5 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
6 from a juvenile facility, but only if the juvenile facility from
7 which the individual escaped or attempted to escape was 1 of the
8 following:

9 (i) A high-security or medium-security facility operated by
10 the family independence agency or a county juvenile agency.

11 (ii) A high-security facility operated by a private agency
12 under contract with the family independence agency or a county
13 juvenile agency.

14 (D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of
15 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

16 (E) An attempt to commit a violation described in paragraphs
17 (A) to (D).

18 (F) Conspiracy to commit a violation described in paragraphs
19 (A) to (D).

20 (G) Solicitation to commit a violation described in
21 paragraphs (A) to (D).

22 (H) A lesser included offense of a violation described in
23 paragraphs (A) to (G) if the individual is charged with a
24 violation described in paragraphs (A) to (G).

25 (I) Another violation arising out of the same transaction as
26 a violation described in paragraphs (A) to (G) if the individual
27 is charged with a violation described in paragraphs (A) to (G).

1 (2) The juvenile has deserted his or her home without
2 sufficient cause, and the court finds on the record that the
3 juvenile has been placed or refused alternative placement or the
4 juvenile and the juvenile's parent, guardian, or custodian have
5 exhausted or refused family counseling.

6 (3) The juvenile is repeatedly disobedient to the reasonable
7 and lawful commands of his or her parents, guardian, or
8 custodian, and the court finds on the record by clear and
9 convincing evidence that court-accessed services are necessary.

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

24 (5) **The juvenile is a truant as defined in the state approved**
25 **local truancy policy required under section 1590 of the revised**
26 **school code, 1976 PA 451, MCL 380.1590, and, if applicable, a**
27 **parent or other person in parental relationship fails to respond**

1 to written notice required by the state approved local truancy
2 policy or the parent or other person in parental relationship
3 continues to fail to comply with the state approved local truancy
4 policy.

5 (b) Jurisdiction in proceedings concerning a juvenile under
6 18 years of age found within the county:

7 (1) Whose parent or other person legally responsible for the
8 care and maintenance of the juvenile, when able to do so,
9 neglects or refuses to provide proper or necessary support,
10 education, medical, surgical, or other care necessary for his or
11 her health or morals, who is subject to a substantial risk of
12 harm to his or her mental well-being, who is abandoned by his or
13 her parents, guardian, or other custodian, or who is without
14 proper custody or guardianship. As used in this
15 sub-subdivision:

16 (A) "Education" means learning based on an organized
17 educational program that is appropriate, given the age,
18 intelligence, ability, and psychological limitations of a
19 juvenile, in the subject areas of reading, spelling, mathematics,
20 science, history, civics, writing, and English grammar.

21 (B) "Without proper custody or guardianship" does not mean a
22 parent has placed the juvenile with another person who is legally
23 responsible for the care and maintenance of the juvenile and who
24 is able to and does provide the juvenile with proper care and
25 maintenance.

26 (2) Whose home or environment, by reason of neglect, cruelty,
27 drunkenness, criminality, or depravity on the part of a parent,

1 guardian, nonparent adult, or other custodian, is an unfit place
2 for the juvenile to live in.

3 (3) Whose parent has substantially failed, without good
4 cause, to comply with a limited guardianship placement plan
5 described in section 5205 of the estates and protected
6 individuals code, 1998 PA 386, MCL 700.5205, regarding the
7 juvenile.

8 (4) Whose parent has substantially failed, without good
9 cause, to comply with a court-structured plan described in
10 section 5207 or 5209 of the estates and protected individuals
11 code, 1998 PA 386, MCL 700.5207 and 700.5209, regarding the
12 juvenile.

13 (5) If the juvenile has a guardian under the estates and
14 protected individuals code, 1998 PA 386, MCL 700.1101 to
15 700.8102, and the juvenile's parent meets both of the following
16 criteria:

17 (A) The parent, having the ability to support or assist in
18 supporting the juvenile, has failed or neglected, without good
19 cause, to provide regular and substantial support for the
20 juvenile for 2 years or more before the filing of the petition
21 or, if a support order has been entered, has failed to
22 substantially comply with the order for 2 years or more before
23 the filing of the petition.

24 (B) The parent, having the ability to visit, contact, or
25 communicate with the juvenile, has regularly and substantially
26 failed or neglected, without good cause, to do so for 2 years or
27 more before the filing of the petition.

1 If a petition is filed in the court alleging that a juvenile
2 is within the provisions of subdivision (b)(1), (2), (3), (4), or
3 (5) and the custody of that juvenile is subject to the prior or
4 continuing order of another court of record of this state, the
5 manner of notice to the other court of record and the authority
6 of the court to proceed is governed by rule of the supreme
7 court.

8 (c) Jurisdiction over juveniles under 18 years of age,
9 jurisdiction of whom has been waived to the family division of
10 circuit court by a circuit court under a provision in a temporary
11 order for custody of juveniles based upon a complaint for divorce
12 or upon a motion related to a complaint for divorce by the
13 prosecuting attorney, in a divorce judgment dissolving a marriage
14 between the juvenile's parents, or by an amended judgment
15 relative to the juvenile's custody in a divorce.

16 (d) If the court finds on the record that voluntary services
17 have been exhausted or refused, concurrent jurisdiction in
18 proceedings concerning a juvenile between the ages of 17 and 18
19 found within the county who is 1 or more of the following:

20 (1) Repeatedly addicted to the use of drugs or the
21 intemperate use of alcoholic liquors.

22 (2) Repeatedly associating with criminal, dissolute, or
23 disorderly persons.

24 (3) Found of his or her own free will and knowledge in a
25 house of prostitution, assignation, or ill-fame.

26 (4) Repeatedly associating with thieves, prostitutes, pimps,
27 or procurers.

1 (5) Willfully disobedient to the reasonable and lawful
2 commands of his or her parents, guardian, or other custodian and
3 in danger of becoming morally depraved.

4 If a juvenile is brought before the court in a county other
5 than that in which the juvenile resides, before a hearing and
6 with the consent of the judge of the court in the county of
7 residence, the court may enter an order transferring jurisdiction
8 of the matter to the court of the county of residence. Consent
9 to transfer jurisdiction is not required if the county of
10 residence is a county juvenile agency and satisfactory proof of
11 residence is furnished to the court of the county of residence.
12 The order does not constitute a legal settlement in this state
13 that is required for the purpose of section 55 of the social
14 welfare act, 1939 PA 280, MCL 400.55. The order and a certified
15 copy of the proceedings in the transferring court shall be
16 delivered to the court of the county of residence. A case
17 designated as a case in which the juvenile shall be tried in the
18 same manner as an adult under section 2d of this chapter may be
19 transferred for venue or for juvenile disposition, but shall not
20 be transferred on grounds of residency. If the case is not
21 transferred, the court having jurisdiction of the offense shall
22 try the case.

23 (e) Authority to establish or assist in developing a program
24 or programs within the county to prevent delinquency and provide
25 services to act upon reports submitted to the court related to
26 the behavior of a juvenile who does not require formal court
27 jurisdiction but otherwise falls within subdivision (a). These

1 services shall be used only if the juvenile and his or her
2 parents, guardian, or custodian voluntarily accepts them.

3 (f) If the court operates a detention home for juveniles
4 within the court's jurisdiction under subdivision (a)(1),
5 authority to place a juvenile within that home pending trial if
6 the juvenile is within the circuit court's jurisdiction under
7 section 606 of the revised judicature act of 1961, 1961 PA 236,
8 MCL 600.606, and if the circuit court orders the family division
9 of circuit court in the same county to place the juvenile in that
10 home. The family division of circuit court shall comply with
11 that order.

12 (g) Authority to place a juvenile in a county jail under
13 section 27a of chapter IV of the code of criminal procedure, 1927
14 PA 175, MCL 764.27a, if the court designates the case under
15 section 2d of this chapter as a case in which the juvenile is to
16 be tried in the same manner as an adult and the court determines
17 there is probable cause to believe that the offense was committed
18 and probable cause to believe the juvenile committed that
19 offense.

20 (h) Jurisdiction over a proceeding under section 2950 or
21 2950a of the revised judicature act of 1961, 1961 PA 236,
22 MCL 600.2950 and 600.2950a, in which a minor less than 18 years
23 of age is the respondent, or a proceeding to enforce a valid
24 foreign protection order issued against a respondent who is a
25 minor less than 18 years of age. A personal protection order
26 shall not be issued against a respondent who is a minor less than
27 10 years of age. Venue for an initial action under section 2950

1 or 2950a of the revised judicature act of 1961, 1961 PA 236,
2 MCL 600.2950 and 600.2950a, is proper in the county of residence
3 of either the petitioner or respondent. If the respondent does
4 not live in this state, venue for the initial action is proper in
5 the petitioner's county of residence.

6 (i) Jurisdiction over an adult who violates section 1599 of
7 the revised school code, 1976 PA 451, MCL 380.1599, and who is
8 the parent or guardian of a juvenile over whom the court has
9 jurisdiction under section 2(a)(5) of this chapter. A proceeding
10 under this subdivision is a criminal proceeding that shall be
11 conducted in the same manner and with all the same procedural
12 protections and guarantees as a trial for that violation in a
13 court of general criminal jurisdiction.

14 Sec. 6. The court has jurisdiction over adults as provided
15 in this chapter and may make orders affecting adults as in the
16 opinion of the court are necessary for the physical, mental, or
17 moral well-being of a particular juvenile or juveniles under its
18 jurisdiction. ~~However~~ **Except as otherwise provided in this**
19 **chapter**, those orders shall be incidental to the **court's**
20 jurisdiction ~~of the court~~ over the juvenile or juveniles.

21 Sec. 6a. The parent or guardian of a juvenile who is within
22 the court's jurisdiction under section 2(a)(1), **(4), or (5)** of
23 this chapter shall attend each hearing held under this chapter
24 unless the court excuses the parent or guardian from attendance
25 for good cause. A parent or guardian who fails to attend the
26 juvenile's hearing without good cause may be held in contempt and
27 subject to fines. Failure of a parent or guardian to attend a

1 hearing, however, is not grounds for an adjournment, continuance,
2 or other delay of the proceeding and does not provide a basis for
3 appellate or other relief.

4 Sec. 11. (1) ~~Except as provided in subsection (2), if~~ **If**
5 a person gives information to the court that a juvenile is within
6 section 2(a)(2) to ~~(6)~~ **(4)**, (b), (c), or (d) of this chapter, a
7 preliminary inquiry may be made to determine whether the
8 interests of the public or the juvenile require that further
9 action be taken. If the court determines that formal
10 jurisdiction should be acquired, the court shall authorize a
11 petition to be filed.

12 (2) Only the prosecuting attorney may file a petition
13 requesting the court to take jurisdiction of a juvenile allegedly
14 within section 2(a)(1) of this chapter. If the prosecuting
15 attorney submits a petition requesting the court to take
16 jurisdiction of a juvenile allegedly within section 2(a)(1) of
17 this chapter and the court determines that formal jurisdiction
18 should be acquired, the court shall authorize a petition to be
19 filed.

20 (3) **Only the school district superintendent or intermediate**
21 **superintendent or his or her designee or the prosecuting attorney**
22 **may file a petition requesting the court to take jurisdiction of**
23 **a juvenile allegedly within section 2(a)(5) of this chapter. If**
24 **a petition is filed, the court shall hold a hearing within 10**
25 **days. If the court determines that the allegations in the**
26 **petition are supported, the court shall authorize a petition to**
27 **be filed and obtain formal jurisdiction. The court shall notify**

1 **the prosecuting attorney unless he or she filed the petition.**

2 **(4)** ~~—(3)—~~ The petition described in subsections (1), ~~—and~~
3 (2), **and (3)** shall be verified and may be upon information and
4 belief. The petition shall set forth plainly the facts that
5 bring the juvenile within this chapter and shall contain all of
6 the following information:

7 (a) The juvenile's name, birth date, and address.

8 (b) The name and address of the juvenile's parents.

9 (c) The name and address of the juvenile's legal guardian,
10 if there is one.

11 (d) The name and address of each person having custody or
12 control of the juvenile.

13 (e) The name and address of the juvenile's nearest known
14 relative, if no parent or guardian can be found.

15 **(5)** ~~—(4)—~~ If any of the facts required under subsection
16 ~~—(3)—~~ **(4)** are not known to the petitioner, the petition shall
17 state that the facts are not known. If the juvenile attains his
18 or her seventeenth birthday after the filing of the petition, the
19 court's jurisdiction shall continue beyond the juvenile's
20 seventeenth birthday and the court may hear and dispose of the
21 petition under this chapter.

22 **(6)** ~~—(5)—~~ When a petition is authorized, the court shall
23 examine the court file to determine if a juvenile has had
24 fingerprints taken as required under section 3 of ~~—Act No. 289 of~~
25 ~~the Public Acts of 1925, being section 28.243 of the Michigan~~
26 ~~Compiled Laws—~~ **1925 PA 289, MCL 28.243.** If a juvenile has not
27 had his or her fingerprints taken, the court shall do either of

1 the following:

2 (a) Order the juvenile to submit himself or herself to the
3 police agency that arrested or obtained the warrant for the
4 **juvenile's** arrest ~~of the juvenile~~ so the juvenile's
5 fingerprints can be taken.

6 (b) Order the juvenile committed to the **sheriff's** custody
7 ~~of the sheriff~~ for ~~the~~ taking ~~of~~ the juvenile's
8 fingerprints.

9 (7) ~~(6)~~ A petition or other court record may be amended at
10 any stage of the proceedings as the ends of justice require.

11 (8) ~~(7)~~ If the juvenile diversion act, ~~Act No. 13 of the~~
12 ~~Public Acts of 1988, being sections 722.821 to 722.831 of the~~
13 ~~Michigan Compiled Laws~~ **1988 PA 13, MCL 722.821 to 722.831**, is
14 complied with and the court determines that court services can be
15 used in the prevention of delinquency without formal
16 jurisdiction, the court may offer court services to a juvenile
17 without a petition being authorized as provided in section 2(e)
18 of this chapter.

19 **Sec. 11a. If the court acquires jurisdiction over a**
20 **juvenile under section 2(a)(5) of this chapter, the prosecuting**
21 **attorney may file a complaint alleging a violation of section**
22 **1599 of the revised school code, 1976 PA 451, MCL 380.1599, by**
23 **the juvenile's parent or guardian in the same manner as for the**
24 **district court.**

25 **Sec. 17e. (1) Within 10 days after acquiring jurisdiction**
26 **over a juvenile under section 2(a)(5) of this chapter, the court**
27 **shall hold a hearing. The juvenile, the juvenile's parent or**

1 guardian, the school district superintendent of schools or
2 intermediate superintendent or his or her designee, and any
3 interested party shall have the opportunity at the hearing to
4 propose a resolution to the juvenile's attendance problems.

5 (2) The court shall enter an order of disposition within 5
6 days after the hearing. The order of disposition shall do all of
7 the following:

8 (a) Order the juvenile to attend his or her school or an
9 alternative as provided by law.

10 (b) Order the secretary of state to do 1 of the following:

11 (i) Suspend the juvenile's operator's or chauffeur's license
12 for a specified period of not more than 2 years unless the court
13 shortens or eliminates the suspension period under this section.
14 IF the juvenile's license is suspended when the court enters the
15 order, the suspension under this section shall begin at the end
16 of that suspension.

17 (ii) Deny the juvenile an operator's or chauffeur's license
18 for a specified period of not more than 2 years after the
19 juvenile is otherwise eligible for a license unless the court
20 reinstates the juvenile's eligibility under this section.

21 (c) Require any other actions by the juvenile, the juvenile's
22 parent or guardian, or school authorities necessary to resolve
23 the juvenile's attendance problem.

24 (3) In addition, the order of disposition may contain any
25 provision authorized under section 18 of this chapter.

26 (4) The court may shorten the license suspension or denial
27 period under subsection (2)(b) or end the period if the juvenile

1 satisfies school attendance requirements specified by the court
2 in its order and the court determines that shortening or
3 eliminating the period is in the juvenile's best interests. The
4 court shall order the secretary of state to shorten or end the
5 license suspension or denial period.

6 (5) A designee of a school district superintendent or
7 intermediate superintendent described in subsection (1) shall be
8 an administrator or teacher of the school or school district.

9 Enacting section 1. This amendatory act does not take
10 effect unless all of the following bills of the 92nd Legislature
11 are enacted into law:

12 (a) Senate Bill No. _____ or House Bill No. 4207 (request
13 no. 00763'03).

14 (b) Senate Bill No. _____ or House Bill No. 4209 (request
15 no. 00763'03 b).