

**SUBSTITUTE FOR
HOUSE BILL NO. 4753**

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 2 and 2d of chapter XIIA (MCL 712A.2 and
712A.2d), section 2 as amended by 2018 PA 58 and section 2d as
amended by 1998 PA 478.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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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~~**18** years of age who is found within the county if
1 or more of the following apply:

(1) Except as otherwise provided in this sub-subdivision, the

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

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

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

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

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

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

27 (iv) An object or device that is used or fashioned in a manner

to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

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

~~—— (i) A high-security or medium-security facility operated by the department or a county juvenile agency.~~

~~—— (ii) A high-security facility operated by a private agency under contract with the department or a county juvenile agency.~~

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

~~(C) (E)~~—An attempt to commit a violation described in paragraphs **PARAGRAPH** (A) to ~~(D)~~. **OR (B)**.

~~(D) (F)~~—Conspiracy to commit a violation described in paragraphs **PARAGRAPH** (A) to ~~(D)~~. **OR (B)**.

~~(E) (G)~~—Solicitation to commit a violation described in paragraphs **PARAGRAPH** (A) to ~~(D)~~. **OR (B)**.

~~(F) (H)~~—A lesser included offense of a violation described in paragraphs (A) to ~~(G)~~—**(E)** if the individual is charged with a violation described in paragraphs (A) to ~~(G)~~—**(E)**.

~~(G) (I)~~—Another violation arising out of the same transaction as a violation described in paragraphs (A) to ~~(G)~~—**(E)** if the individual is charged with a violation described in paragraphs (A) to ~~(G)~~—**(E)**.

(2) The juvenile has deserted his or her home without

1 sufficient cause, and the court finds on the record that the
2 juvenile has been placed or refused alternative placement or the
3 juvenile and the juvenile's parent, guardian, or custodian have
4 exhausted or refused family counseling.

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

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

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

24 (1) Whose parent or other person legally responsible for the
25 care and maintenance of the juvenile, when able to do so, neglects
26 or refuses to provide proper or necessary support, education,
27 medical, surgical, or other care necessary for his or her health or

1 morals, who is subject to a substantial risk of harm to his or her
2 mental well-being, who is abandoned by his or her parents,
3 guardian, or other custodian, or who is without proper custody or
4 guardianship. As used in this sub-subdivision:

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

10 (B) "Neglect" means that term as defined in section 2 of the
11 child abuse and neglect prevention act, 1982 PA 250, MCL 722.602.

12 (C) "Without proper custody or guardianship" does not mean a
13 parent has placed the juvenile with another person who is legally
14 responsible for the care and maintenance of the juvenile and who is
15 able to and does provide the juvenile with proper care and
16 maintenance.

17 (2) Whose home or environment, by reason of neglect, cruelty,
18 drunkenness, criminality, or depravity on the part of a parent,
19 guardian, nonparent adult, or other custodian, is an unfit place
20 for the juvenile to live in. As used in this sub-subdivision,
21 "neglect" means that term as defined in section 2 of the child
22 abuse and neglect prevention act, 1982 PA 250, MCL 722.602.

23 (3) If the juvenile is dependent and is in danger of
24 substantial physical or psychological harm. The juvenile may be
25 found to be dependent when any of the following occurs:

26 (A) The juvenile is homeless or not domiciled with a parent or
27 other legally responsible person.

1 (B) The juvenile has repeatedly run away from home and is
2 beyond the control of a parent or other legally responsible person.

3 (C) The juvenile is alleged to have committed a commercial
4 sexual activity as that term is defined in section 462a of the
5 Michigan penal code, 1931 PA 328, MCL 750.462a or a delinquent act
6 that is the result of force, fraud, coercion, or manipulation
7 exercised by a parent or other adult.

8 (D) The juvenile's custodial parent or legally responsible
9 person has died or has become permanently incapacitated and no
10 appropriate parent or legally responsible person is willing and
11 able to provide care for the juvenile.

12 (4) Whose parent has substantially failed, without good cause,
13 to comply with a limited guardianship placement plan described in
14 section 5205 of the estates and protected individuals code, 1998 PA
15 386, MCL 700.5205, regarding the juvenile.

16 (5) Whose parent has substantially failed, without good cause,
17 to comply with a court-structured plan described in section 5207 or
18 5209 of the estates and protected individuals code, 1998 PA 386,
19 MCL 700.5207 and 700.5209, regarding the juvenile.

20 (6) If the juvenile has a guardian under the estates and
21 protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206,
22 and the juvenile's parent meets both of the following criteria:

23 (A) The parent, having the ability to support or assist in
24 supporting the juvenile, has failed or neglected, without good
25 cause, to provide regular and substantial support for the juvenile
26 for 2 years or more before the filing of the petition or, if a
27 support order has been entered, has failed to substantially comply

1 with the order for 2 years or more before the filing of the
2 petition. As used in this sub-subdivision, "neglect" means that
3 term as defined in section 2 of the child abuse and neglect
4 prevention act, 1982 PA 250, MCL 722.602.

5 (B) The parent, having the ability to visit, contact, or
6 communicate with the juvenile, has regularly and substantially
7 failed or neglected, without good cause, to do so for 2 years or
8 more before the filing of the petition. As used in this sub-
9 subdivision, "neglect" means that term as defined in section 2 of
10 the child abuse and neglect prevention act, 1982 PA 250, MCL
11 722.602.

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

18 (c) Jurisdiction over juveniles under 18 years of age,
19 jurisdiction of whom has been waived to the family division of
20 circuit court by a circuit court under a provision in a temporary
21 order for custody of juveniles based upon a complaint for divorce
22 or upon a motion related to a complaint for divorce by the
23 prosecuting attorney, in a divorce judgment dissolving a marriage
24 between the juvenile's parents, or by an amended judgment relative
25 to the juvenile's custody in a divorce.

26 (d) If the court finds on the record that voluntary services
27 have been exhausted or refused, concurrent jurisdiction in

1 proceedings concerning a juvenile between the ages of 17 and 18
2 found within the county who is 1 or more of the following:

3 (1) Repeatedly addicted to the use of drugs or the intemperate
4 use of alcoholic liquors.

5 (2) Repeatedly associating with criminal, dissolute, or
6 disorderly persons.

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

9 (4) Repeatedly associating with thieves, prostitutes, pimps,
10 or procurers.

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

14 If a juvenile is brought before the court in a county other
15 than that in which the juvenile resides, before a hearing and with
16 the consent of the judge of the court in the county of residence,
17 the court may enter an order transferring jurisdiction of the
18 matter to the court of the county of residence. Consent to transfer
19 jurisdiction is not required if the county of residence is a county
20 juvenile agency and satisfactory proof of residence is furnished to
21 the court of the county of residence. The order does not constitute
22 a legal settlement in this state that is required for the purpose
23 of section 55 of the social welfare act, 1939 PA 280, MCL 400.55.
24 The order and a certified copy of the proceedings in the
25 transferring court ~~shall~~ **MUST** be delivered to the court of the
26 county of residence. A case designated as a case in which the
27 juvenile shall be tried in the same manner as an adult under

1 section 2d of this chapter may be transferred for venue or for
2 juvenile disposition, but ~~shall~~**MUST** not be transferred on grounds
3 of residency. If the case is not transferred, the court having
4 jurisdiction of the offense shall try the case.

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 the
8 behavior of a juvenile who does not require formal court
9 jurisdiction but otherwise falls within subdivision (a). These
10 services ~~shall~~**MUST** be used only if the juvenile and his or her
11 parents, guardian, or custodian voluntarily accepts them.

12 (f) If the court operates a detention home for juveniles
13 within the court's jurisdiction under subdivision (a)(1), authority
14 to place a juvenile within that home pending trial if the juvenile
15 is within the circuit court's jurisdiction under section 606 of the
16 revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if
17 the circuit court orders the family division of circuit court in
18 the same county to place the juvenile in that home. The family
19 division of circuit court shall comply with that order.

20 (g) Authority to place a juvenile in a county jail under
21 section 27a of chapter IV of the code of criminal procedure, 1927
22 PA 175, MCL 764.27a, if the court designates the case under section
23 2d of this chapter as a case in which the juvenile is to be tried
24 in the same manner as an adult and the court determines there is
25 probable cause to believe that the offense was committed and
26 probable cause to believe the juvenile committed that offense.

27 (h) Jurisdiction over a proceeding under section 2950 or 2950a

1 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950
2 and 600.2950a, in which a minor less than 18 years of age is the
3 respondent, or a proceeding to enforce a valid foreign protection
4 order issued against a respondent who is a minor less than 18 years
5 of age. A personal protection order ~~shall~~**MUST** not be issued
6 against a respondent who is a minor less than 10 years of age.
7 Venue for an initial action under section 2950 or 2950a of the
8 revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and
9 600.2950a, is proper in the county of residence of either the
10 petitioner or respondent. If the respondent does not live in this
11 state, venue for the initial action is proper in the petitioner's
12 county of residence.

13 (i) In a proceeding under this chapter concerning a juvenile's
14 care and supervision, the court may issue orders affecting a party
15 as necessary. This subdivision does not apply after May 1, 2018. As
16 used in this subdivision, "party" means 1 of the following:

17 (i) In a delinquency proceeding, the petitioner and juvenile.
18 (ii) In a child protective proceeding, the petitioner,
19 department, child, respondent, parent, guardian, or legal
20 custodian, and any licensed child caring institution or child
21 placing agency under contract with the department to provide for a
22 juvenile's care and supervision.

23 Sec. 2d. (1) In a petition or amended petition alleging that a
24 juvenile is within the court's jurisdiction under section 2(a)(1)
25 of this chapter for a specified juvenile violation, the prosecuting
26 attorney may designate the case as a case in which the juvenile is
27 to be tried in the same manner as an adult. An amended petition

1 making a designation under this subsection ~~shall~~**MUST** be filed only
2 by leave of the court.

3 (2) In a petition alleging that a juvenile is within the
4 court's jurisdiction under section 2(a)(1) of this chapter for an
5 offense other than a specified juvenile violation, the prosecuting
6 attorney may request that the court designate the case as a case in
7 which the juvenile is to be tried in the same manner as an adult.
8 The court may designate the case following a hearing if it
9 determines that the best interests of the juvenile and the public
10 would be served by the juvenile being tried in the same manner as
11 an adult. In determining whether the best interests of the juvenile
12 and the public would be served, the court shall consider all of the
13 following factors, giving greater weight to the seriousness of the
14 alleged offense and the juvenile's prior delinquency record than to
15 the other factors:

16 (a) The seriousness of the alleged offense in terms of
17 community protection, including, but not limited to, the existence
18 of any aggravating factors recognized by the sentencing guidelines,
19 the use of a firearm or other dangerous weapon, and the impact on
20 any victim.

21 (b) The juvenile's culpability in committing the alleged
22 offense, including, but not limited to, the level of the juvenile's
23 participation in planning and carrying out the offense and the
24 existence of any aggravating or mitigating factors recognized by
25 the sentencing guidelines.

26 (c) The juvenile's prior record of delinquency including, but
27 not limited to, any record of detention, any police record, any

1 school record, or any other evidence indicating prior delinquent
2 behavior.

3 (d) The juvenile's programming history, including, but not
4 limited to, the juvenile's past willingness to participate
5 meaningfully in available programming.

6 (e) The adequacy of the punishment or programming available in
7 the juvenile justice system.

8 (f) The dispositional options available for the juvenile.

9 (3) If a case is designated under this section, the case ~~shall~~
10 **MUST** be set for trial in the same manner as the trial of an adult
11 in a court of general criminal jurisdiction unless a probable cause
12 hearing is required under subsection (4).

13 (4) If the petition in a case designated under this section
14 alleges an offense that if committed by an adult would be a felony
15 or punishable by imprisonment for more than 1 year, the court shall
16 conduct a probable cause hearing not later than 14 days after the
17 case is designated to determine whether there is probable cause to
18 believe the offense was committed and whether there is probable
19 cause to believe the juvenile committed the offense. This hearing
20 may be combined with the designation hearing under subsection (2)
21 for an offense other than a specified juvenile offense. A probable
22 cause hearing under this section is the equivalent of the
23 preliminary examination in a court of general criminal jurisdiction
24 and satisfies the requirement for that hearing. A probable cause
25 hearing ~~shall~~ **MUST** be conducted by a judge other than the judge who
26 will try the case if the juvenile is tried in the same manner as an
27 adult.

1 (5) If the court determines there is probable cause to believe
2 the offense alleged in the petition was committed and probable
3 cause to believe the juvenile committed the offense, the case ~~shall~~
4 **MUST** be set for trial in the same manner as the trial of an adult
5 in a court of general criminal jurisdiction.

6 (6) If the court determines that an offense did not occur or
7 there is not probable cause to believe the juvenile committed the
8 offense, the court shall dismiss the petition. If the court
9 determines there is probable cause to believe another offense was
10 committed and there is probable cause to believe the juvenile
11 committed that offense, the court may further determine whether the
12 case should be designated as a case in which the juvenile should be
13 tried in the same manner as an adult as provided in subsection (2).
14 If the court designates the case, the case ~~shall~~**MUST** be set for
15 trial in the same manner as the trial of an adult in a court of
16 general criminal jurisdiction.

17 (7) If a case is designated under this section, the
18 proceedings are criminal proceedings and ~~shall~~**MUST** afford all
19 procedural protections and guarantees to which the juvenile would
20 be entitled if being tried for the offense in a court of general
21 criminal jurisdiction. A plea of guilty or nolo contendere or a
22 verdict of guilty ~~shall~~**MUST** result in entry of a judgment of
23 conviction. The conviction ~~shall~~**MUST** have the same effect and
24 liabilities as if it had been obtained in a court of general
25 criminal jurisdiction.

26 (8) Following a judgment of conviction, the court shall enter
27 a disposition or impose a sentence authorized under section

1 ~~18(1)(n)~~ **18(1)(M)** of this chapter.

2 (9) As used in this section, "specified juvenile violation"
3 means any of the following:

4 (a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,
5 520b, 529, **OR** 529a, ~~or 531~~ of the Michigan penal code, 1931 PA
6 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,
7 750.349, 750.520b, 750.529, **AND** 750.529a. ~~and 750.531.~~

8 (b) A violation of section 84 or 110a(2) of the Michigan penal
9 code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is
10 armed with a dangerous weapon. As used in this subdivision,
11 "dangerous weapon" means 1 or more of the following:

12 (i) A loaded or unloaded firearm, whether operable or
13 inoperable.

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

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

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

23 ~~— (c) A violation of section 186a of the Michigan penal code,~~
24 ~~1931 PA 328, MCL 750.186a, regarding escape or attempted escape~~
25 ~~from a juvenile facility, but only if the juvenile facility from~~
26 ~~which the juvenile escaped or attempted to escape was 1 of the~~
27 ~~following:~~

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

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

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

(C) ~~(e)~~ An attempt to commit a violation described in subdivisions **SUBDIVISION** (a) to ~~(d)~~. **OR (B)**.

(D) ~~(f)~~ Conspiracy to commit a violation described in subdivisions **SUBDIVISION** (a) to ~~(d)~~. **OR (B)**.

(E) ~~(g)~~ Solicitation to commit a violation described in subdivisions **SUBDIVISION** (a) to ~~(d)~~. **OR (B)**.

(F) ~~(h)~~ Any lesser included offense of an offense described in subdivisions (a) to ~~(g)~~ **(E)** if the juvenile is alleged in the petition to have committed an offense described in subdivisions (a) to ~~(g)~~. **(E)**.

(G) ~~(i)~~ Any other offense arising out of the same transaction as an offense described in subdivisions (a) to ~~(g)~~ **(E)** if the juvenile is alleged in the petition to have committed an offense described in subdivisions (a) to ~~(g)~~. **(E)**.

Enacting section 1. This amendatory act takes effect January 1, 2021.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

(a) Senate Bill No. _____ or House Bill No. _____ (request no.

1 02781'17 a).

2 (b) Senate Bill No.____ or House Bill No.____ (request no.

3 02781'17 b).