



HOUSE BILL No. 4042

January 11, 1995, Introduced by Reps. Hammerstrom, Llewellyn, Dalman, Crissman, Ryan, Walberg, Fitzgerald, McNutt and Bullard and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 1f of chapter IV and section 14 of chapter VI of Act No. 175 of the Public Acts of 1927, entitled as amended

"The code of criminal procedure,"

as amended by Act No. 195 of the Public Acts of 1994, being sections 764.1f and 766.14 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 1f of chapter IV and section 14 of chap-
2 ter VI of Act No. 175 of the Public Acts of 1927, as amended by
3 Act No. 195 of the Public Acts of 1994, being sections 764.1f and
4 766.14 of the Michigan Compiled Laws, are amended to read as
5 follows:

CHAPTER IV

1

2 Sec. 1f. If the prosecuting attorney has reason to believe
3 that a juvenile 15 years of age or older but less than 17 years
4 of age has violated ~~section~~ ANY OF THE FOLLOWING, THE PROSECUT-
5 ING ATTORNEY MAY AUTHORIZE THE FILING OF A COMPLAINT AND WARRANT
6 ON THE CHARGE WITH A MAGISTRATE CONCERNING THE JUVENILE:

7 (A) SECTION 83, 89, 91, 316, 317, 520b, 529, or 529a of the
8 Michigan penal code, Act No. 328 of the Public Acts of 1931,
9 being sections 750.83, 750.89, 750.91, 750.316, 750.317,
10 750.520b, 750.529, and 750.529a of the Michigan Compiled Laws. ~~7~~
11 ~~or section~~

12 (B) SECTION 7401(2)(a)(i) or 7403(2)(a)(i) of the public
13 health code, Act No. 368 of the Public Acts of 1978, being sec-
14 tions 333.7401 and 333.7403 of the Michigan Compiled Laws. ~~7~~ the
15 ~~prosecuting attorney may authorize the filing of a complaint and~~
16 ~~warrant on the charge with a magistrate concerning the juvenile.~~

17 (C) SECTION 84, 110A(2), OR 349 OF ACT NO. 328 OF THE PUBLIC
18 ACTS OF 1931, BEING SECTIONS 750.84, 750.110A, AND 750.349 OF THE
19 MICHIGAN COMPILED LAWS, IF THE JUVENILE IS ARMED WITH A DANGEROUS
20 WEAPON. AS USED IN THIS SECTION, "DANGEROUS WEAPON" MEANS 1 OR
21 MORE OF THE FOLLOWING:

22 (i) A LOADED OR UNLOADED FIREARM, WHETHER OPERABLE OR
23 INOPERABLE.

24 (ii) A KNIFE, STABBING INSTRUMENT, BRASS KNUCKLES, BLACK-
25 JACK, CLUB, OR OTHER OBJECT SPECIFICALLY DESIGNED OR CUSTOMARILY
26 CARRIED OR POSSESSED FOR USE AS A WEAPON.

1 (iii) AN OBJECT THAT IS LIKELY TO CAUSE DEATH OR BODILY
2 INJURY WHEN USED AS A WEAPON AND THAT IS USED AS A WEAPON OR
3 CARRIED OR POSSESSED FOR USE AS A WEAPON.

4 (iv) AN OBJECT OR DEVICE THAT IS USED OR FASHIONED IN A
5 MANNER TO LEAD A PERSON TO BELIEVE THE OBJECT OR DEVICE IS AN
6 OBJECT OR DEVICE DESCRIBED IN SUBPARAGRAPHS (i) TO (iii).

7 CHAPTER VI

8 Sec. 14. (1) If the court determines at the conclusion of
9 the preliminary examination of a person charged with a felony
10 that the offense charged is not a felony or that an included
11 offense that is not a felony has been committed, the accused
12 shall not be dismissed but the magistrate shall proceed in the
13 same manner as if the accused had initially been charged with an
14 offense that is not a felony.

15 (2) If at the conclusion of the preliminary examination of a
16 juvenile the magistrate finds that a violation of ~~section 83,~~
17 ~~89, 91, 316, 317, 520b, 529, or 529a of the Michigan penal code,~~
18 ~~Act 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,~~ ANY OF THE FOLLOWING did not occur or
24 that there is not probable cause to believe that the juvenile
25 committed the violation, but that there is probable cause to
26 believe that some other offense occurred and that the juvenile
27 committed that other offense, the magistrate shall transfer the

1 case to the juvenile division of the probate court of the county
2 where the offense is alleged to have been committed: —

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

7 (B) SECTION 7401(2)(A)(i) OR 7403(2)(A)(i) OF THE PUBLIC
8 HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SEC-
9 TIONS 333.7401 AND 333.7403 OF THE MICHIGAN COMPILED LAWS.

10 (C) SECTION 84, 110A(2), OR 349 OF ACT NO. 328 OF THE PUBLIC
11 ACTS OF 1931, BEING SECTIONS 750.84, 750.110A, AND 750.349 OF THE
12 MICHIGAN COMPILED LAWS, IF THE JUVENILE IS ARMED WITH A DANGEROUS
13 WEAPON. AS USED IN THIS SECTION, "DANGEROUS WEAPON" MEANS 1 OR
14 MORE OF THE FOLLOWING:

15 (i) A LOADED OR UNLOADED FIREARM, WHETHER OPERABLE OR
16 INOPERABLE.

17 (ii) A KNIFE, STABBING INSTRUMENT, BRASS KNUCKLES, BLACK-
18 JACK, CLUB, OR OTHER OBJECT SPECIFICALLY DESIGNED OR CUSTOMARILY
19 CARRIED OR POSSESSED FOR USE AS A WEAPON.

20 (iii) AN OBJECT THAT IS LIKELY TO CAUSE DEATH OR BODILY
21 INJURY WHEN USED AS A WEAPON AND THAT IS USED AS A WEAPON OR CAR-
22 RIED OR POSSESSED FOR USE AS A WEAPON.

23 (iv) AN OBJECT OR DEVICE THAT IS USED OR FASHIONED IN A
24 MANNER TO LEAD A PERSON TO BELIEVE THE OBJECT OR DEVICE IS AN
25 OBJECT OR DEVICE DESCRIBED IN SUBPARAGRAPHS (i) TO (iii).

26 (3) A transfer under ~~this~~ subsection (2) does not prevent
27 the juvenile division of the probate court from waiving

1 jurisdiction over the juvenile under section 4 of chapter XIIIA of
2 Act No. 288 of the Public Acts of 1939, being section 712A.4 of
3 the Michigan Compiled Laws.

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

7 (a) Senate Bill No. _____ or House Bill No. 4039 (request
8 no. 01934'95).

9 (b) Senate Bill No. _____ or House Bill No. 4040 (request
10 no. 01934'95 a).

11 (c) Senate Bill No. _____ or House Bill No. 4041 (request
12 no. 01934'95 b).

13 (d) Senate Bill No. _____ or House Bill No. 4043 (request
14 no. 01934'95 d).

15 (e) Senate Bill No. _____ or House Bill No. 4044 (request
16 no. 01934'95 e).