



# HOUSE BILL No. 4980

June 16, 1995, Introduced by Reps. Kelly, DeHart, Prusi, Tesanovich, Agee, Hanley, Freeman, Brater, LaForge, Cherry, Curtis, Gire, Jersevic, Profit, Jaye, Dolan, Brewer, Baird, Parks, Pitoniak, Dalman and Willard and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 5 and 6 of Act No. 13 of the Public Acts of 1988, entitled "Juvenile diversion act," being sections 722.825 and 722.826 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Sections 5 and 6 of Act No. 13 of the Public  
2 Acts of 1988, being sections 722.825 and 722.826 of the Michigan  
3 Compiled Laws, are amended to read as follows:

4 Sec. 5. (1) If a decision is made to divert a minor with a  
5 referral under section 3(b), a conference with the minor and the  
6 minor's parent, guardian, or custodian shall be held to consider  
7 alternatives to the filing of a petition with the court or to the  
8 authorization of a petition. The law enforcement official or  
9 intake worker shall notify the minor and the minor's parent,

1 guardian, or custodian of the proposed conference and shall  
2 inform the minor, and the minor's parent, guardian, or custodian  
3 of all of the following:

4 (a) That participation in the conference or resulting refer-  
5 ral plan is voluntary.

6 (b) That an attorney may accompany the minor and the minor's  
7 parent, guardian, or custodian at the conference.

8 (c) The alternative referral programs available and the cri-  
9 teria utilized to determine whether to file a petition with the  
10 court or to dispose of the petition with a referral.

11 (d) That if diversion is agreed to AND THE MINOR COMPLIES  
12 WITH THE TERMS OF THE DIVERSION AGREEMENT AND THE REFERRAL PLAN,  
13 a petition cannot be filed with the court, or if a petition has  
14 been filed, the petition cannot be authorized.

15 (2) The conference to consider alternatives to the filing of  
16 a petition with the court or to consider alternatives to the  
17 authorization of a petition shall not be held until after the  
18 questioning, if any, of the minor has been completed or after an  
19 investigation has been made concerning the alleged offense.

20 Mention of, or promises concerning, diversion shall not be made  
21 by a law enforcement official or court intake worker in the pres-  
22 ence of the minor or the minor's parent, guardian, or custodian  
23 during any questioning of the minor. Information divulged by the  
24 minor during the conference or after the diversion is agreed to,  
25 but before a petition is filed with the court or has been autho-  
26 rized, shall not be used against the minor.

1 (3) If a conference held under this section results in  
2 diversion that imposes conditions on the minor and that will  
3 prevent the filing of a petition with the court or the authoriza-  
4 tion of a petition, the terms of the diversion agreement shall be  
5 set forth in writing, dated, and signed by the law enforcement  
6 official or court intake worker, the minor, and the minor's  
7 parent, guardian, or custodian.

8 (4) If a conference is held under this section and an agree-  
9 ment under subsection (3) is not reached, ~~the law enforcement~~  
10 ~~official may file~~ a petition MAY BE FILED with the court AS PRO-  
11 VIDED BY LAW and ~~a court intake worker may authorize~~ a petition  
12 MAY BE AUTHORIZED AS PROVIDED BY LAW. If an agreement under  
13 subsection (3) is not reached and ~~the law enforcement official~~  
14 ~~decides to file~~ a petition IS TO BE FILED, the ~~law enforcement~~  
15 ~~official shall file the~~ petition SHALL BE FILED with the court  
16 not later than 14 days after the conference.

17 (5) IF THE MINOR FAILS TO COMPLY WITH THE TERMS OF THE  
18 DIVERSION AGREEMENT AND THE REFERRAL PLAN, THE LAW ENFORCEMENT  
19 OFFICIAL OR THE COURT INTAKE WORKER MAY REVOKE THE DIVERSION  
20 AGREEMENT. IF THE DIVERSION AGREEMENT IS REVOKED, A PETITION MAY  
21 BE FILED WITH THE COURT AS PROVIDED BY LAW AND A PETITION MAY BE  
22 AUTHORIZED AS PROVIDED BY LAW.

23 Sec. 6. (1) When a decision is made to divert a minor, the  
24 law enforcement official or court intake worker shall file with  
25 the court in the county in which the minor resides or is found  
26 all of the following information:

1 (a) The minor's name, address, and date of birth.

2 (b) The act or offense for which the minor was apprehended.

3 (c) The date and place of the act or offense for which the  
4 minor was apprehended.

5 (d) The diversion decision made, whether referred or  
6 released.

7 (e) The nature of the minor's compliance with the diversion  
8 agreement.

9 (2) IF A DIVERSION AGREEMENT IS REVOKED PURSUANT TO  
10 SECTION 5(5), THE LAW ENFORCEMENT OFFICIAL OR COURT INTAKE WORKER  
11 SHALL FILE WITH THE COURT IN WHICH THE INFORMATION DESCRIBED IN  
12 SUBSECTION (1) IS FILED THE FACT OF AND REASONS FOR THE  
13 REVOCATION.