

SENATE BILL No. 694

September 27, 2011, Introduced by Senators CASPERSON, PAPPAGEORGE, ROBERTSON, PROOS, GREEN, BRANDENBURG, ROCCA, NOFS, JONES and WALKER and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 2 of chapter XIIA (MCL 712A.2), as amended by
2001 PA 211.

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) Except as otherwise provided in this sub-subdivision, the
juvenile has violated any municipal ordinance or law of the state
or of the United States. If the court enters into an agreement

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

9 (A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,
10 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328,
11 MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,
12 750.349, 750.520b, 750.529, 750.529a, and 750.531.

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

17 (i) A loaded or unloaded firearm, whether operable or
18 inoperable.

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

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

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

1 (C) A violation of section 186a of the Michigan penal code,
2 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
3 from a juvenile facility, but only if the juvenile facility from
4 which the individual escaped or attempted to escape was 1 of the
5 following:

6 (i) A high-security or medium-security facility operated by the
7 ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** or a county
8 juvenile agency.

9 (ii) A high-security facility operated by a private agency
10 under contract with the ~~family independence agency~~ **DEPARTMENT OF**
11 **HUMAN SERVICES** or a county juvenile agency.

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

14 (E) An attempt to commit a violation described in paragraphs
15 (A) to (D).

16 (F) Conspiracy to commit a violation described in paragraphs
17 (A) to (D).

18 (G) Solicitation to commit a violation described in paragraphs
19 (A) to (D).

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

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

26 (2) The juvenile has deserted his or her home without
27 sufficient cause, and the court finds on the record that the

1 juvenile has been placed or refused alternative placement or the
2 juvenile and the juvenile's parent, guardian, or custodian have
3 exhausted or refused family counseling.

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

8 (4) The juvenile willfully and repeatedly absents himself or
9 herself from school or other learning program intended to meet the
10 juvenile's educational needs, or repeatedly violates rules and
11 regulations of the school or other learning program, and the court
12 finds on the record that the juvenile, the juvenile's parent,
13 guardian, or custodian, and school officials or learning program
14 personnel have met on the juvenile's educational problems and
15 educational counseling and alternative agency help have been
16 sought. As used in this sub-subdivision only, "learning program"
17 means an organized educational program that is appropriate, given
18 the age, 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) Jurisdiction in proceedings concerning a juvenile under 18
22 years of age found within the county:

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

1 mental well-being, who is abandoned by his or her parents,
 2 guardian, or other custodian, or who is without proper custody or
 3 guardianship. As used in this sub-subdivision:

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

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

14 (2) Whose home or environment, by reason of neglect, ~~crUELty,~~
 15 ~~drunkenness,~~ **ABUSE, SUBSTANCE ABUSE**, criminality, or depravity on
 16 the part of a parent, guardian, nonparent adult, or other
 17 custodian, is **OR WILL BE** an unfit place for the juvenile to live
 18 in. **AS USED IN THIS SUB-SUBDIVISION:**

19 (A) **"CRIMINALITY" MEANS A VIOLATION OF STATE OR FEDERAL LAW BY**
 20 **A PARENT, GUARDIAN, NONPARENT ADULT, OR OTHER CUSTODIAN, THAT BY**
 21 **ITS NATURE OR EFFECT RENDERS THE HOME UNFIT WHETHER OR NOT THE**
 22 **VIOLATION RESULTS IN A CONVICTION. ANY OFFENSE AGAINST A CHILD,**
 23 **WHETHER OR NOT THE CHILD IS RELATED TO THE PARENT, GUARDIAN,**
 24 **NONPARENT ADULT, OR OTHER CUSTODIAN, IS PRESUMED TO RENDER THE HOME**
 25 **UNFIT.**

26 (B) **"IS OR WILL BE AN UNFIT PLACE" MEANS THAT UNFITNESS MAY BE**
 27 **ANTICIPATORY IN NATURE, AS WHERE THE ALLEGATION PERTAINS TO A**

1 **NONCUSTODIAL PARENT, AN INCARCERATED PARENT, OR A PARENT WHO IS**
2 **OTHERWISE INTERMITTENTLY OR TEMPORARILY ABSENT FROM THE HOME.**

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

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

11 (5) If the juvenile has a guardian under the estates and
12 protected individuals code, 1998 PA 386, MCL 700.1101 to ~~700.8102,~~
13 **700.8206,** and the juvenile's parent meets both of the following
14 criteria:

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

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

26 If a petition is filed in the court alleging that a juvenile
27 is within the provisions of subdivision (b)(1), (2), (3), (4), or

1 (5) and the custody of that juvenile is subject to the prior or
2 continuing order of another court of record of this state, the
3 manner of notice to the other court of record and the authority of
4 the court to proceed is governed by rule of the supreme court.

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

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

17 (1) Repeatedly addicted to the use of drugs or the intemperate
18 use of alcoholic liquors.

19 (2) Repeatedly associating with criminal, dissolute, or
20 disorderly persons.

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

23 (4) Repeatedly associating with thieves, prostitutes, pimps,
24 or procurers.

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

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

19 (e) Authority to establish or assist in developing a program
20 or programs within the county to prevent delinquency and provide
21 services to act upon reports submitted to the court related to the
22 behavior of a juvenile who does not require formal court
23 jurisdiction but otherwise falls within subdivision (a). These
24 services shall be used only if the juvenile and his or her parents,
25 guardian, or custodian voluntarily accepts them.

26 (f) If the court operates a detention home for juveniles
27 within the court's jurisdiction under subdivision (a)(1), authority

1 to place a juvenile within that home pending trial if the juvenile
2 is within the circuit court's jurisdiction under section 606 of the
3 revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if
4 the circuit court orders the family division of circuit court in
5 the same county to place the juvenile in that home. The family
6 division of circuit court shall comply with that order.

7 (g) Authority to place a juvenile in a county jail under
8 section 27a of chapter IV of the code of criminal procedure, 1927
9 PA 175, MCL 764.27a, if the court designates the case under section
10 2d of this chapter as a case in which the juvenile is to be tried
11 in the same manner as an adult and the court determines there is
12 probable cause to believe that the offense was committed and
13 probable cause to believe the juvenile committed that offense.

14 (h) Jurisdiction over a proceeding under section 2950 or 2950a
15 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950
16 and 600.2950a, in which a minor less than 18 years of age is the
17 respondent, or a proceeding to enforce a valid foreign protection
18 order issued against a respondent who is a minor less than 18 years
19 of age. A personal protection order shall not be issued against a
20 respondent who is a minor less than 10 years of age. Venue for an
21 initial action under section 2950 or 2950a of the revised
22 judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, is
23 proper in the county of residence of either the petitioner or
24 respondent. If the respondent does not live in this state, venue
25 for the initial action is proper in the petitioner's county of
26 residence.