

# HOUSE BILL NO. 4174

March 06, 2025, Introduced by Reps. Wegela, Edwards, Grant, Wilson, McKinney, Rheingans, Myers-Phillips, Dievendorf, Pohutsky and Morgan and referred to Committee on Judiciary.

A bill to amend 1939 PA 288, entitled  
"Probate code of 1939,"  
by amending section 1 of chapter XIIIA (MCL 712A.1), as amended by  
2020 PA 389, and by adding section 17e to chapter XIIIA.

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

1 CHAPTER XIIIA  
2 Sec. 1. (1) As used in this chapter:  
3 (a) "Civil infraction" means that term as defined in section  
4 113 of the revised judicature act of 1961, 1961 PA 236, MCL

1 600.113.

2 (b) "Competency evaluation" means a court-ordered examination  
3 of a juvenile directed to developing information relevant to a  
4 determination of ~~his or her~~ **the juvenile's** competency to proceed at  
5 a particular stage of a court proceeding involving a juvenile who  
6 is the subject of a delinquency petition.

7 (c) "Competency hearing" means a hearing to determine whether  
8 a juvenile is competent to proceed.

9 (d) "County juvenile agency" means that term as defined in  
10 section 2 of the county juvenile agency act, 1998 PA 518, MCL  
11 45.622.

12 (e) "Court" means the family division of circuit court.

13 (f) **"Deception" means knowingly using conduct or written,**  
14 **oral, electronic, nonverbal, or any other form of communication to**  
15 **communicate a false fact about evidence, misrepresent the accuracy**  
16 **of a fact, or communicate an unauthorized statement about leniency**  
17 **or another false promise.**

18 (g) ~~(f)~~ "Department" means the department of health and human  
19 services. A reference in this chapter to the "department of social  
20 welfare" or the "family independence agency" means the department  
21 of health and human services.

22 (h) ~~(g)~~ "Foreign protection order" means that term as defined  
23 in section 2950h of the revised judicature act of 1961, 1961 PA  
24 236, MCL 600.2950h.

25 (i) ~~(h)~~ "Incompetent to proceed" means that a juvenile, based  
26 on age-appropriate norms, lacks a reasonable degree of rational and  
27 factual understanding of the proceeding or is unable to do 1 or  
28 more of the following:

29 (i) Consult with and assist ~~his or her~~ **the juvenile's** attorney

1 in preparing ~~his or her~~ **the juvenile's** defense in a meaningful  
2 manner.

3 (ii) Sufficiently understand the charges against ~~him or her~~ **the**  
4 **juvenile.**

5 (j) ~~(i)~~ Until September 30, 2021, "juvenile" means a person  
6 who is less than 17 years of age who is the subject of a  
7 delinquency petition. Beginning October 1, 2021, "juvenile" means a  
8 person who is less than 18 years of age who is the subject of a  
9 delinquency petition.

10 (k) **"Law enforcement officer" means law enforcement official**  
11 **as defined in section 7 of chapter III of the code of criminal**  
12 **procedure, 1927 PA 175, MCL 763.7.**

13 (l) ~~(j)~~ "Least restrictive environment" means a supervised  
14 community placement, preferably a placement with the juvenile's  
15 parent, guardian, relative, or a facility or conditions of  
16 treatment that is a residential or institutional placement only  
17 utilized as a last resort based on the best interest of the  
18 juvenile or for reasons of public safety.

19 (m) ~~(k)~~ "Licensed child caring institution" means a child  
20 caring institution as defined and licensed under 1973 PA 116, MCL  
21 722.111 to 722.128.

22 (n) ~~(l)~~ "MCI" means the Michigan children's institute created  
23 and established by 1935 PA 220, MCL 400.201 to 400.214.

24 (o) ~~(m)~~ "Mental health code" means the mental health code,  
25 1974 PA 258, MCL 330.1001 to 330.2106.

26 (p) ~~(n)~~ "Personal protection order" means a personal  
27 protection order issued under section 2950 or 2950a of the revised  
28 judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a,  
29 and includes a valid foreign protection order.

1        **(q)** ~~(e)~~ "Public agency" means the department, a local unit of  
 2 government, the family division of the circuit court, the juvenile  
 3 division of the probate court, or a county juvenile agency.

4        **(r)** ~~(p)~~ "Qualified juvenile forensic mental health examiner"  
 5 means 1 of the following who performs forensic mental health  
 6 examinations for the purposes of sections 1062 to 1074 of the  
 7 mental health code, MCL 330.2062 to 330.2074, but does not exceed  
 8 the scope of ~~his or her~~ **the qualified juvenile forensic mental**  
 9 **health examiner's** practice as authorized by state law:

10        (i) A psychiatrist or psychologist who possesses experience or  
 11 training in **all of** the following:

12        (A) Forensic evaluation procedures for juveniles.

13        (B) Evaluation, diagnosis, and treatment of children and  
 14 adolescents with emotional disturbance, mental illness, or  
 15 developmental disabilities.

16        (C) Clinical understanding of child and adolescent  
 17 development.

18        (D) Familiarity with competency standards in this state.

19        (ii) A mental health professional other than a psychiatrist or  
 20 psychologist who has completed a juvenile competency training  
 21 program for forensic mental health examiners that is endorsed by  
 22 the department under section 1072 of the mental health code, MCL  
 23 330.2072, and who possesses experience or training in all of the  
 24 following:

25        (A) Forensic evaluation procedures for juveniles.

26        (B) Evaluation, diagnosis, and treatment of children and  
 27 adolescents with emotional disturbance, mental illness, or  
 28 developmental disabilities.

29        (C) Clinical understanding of child and adolescent

1 development.

2 (D) Familiarity with competency standards in this state.

3 (s) ~~(q)~~—"Qualified restoration provider" means an individual  
 4 who the court determines, as a result of the opinion provided by  
 5 the qualified **juvenile** forensic mental health examiner, has the  
 6 skills and training necessary to provide restoration services. The  
 7 court shall take measures to avoid any conflict of interest among  
 8 agencies or individuals who may provide evaluation and restoration.

9 (t) ~~(r)~~—"Reasonable and prudent parenting standard" means  
 10 decisions characterized by careful and sensible parental decisions  
 11 that maintain a child's health, safety, and best interest while  
 12 encouraging the emotional and developmental growth of the child  
 13 when determining whether to allow a child in foster care to  
 14 participate in extracurricular, enrichment, cultural, and social  
 15 activities.

16 (u) ~~(s)~~—"Restoration" means the process by which education or  
 17 treatment of a juvenile results in that juvenile becoming competent  
 18 to proceed.

19 (v) ~~(t)~~—"Secure facility" means any public or private licensed  
 20 child caring institution identified by the department as designed  
 21 to physically restrict the movements and activities of the alleged  
 22 or adjudicated juvenile offender that has the primary purpose of  
 23 serving juveniles who have been alleged or adjudicated delinquent,  
 24 other than a juvenile alleged or adjudicated under section 2(a)(2)  
 25 to (4) of this chapter.

26 (w) ~~(u)~~—"Serious misdemeanor" means that term as defined in  
 27 section 61 of the William Van Regenmorter crime victim's rights  
 28 act, 1985 PA 87, MCL 780.811.

29 (x) ~~(v)~~—"Valid foreign protection order" means a foreign

1 protection order that satisfies the conditions for validity  
2 provided in section 2950i of the revised judicature act of 1961,  
3 1961 PA 236, MCL 600.2950i.

4 (2) Except as otherwise provided, proceedings under this  
5 chapter are not criminal proceedings.

6 (3) This chapter shall be liberally construed so that each  
7 juvenile coming within the court's jurisdiction receives the care,  
8 guidance, and control, preferably in ~~his or her~~ **the juvenile's** own  
9 home, conducive to the juvenile's welfare and the best interest of  
10 the state. If a juvenile is removed from the control of ~~his or her~~  
11 **the juvenile's** parents, the juvenile ~~shall~~ **must** be placed in care  
12 as nearly as possible equivalent to the care that should have been  
13 given to the juvenile by ~~his or her~~ **the juvenile's** parents.

14 **Sec. 17e. (1) If a law enforcement officer, court official, or**  
15 **an agent of a law enforcement officer or court official knowingly**  
16 **engages in deception during an interaction with a juvenile, any**  
17 **statement, admission, or confession, written or oral, of the**  
18 **juvenile to a law enforcement officer, court official, or an agent**  
19 **of the law enforcement officer or court official, is presumed to be**  
20 **involuntary and inadmissible as evidence in any hearing against a**  
21 **juvenile who is within the court's jurisdiction under section**  
22 **2(a)(1) of this chapter.**

23 (2) The presumption of involuntariness and inadmissibility of  
24 a juvenile's statement, admission, or confession under subsection  
25 (1) may be overcome if the prosecution proves by clear and  
26 convincing evidence that the statement, admission, or confession  
27 was all of the following:

28 (a) Voluntary.

29 (b) Not made as a result of the use of deception.

1           (c) Reliable.

2           (3) This section applies to self-incriminating responses of a  
3 juvenile made on or after January 1, 2027.

4           Enacting section 1. This amendatory act takes effect January  
5 1, 2027.