# JUVENILE DIVERSION ACT

## Act 13 of 1988

AN ACT to permit certain minors to be diverted from the court system having jurisdiction over minors; to establish diversion criteria and procedures; to require certain records to be made and kept; to prescribe certain powers and duties of courts having jurisdiction over minors and of law enforcement agencies; and to prescribe certain penalties.

**History:** 1988, Act 13, Eff. Apr. 1, 1988 ;-- Am. 1996, Act 415, Eff. Jan. 1, 1998

The People of the State of Michigan enact:

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### 722.821 Short title.

Sec. 1.

This act shall be known and may be cited as the "juvenile diversion act".

**History:** 1988, Act 13, Eff. Apr. 1, 1988

### 722.822 Definitions.

Sec. 2.

As used in this act:

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

(b) "Divert" or "diversion" means the placement that occurs when a law enforcement agency makes a formally recorded investigation or apprehension for an act by a minor that if a petition were filed with the court would bring that minor within section 2(a) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, and instead of petitioning the court or authorizing a petition, either of the following occurs:

(i) The minor is released into the custody of the minor's parent, guardian, or custodian and the investigation is discontinued.

(ii) The minor and the minor's parent, guardian, or custodian agree to work with a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation.

(c) "Law enforcement agency" means a police department of a city, village, or township, a sheriff's department, the department of state police, or any other governmental law enforcement agency in this state.

(d) "Minor" means an individual who is less than 18 years of age.

(e) "Specified juvenile violation" means any of the following:

(i) A specified juvenile violation as that term is defined in section 2 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(ii) A violation of section 82(2), 321, 397, or 520c of the Michigan penal code, 1931 PA 328, MCL 750.82, 750.321, 750.397, and 750.520c.

**History:** 1988, Act 13, Eff. Apr. 1, 1988 ;-- Am. 1994, Act 197, Eff. Oct. 1, 1994 ;-- Am. 1996, Act 415, Eff. Jan. 1, 1998 ;-- Am. 2019, Act 101, Eff. Oct. 1, 2021 ;-- Am. 2023, Act 287, Eff. Oct. 1, 2024

**722.823 Powers of law enforcement official or court intake worker where petition not filed or authorized; diversion of minor; exception specified juvenile violation; use of risk screening or mental health screening tools; guidelines.**

Sec. 3.

(1) If in the course of investigating an alleged offense by a minor a petition has not been filed with the court, or if a petition has not been authorized, a law enforcement official or court intake worker may do 1 of the following:

(a) Release the minor into the custody of the minor's parent, guardian, or custodian and discontinue the investigation.

(b) Subject to subsections (4) and (5), divert the matter by making an agreement under section 5 with the minor and the minor's parent, guardian, or custodian to refer the minor to a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation. Restitution must not be considered when deciding if the minor may be diverted under this subdivision.

(c) File a petition with the court or authorize a petition that has been filed.

(2) A minor may be diverted only as provided in subsection (1)(a) or (b) and subsection (3).

(3) A minor accused or charged with a specified juvenile violation must not be diverted.

(4) Except as otherwise provided in this subsection, before a diversion decision is made for a minor, a risk screening tool and a mental health screening tool may be conducted on the minor. A risk screening tool and a mental health screening tool may not be conducted on a minor who meets any of the following criteria:

(a) Is accused or charged with a specified juvenile violation.

(b) Is currently under supervision in the juvenile justice system by the court or the department of health and human services.

(5) A minor must not be diverted under subsection (1)(b) unless both of the following requirements are met:

(a) The law enforcement official or court intake worker receives the results of a risk screening tool and a mental health screening tool for the minor conducted by a designated individual or agency that is trained in those screening tools.

(b) The law enforcement official or court intake worker uses the results of the risk screening tool and the mental health screening tool, and the best interests of public safety and the minor, to inform the decision to divert the minor.

(6) A risk screening tool and a mental health screening tool described in subsections (4) and (5) must meet both of the following requirements:

(a) Be research based and nationally validated for use with minors.

(b) Comply with the guidelines created under subsection (7).

(7) The state court administrative office, under the supervision and direction of the supreme court, shall create guidelines on the use of risk screening tools and mental health screening tools described in subsections (4) and (5).

**History:** 1988, Act 13, Eff. Apr. 1, 1988 ;-- Am. 2023, Act 287, Eff. Oct. 1, 2024

**722.824 Decision to divert minor; factors to be examined.**

Sec. 4.

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Before a decision is made to divert a minor, all of the following factors shall be examined:

(a) The nature of the alleged offense.

(b) The minor's age.

(c) The nature of the problem that led to the alleged offense.

(d) The minor's character and conduct.

(e) The minor's behavior in school, family, and group settings.

(f) Any prior diversion decisions made concerning the minor and the nature of the minor's compliance with the diversion agreement.

**History:** 1988, Act 13, Eff. Apr. 1, 1988

**722.825 Conference; notice; time; prohibitions; diversion agreement; filing petition; noncompliance with terms of agreement or plan.**

Sec. 5.

(1) If a decision is made to divert a minor with a referral under section 3(1)(b), a conference with the minor and the minor's parent, guardian, or custodian must be held to consider alternatives to the filing of a petition with the court or to the authorization of a petition. The law enforcement official or court intake worker shall notify the minor and the minor's parent, guardian, or custodian of the proposed conference and shall inform the minor, and the minor's parent, guardian, or custodian of all of the following:

(a) That participation in the conference or resulting referral plan is voluntary.

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

(c) The alternative referral programs available and the criteria utilized to determine whether to file a petition with the court or to dispose of the petition with a referral.

(d) That if diversion is agreed to and the minor complies with the terms of the diversion agreement and the referral plan, a petition cannot be filed with the court, or if a petition has been filed, the petition cannot be authorized.

(2) The conference to consider alternatives to the filing of a petition with the court or to consider alternatives to the authorization of a petition must not be held until after the questioning, if any, of the minor has been completed or after an investigation has been made concerning the alleged offense. Mention of, or promises concerning, diversion must not be made by a law enforcement official or court intake worker in the presence of the minor or the minor's parent, guardian, or custodian during any questioning of the minor. Information divulged by the minor during the conference or after the diversion is agreed to, but before a petition is filed with the court or has been authorized, must not be used against the minor.

(3) If a conference held under this section results in diversion that imposes conditions on the minor and that will prevent the filing of a petition with the court or the authorization of a petition, the terms of the diversion agreement must be set forth in writing, dated, and signed by the law enforcement official or court intake worker, the minor, and the minor's parent, guardian, or custodian. The time period for a minor to complete the terms of a diversion agreement must not exceed 3 months, unless the law enforcement official or court intake worker determines that a longer period is needed for the minor to complete a specific treatment program and documents this determination as required under section 6. The diversion agreement must not include a term requiring the reimbursement of costs related to diversion services.

(4) If a conference is held under this section and an agreement under subsection (3) is not reached, a petition may be filed with the court as provided by law and a petition may be

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authorized as provided by law. If an agreement under subsection (3) is not reached and a petition is to be filed, the petition must be filed with the court not later than 30 days after the conference.

(5) If the minor fails to comply with the terms of the diversion agreement and the referral plan, the law enforcement official or the court intake worker may revoke the diversion agreement. If the diversion agreement is revoked, a petition may be filed with the court as provided by law and a petition may be authorized as provided by law.

**History:** 1988, Act 13, Eff. Apr. 1, 1988 ;-- Am. 1996, Act 137, Eff. May 1, 1996 ;-- Am. 2023, Act 288, Eff. Oct. 1, 2024

### 722.826 Decision to divert minor; information to be filed; revocation.

Sec. 6.

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

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

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

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

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

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

(f) The time period to complete the terms of the diversion agreement and, if the period exceeds 3 months, the determination that a longer period is necessary for the minor to complete a specific treatment program.

(g) If the diversion is under section 3(1)(b), the results of the minor's risk screening tool and mental health screening tool.

(2) If a diversion agreement is revoked under section 5(5), the law enforcement official or court intake worker shall file the fact of and reasons for the revocation with the court in which the information described in subsection (1) is filed.

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**History:** 1988, Act 13, Eff. Apr. 1, 1988 ;-- Am. 1996, Act 137, Eff. May 1, 1996 ;-- Am. 2023, Act 287, Eff. Oct. 1, 2024 ;-- Am. 2023, Act 288, Eff. Oct. 1, 2024

### 722.827 Separate diversion record.

Sec. 7.

The court in the county in which a diverted minor resides or is found shall keep a separate diversion record for that minor.

**History:** 1988, Act 13, Eff. Apr. 1, 1988

### 722.828 Opening record; destruction of record.

Sec. 8.

(1) Except as otherwise required in subsection (2), a record required to be kept under this act shall be open only by order of the court to a person who has a legitimate interest.

(2) A record required to be kept under this act shall be open to a law enforcement agency or court intake worker for only the purpose of deciding whether to divert a minor.

(3) A minor's record kept under this act shall be destroyed within 28 days after the minor becomes 18 years of age.

**History:** 1988, Act 13, Eff. Apr. 1, 1988 ;-- Am. 2019, Act 101, Eff. Oct. 1, 2021

### 722.829 Use of record; violation as misdemeanor; penalty; admissibility of screening tools.

Sec. 9.

(1) A record kept under this act must not be used by any person, including a court official or law enforcement official, for any purpose except in making a decision on whether to divert a minor.

(2) A person that violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 180 days, a fine of not more than $1,000.00, or both.

(3) A risk screening tool and a mental health screening tool conducted as part of a proceeding under this act and any information obtained from a minor in the course of those screenings or provided by the minor in order to participate in a diversion program, including, but not limited to, any admission, confession, or incriminating evidence, are not admissible into evidence in any adjudicatory hearing in which the minor is accused and are not subject to subpoena or any other court process for use in any other proceeding or for any other purpose.

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**History:** 1988, Act 13, Eff. Apr. 1, 1988 ;-- Am. 2023, Act 287, Eff. Oct. 1, 2024

### 722.830 Conditional effective date.

Sec. 10.

This act shall not take effect unless Senate Bill No. 602 of the 84th Legislature is enacted into law.

**History:** 1988, Act 13, Eff. Apr. 1, 1988

### 722.831 Effective date.

Sec. 11.

This act shall take effect April 1, 1988.

**History:** 1988, Act 13, Eff. Apr. 1, 1988