

HOUSE BILL No. 4086

February 7, 1989, Introduced by Reps. Joe Young, Sr., Joe Young, Jr., Kilpatrick, Watkins, Wallace, Gire and Gubow and referred to the Committee on Judiciary.

A bill to amend section 17 of chapter XIIIA of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

as amended by Act No. 224 of the Public Acts of 1988, being section 712A.17 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 17 of chapter XIIA of Act No. 288 of the
2 Public Acts of 1939, as amended by Act No. 224 of the Public Acts
3 of 1988, being section 712A.17 of the Michigan Compiled Laws, is
4 amended to read as follows:

5 **CHAPTER XIIA**

6 Sec. 17. (1) The court may conduct hearings in an informal
7 manner and may adjourn the hearing from time to time.
8 Stenographic notes or other transcript of the hearing shall be
9 taken.

10 (2) In all hearings under this chapter, any person inter-
11 ested in the hearing may demand a jury of 6 or the judge of pro-
12 bate on his or her own motion may order a jury of 6 to try the
13 case. The jury shall be summoned and impaneled in accordance
14 with chapter 13 of the revised judicature act of 1961, Act
15 No. 236 of the Public Acts of 1961, as amended, being sections
16 600.1300 to 600.1376 of the Michigan Compiled Laws.

17 (3) A parent, guardian, or other custodian of a child held
18 under this chapter shall have the right to give bond or other
19 security for the appearance of the child at the hearing of the
20 case.

21 (4) The prosecuting attorney shall appear for the people
22 when requested by the court, and in a proceeding under section
23 2(a)(1) of this chapter, the prosecuting attorney shall appear if
24 the proceeding requires a hearing and the taking of testimony.

25 (5) In a proceeding under section 2(b) of this chapter, upon
26 request of the department of social services or an agent of the

1 department under contract with the department, the prosecuting
2 attorney shall ~~serve as a legal consultant to~~ REPRESENT the
3 department or the department's agent at all stages of the
4 proceeding, AS REQUIRED BY SECTION 53 OF CHAPTER 14 OF THE
5 REVISED STATUTES OF 1846, BEING SECTION 49.153 OF THE MICHIGAN
6 COMPILED LAWS. ~~If in a proceeding under section 2(b) of this~~
7 ~~chapter the prosecuting attorney does not appear on behalf of the~~
8 ~~department or the department's agent, the department may contract~~
9 ~~with an attorney of its choice for legal representation.~~

10 (6) A member of a local foster care review board established
11 under Act No. 422 of the Public Acts of 1984, being sections
12 722.131 to 722.140 of the Michigan Compiled Laws, shall be admit-
13 ted to a hearing under subsection (1). This subsection shall
14 apply until October 1, 1989.

15 (7) Upon motion of any party or victim, the court may close
16 the hearing of a case brought pursuant to this chapter to members
17 of the general public during the testimony of a child witness or
18 victim if the court finds that closing the hearing is necessary
19 to protect the welfare of the child witness or victim. In deter-
20 mining whether closing the hearing is necessary to protect the
21 welfare of the child witness or victim, the court shall consider
22 the following:

23 (a) The age of the child witness or victim.

24 (b) The psychological maturity of the child witness or
25 victim.

26 (c) The nature of the proceeding.

1 (d) The desire of the child witness or his or her family or
2 guardian or the desire of the victim to have the testimony taken
3 in a room closed to the public.

4 (8) As used in subsection ~~(6)~~ (7), "child witness" does
5 not include a child against whom a proceeding is brought under
6 section 2(a)(1) of this chapter.