

HOUSE BILL No. 5177

October 16, 1989, Introduced by Rep. Niederstadt and referred to the Committee on Judiciary.

A bill to amend section 15 of chapter XIIA 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. 72 of the Public Acts of 1987, being section 712A.15 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 15 of chapter XIIA of Act No. 288 of the
2 Public Acts of 1939, as amended by Act No. 72 of the Public Acts
3 of 1987, being section 712A.15 of the Michigan Compiled Laws, is
4 amended to read as follows:

5 CHAPTER XIIA

6 Sec. 15. (1) In the case of a child concerning whom a com-
7 plaint has been made or a petition or supplemental petition or
8 petition for revocation of probation has been filed pursuant to
9 this chapter, the court may order the child, pending the hearing,
10 detained in a facility as the court shall designate. The court
11 may release the child, pending the hearing, in the custody of a
12 parent, guardian, or custodian, to be brought before the court at
13 the time designated.

14 (2) Custody, pending hearing, is limited to the following
15 children:

16 (a) Those whose home conditions make immediate removal
17 necessary.

18 (b) Those who have a record of unexcused failures to appear
19 at juvenile court proceedings.

20 (c) Those who have run away from home.

21 (d) Those who have failed to remain in a detention or nonse-
22 cure facility or placement in violation of a court order.

23 (e) Those whose offenses are so serious that release would
24 endanger public safety.

25 (3) ~~—A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A
26 child taken into custody pursuant to section 2(a)(2) to (6) of

1 this chapter or subsection (2)(c), who is not under the
2 jurisdiction of the court pursuant to section 2(a)(1) of this
3 chapter, shall not be detained in any secure facility designed to
4 physically restrict the movements and activities of alleged or
5 adjudicated juvenile offenders unless the court finds that the
6 child willfully violated a court order and the court finds, after
7 a hearing and on the record, that there is not a less restrictive
8 alternative more appropriate to the needs of the child. A CHILD
9 MAY BE DETAINED FOR NOT MORE THAN 24 HOURS IN A SECURE FACILITY
10 PENDING A HEARING BY THE COURT TO DETERMINE WHETHER THE CHILD HAS
11 WILLFULLY VIOLATED A COURT ORDER.

12 (4) A child taken into custody pursuant to section 2(b) of
13 this chapter or subsection (2)(a) shall not be detained in any
14 secure facility designed to physically restrict the movements and
15 activities of alleged or adjudicated juvenile offenders or in a
16 cell or other secure area of any secure facility designed to
17 incarcerate adults.

18 (5) A child taken into custody pursuant to section 2(a)(2)
19 to (6) of this chapter or subsection (2)(c) who is not under the
20 jurisdiction of the court pursuant to the provisions of section
21 2(a)(1) of this chapter for an offense which, if committed by an
22 adult, would be a felony shall not be detained in a cell or other
23 secure area of any secure facility designed to incarcerate
24 adults.