

SENATE BILL No. 327

April 18, 1989, Introduced by Senators DINGELL, BINSFELD, NICHOLS, WELBORN, DILLINGHAM, FAXON, N. SMITH, CONROY, CHERRY, MILLER and POLLACK and referred to the Committee on Human Resources and Senior Citizens.

A bill to amend sections 17, 21, and 28 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,"

section 17 as amended by Act No. 224 of the Public Acts of 1988, section 21 as amended by Act No. 170 of the Public Acts of 1986, and section 28 as amended by Act No. 91 of the Public Acts of

1 1988, being sections 712A.17, 712A.21, and 712A.28 of the
2 Michigan Compiled Laws.

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

4 Section 1. Sections 17, 21, and 28 of chapter XIIA of Act
5 No. 288 of the Public Acts of 1939, section 17 as amended by Act
6 No. 224 of the Public Acts of 1988, section 21 as amended by Act
7 No. 170 of the Public Acts of 1986, and section 28 as amended by
8 Act No. 91 of the Public Acts of 1988, being sections 712A.17,
9 712A.21, and 712A.28 of the Michigan Compiled Laws, are amended
10 to read as follows:

11 **CHAPTER XIIA**

12 Sec. 17. (1) The court may conduct hearings in an informal
13 manner and may adjourn the hearing from time to time.
14 Stenographic notes or other transcript of the hearing shall be
15 taken.

16 (2) In all hearings under this chapter, any person inter-
17 ested in the hearing may demand a jury of 6 or the judge of pro-
18 bate on his or her own motion may order a jury of 6 to try the
19 case. The jury shall be summoned and impaneled in accordance
20 with chapter 13 of the revised judicature act of 1961, Act
21 No. 236 of the Public Acts of 1961, as amended, being sections
22 600.1300 to 600.1376 of the Michigan Compiled Laws.

23 (3) A parent, guardian, or other custodian of a child held
24 under this chapter shall have the right to give bond or other
25 security for the appearance of the child at the hearing of the
26 case.

1 (4) The prosecuting attorney shall appear for the people
2 when requested by the court, and in a proceeding under section
3 2(a)(1) of this chapter, the prosecuting attorney shall appear if
4 the proceeding requires a hearing and the taking of testimony.

5 (5) In a proceeding under section 2(b) of this chapter, upon
6 request of the department of social services or an agent of the
7 department under contract with the department, the prosecuting
8 attorney shall serve as a legal consultant to the department or
9 the department's agent at all stages of the proceeding. If in a
10 proceeding under section 2(b) of this chapter the prosecuting
11 attorney does not appear on behalf of the department or the
12 department's agent, the department may contract with an attorney
13 of its choice for legal representation.

14 (6) A member of a local foster care review board established
15 under Act No. 422 of the Public Acts of 1984, being sections
16 722.131 to 722.140 of the Michigan Compiled Laws, shall be admit-
17 ted to a hearing under subsection (1). ~~This subsection shall~~
18 ~~apply until October 1, 1989.~~

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

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

2 (b) The psychological maturity of the child witness or
3 victim.

4 (c) The nature of the proceeding.

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

8 (8) As used in subsection (6), "child witness" does not
9 include a child against whom a proceeding is brought under sec-
10 tion 2(a)(1) of this chapter.

11 Sec. 21. (1) An interested person, at any time while the
12 child is under the jurisdiction of the court, may file a peti-
13 tion, in writing and under oath, for a rehearing upon all matters
14 coming within the provisions of this chapter, and upon the
15 rehearing the court may affirm, modify, or set aside any order so
16 reviewed. If parental rights have been terminated by an order
17 entered in the proceedings and custody of the child has been
18 removed from the parents, guardian, or other person, the petition
19 for rehearing shall be filed not later than 20 days after the
20 date of entry of the order terminating parental rights, and the
21 petition shall set forth in detail the place, manner, and all
22 other information requested by the court in reference to the pro-
23 posed future custody of the child. The rehearing shall be con-
24 ducted in accordance with the provisions of this chapter relative
25 to the conduct of original hearings. At any time the court may
26 enter an order for supplemental disposition as long as the child
27 remains under the jurisdiction of the court.

1 (2) As used in subsection (1), "interested person" includes
2 a member of a local foster care review board established under
3 Act No. 422 of the Public Acts of 1984, being sections 722.131 to
4 722.140 of the Michigan Compiled Laws, to which that child's case
5 has been assigned. ~~This subsection shall not apply after~~
6 ~~September 30, 1989.~~

7 Sec. 28. (1) Before June 1, 1988, the court shall maintain
8 records of all cases brought before it and as provided in the
9 juvenile diversion act, Act No. 13 of the Public Acts of 1988,
10 being sections 722.821 to 722.831 of the Michigan Compiled Laws.
11 The records shall be open only by order of the court to persons
12 having a legitimate interest except that diversion records shall
13 be open only as provided in ~~the juvenile diversion act,~~ Act
14 No. 13 of the Public Acts of 1988.

15 (2) Beginning June 1, 1988, the court shall maintain records
16 of all cases brought before it and as provided in ~~the juvenile~~
17 ~~diversion act,~~ Act No. 13 of the Public Acts of 1988. Except as
18 otherwise provided in this subsection, records of a case brought
19 before the court shall be open to the general public. Diversion
20 records shall be open only as provided in ~~the juvenile diversion~~
21 ~~act~~ ACT NO. 13 OF THE PUBLIC ACTS OF 1988. Except as otherwise
22 provided in section ~~48~~ 49 of the crime victim's rights act, Act
23 No. 87 of the Public Acts of 1985, being section ~~780.798~~
24 780.799 of the Michigan Compiled Laws, if the hearing of a case
25 brought before the court is closed pursuant to section 17 of this
26 chapter, the records of that hearing shall be open only by order
27 of the court to persons having a legitimate interest.

1 (3) Whenever the court issues an order in respect to
2 payments by a parent under section 18(2) of this chapter, a copy
3 shall be mailed to the department of treasury. Action taken
4 against parents or adults shall not be released for publicity
5 unless the parents or adults are adjudged guilty of contempt of
6 court. The court shall furnish the department of social services
7 with reports of the administration of the juvenile division in a
8 form as shall be recommended by the Michigan association of pro-
9 bate and juvenile court judges. Copies of these reports shall,
10 upon request, be made available to other state departments by the
11 department of social services.

12 (4) As used in subsections (1) and (2), "persons having a
13 legitimate interest" includes a member of a local foster care
14 review board established under Act No. 422 of the Public Acts of
15 1984, being sections 722.131 to 722.140 of the Michigan Compiled
16 Laws. ~~This subsection shall apply until October 1, 1989.~~