

Act No. 250
Public Acts of 1996
Approved by the Governor
June 11, 1996
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**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senators Bouchard, Gougeon, Bennett, Steil, Carl, DeGrow, Schuette and McManus

ENROLLED SENATE BILL No. 689

AN ACT to amend sections 1, 2, and 2a of chapter XIII A 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 1 as amended by Act No. 224 of the Public Acts of 1988 and sections 2 and 2a as amended by Act No. 192 of the Public Acts of 1994, being sections 712A.1, 712A.2, and 712A.2a of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 1, 2, and 2a of chapter XIII A of Act No. 288 of the Public Acts of 1939, section 1 as amended by Act No. 224 of the Public Acts of 1989 and sections 2 and 2a as amended by Act No. 192 of the Public Acts of 1994, being sections 712A.1, 712A.2, and 712A.2a of the Michigan Compiled Laws, are amended to read as follows:

CHAPTER XIII A

Sec. 1. (1) While proceeding under this chapter, the probate court is the juvenile division of the probate court. Except as otherwise provided, proceedings under this chapter are not criminal proceedings.

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

Sec. 2. The juvenile division of the probate court has the following authority and jurisdiction:

(a) Exclusive original jurisdiction superior to and regardless of the jurisdiction of any other court in proceedings concerning a juvenile under 17 years of age who is found within the county if 1 or more of the following applies:

(1) Except as otherwise provided in this sub-subdivision, the juvenile has violated any municipal ordinance or law of the state or of the United States. The juvenile division of the probate court has jurisdiction over a juvenile 14 years of age or older who is charged with a specified juvenile violation only if the prosecuting attorney files a petition in juvenile court instead of authorizing a complaint and warrant. As used in this sub-subdivision, "specified juvenile violation" means any of the following:

(A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531 of the Michigan Compiled Laws.

(B) A violation of section 84 or 110a(2) of Act No. 328 of the Public Acts of 1931, being sections 750.84 and 750.110a of the Michigan Compiled Laws, if the juvenile is armed with a dangerous weapon. As used in this paragraph, “dangerous weapon” means 1 or more of the following:

(i) A loaded or unloaded firearm, whether operable or inoperable.

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

(C) A violation of section 186a of Act No. 328 of the Public Acts of 1931, being section 750.186a of the Michigan Compiled Laws, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

(i) A high-security or medium-security facility operated by the family independence agency.

(ii) A high-security facility operated by a private agency under contract with the family independence agency.

(D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws.

(E) An attempt to commit a violation described in paragraphs (A) to (D).

(F) Conspiracy to commit a violation described in paragraphs (A) to (D).

(G) Solicitation to commit a violation described in paragraphs (A) to (D).

(H) Any lesser included offense of a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(I) Any other violation arising out of the same transaction as a violation described in paragraphs (A) to (G) if the individual is charged with a violation described in paragraphs (A) to (G).

(2) The juvenile has deserted his or her home without sufficient cause and the court finds on the record that the juvenile has been placed or refused alternative placement or the juvenile and the juvenile’s parent, guardian, or custodian have exhausted or refused family counseling.

(3) The juvenile is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian and the court finds on the record by clear and convincing evidence that court-accessed services are necessary.

(4) The juvenile willfully and repeatedly absents himself or herself from school or other learning program intended to meet the juvenile’s educational needs, or repeatedly violates rules and regulations of the school or other learning program, and the court finds on the record that the juvenile, the juvenile’s parent, guardian, or custodian, and school officials or learning program personnel have met on the juvenile’s educational problems, and educational counseling and alternative agency help have been sought. As used in this sub-subdivision only, “learning program” means an organized educational program that is appropriate, given the age, intelligence, ability, and any psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(b) Jurisdiction in proceedings concerning any juvenile under 18 years of age found within the county:

(1) Whose parent or other person legally responsible for the care and maintenance of the juvenile, when able to do so, neglects or refuses to provide proper or necessary support, education, medical, surgical, or other care necessary for his or her health or morals, who is subject to a substantial risk of harm to his or her mental well-being, who is abandoned by his or her parents, guardian, or other custodian, or who is without proper custody or guardianship. As used in this sub-subdivision:

(A) “Education” means learning based on an organized educational program that is appropriate, given the age, intelligence, ability, and any psychological limitations of a juvenile, in the subject areas of reading, spelling, mathematics, science, history, civics, writing, and English grammar.

(B) “Without proper custody or guardianship” does not mean a parent has placed the juvenile with another person who is legally responsible for the care and maintenance of the juvenile and who is able to and does provide the juvenile with proper care and maintenance.

(2) Whose home or environment, by reason of neglect, cruelty, drunkenness, criminality, or depravity on the part of a parent, guardian, or other custodian, is an unfit place for the juvenile to live in.

(3) Whose parent has substantially failed, without good cause, to comply with a limited guardianship placement plan described in section 424a of the revised probate code, Act No. 642 of the Public Acts of 1978, being section 700.424a of the Michigan Compiled Laws, regarding the juvenile.

(4) Whose parent has substantially failed, without good cause, to comply with a court-structured plan described in section 424b or 424c of the revised probate code, Act No. 642 of the Public Acts of 1978, being sections 700.424b and 700.424c of the Michigan Compiled Laws, regarding the juvenile.

(5) If the juvenile has a guardian under the revised probate code, Act No. 642 of the Public Acts of 1978, being sections 700.1 to 700.993 of the Michigan Compiled Laws, and the juvenile's parent meets both of the following criteria:

(A) The parent, having the ability to support or assist in supporting the juvenile, has failed or neglected, without good cause, to provide regular and substantial support for the juvenile for a period of 2 years or more before the filing of the petition or, if a support order has been entered, has failed to substantially comply with the order for a period of 2 years or more before the filing of the petition.

(B) The parent, having the ability to visit, contact, or communicate with the juvenile, has regularly and substantially failed or neglected, without good cause, to do so for a period of 2 years or more before the filing of the petition.

If a petition is filed in any probate court alleging that a juvenile is within the provisions of subdivision (b)(1), (2), (3), (4), or (5), and the custody of that juvenile is subject to the prior or continuing order of another court of record of this state, the manner of notice to the other court and the authority of the probate court to proceed is governed by rule of the supreme court.

(c) Jurisdiction over juveniles under 18 years of age, jurisdiction of whom has been waived to the juvenile division of the probate court by a circuit court pursuant to a provision in a temporary order for custody of juveniles based upon a complaint for divorce or upon a motion pursuant to a complaint for divorce by the prosecuting attorney, in a divorce judgment dissolving a marriage between the parents of the juveniles, or by an amended judgment relative to the custody of the juvenile in a divorce.

(d) If the court finds on the record that voluntary services have been exhausted or refused, concurrent jurisdiction in proceedings concerning any juvenile between the ages of 17 and 18 found within the county:

(1) Who is repeatedly addicted to the use of drugs or the intemperate use of alcoholic liquors.

(2) Who repeatedly associates with criminal, dissolute, or disorderly persons.

(3) Who is found of his or her own free will and knowledge in a house of prostitution, assignation, or ill-fame.

(4) Who repeatedly associates with thieves, prostitutes, pimps, or procurers.

(5) Who is willfully disobedient to the reasonable and lawful commands of his or her parents, guardian, or other custodian and is in danger of becoming morally depraved.

If any juvenile is brought before the juvenile division of the probate court in a county other than that in which the juvenile resides, the court may, before a hearing and with the consent of the probate judge of the county of residence, enter an order transferring the jurisdiction of the matter to the court of the county of residence. The order is not a legal settlement as defined in section 55 of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.55 of the Michigan Compiled Laws. The order, together with a certified copy of the proceedings in the transferring court, shall be delivered to the court of the county of residence. A case designated as a case in which the juvenile shall be tried in the same manner as an adult under section 2d of this chapter may be transferred for venue or for juvenile disposition, but shall not be transferred on grounds of residency. If the case is not transferred, the case shall be tried by the probate court having jurisdiction of the offense.

(e) Authority to establish or assist in developing a program or programs within the county to prevent delinquency and provide services to act upon reports submitted to the court related to the behavior of juveniles who do not require formal court jurisdiction but otherwise fall within subdivision (a). These services shall be used only if they are voluntarily accepted by the juvenile and his or her parents, guardian, or custodian.

(f) If the court operates a detention home for juveniles within the court's jurisdiction under subdivision (a)(1), authority to place a juvenile within that home pending trial if the juvenile is within the circuit court's jurisdiction under section 606 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.606 of the Michigan Compiled Laws, or within the recorder's court of the city of Detroit's jurisdiction under section 10a(1)(c) of Act No. 369 of the Public Acts of 1919, being section 725.10a of the Michigan Compiled Laws, and if the circuit court or the recorder's court of the city of Detroit orders the juvenile division of the probate court in the same county to place the juvenile in that home. The juvenile division shall comply with that order.

(g) Authority to place a juvenile in a county jail under section 27a of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 764.27a of the Michigan Compiled Laws, if the case is designated by the court under section 2d of this chapter as a case in which the juvenile is to be tried in the same manner as an adult, and the court has determined that there is probable cause to believe that the offense was committed and that there is probable cause to believe the juvenile committed that offense.

Sec. 2a. (1) Except as otherwise provided in subsection (2), if the juvenile division of the probate court has exercised jurisdiction over a juvenile under section 2(a) or (b) of this chapter, jurisdiction shall continue for a period of 2 years beyond the maximum age of jurisdiction conferred under section 2 of this chapter, unless the juvenile is released sooner by court order.

(2) If the juvenile division of the probate court has exercised jurisdiction over a juvenile under section 2(a)(1) of this chapter for an offense that, if committed by an adult, would be a violation or attempted violation of section 72, 83, 84,

86, 88, 89, 91, 110a(2), 186a, 316, 317, 349, 520b, 520c, 520d, 520g, 529, 529a, 530, or 531 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.72, 750.83, 750.84, 750.86, 750.88, 750.89, 750.91, 750.110a, 750.186a, 750.316, 750.317, 750.349, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, 750.530, and 750.531 of the Michigan Compiled Laws, or section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws, jurisdiction may be continued under section 18d of this chapter until the juvenile is 21 years of age.

(3) This section does not apply if the juvenile is sentenced to the jurisdiction of the department of corrections.

(4) As used in this chapter, "child", "juvenile", "minor", or any other term signifying a person under the age of 18 applies to a person 18 years of age or older concerning whom proceedings are commenced in the juvenile division of the probate court under section 2 of this chapter and over whom the juvenile division has continuing jurisdiction pursuant to subsection (1).

Section 2. This amendatory act applies to offenses committed on or after its effective date.

Section 3. This amendatory act shall take effect January 1, 1997.

Section 4. This amendatory act shall not take effect unless all of the following bills of the 88th Legislature are enacted into law:

- (a) Senate Bill No. 281.
- (b) Senate Bill No. 283.
- (c) Senate Bill No. 682.
- (d) Senate Bill No. 699.
- (e) Senate Bill No. 700.
- (f) Senate Bill No. 724.
- (g) Senate Bill No. 867.
- (h) Senate Bill No. 870.
- (i) House Bill No. 4037.
- (j) House Bill No. 4038.
- (k) House Bill No. 4044.
- (l) House Bill No. 4371.
- (m) House Bill No. 4445.
- (n) House Bill No. 4486.
- (o) House Bill No. 4487.
- (p) House Bill No. 4490.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.