

# HOUSE BILL No. 4851

May 31, 2005, Introduced by Rep. Schuitmaker and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled  
"Probate code of 1939,"  
by amending section 2 of chapter XIIA (MCL 712A.2), as amended by  
2001 PA 211.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER XIIA

Sec. 2. The court has the following authority and  
jurisdiction:

(a) Exclusive original jurisdiction superior to and regardless  
of the jurisdiction of another court in proceedings concerning a  
juvenile under ~~17~~ 18 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

1 juvenile has violated any municipal ordinance or law of the state  
2 or of the United States. If the court enters into an agreement  
3 under section 2e of this chapter, the court has jurisdiction over a  
4 juvenile who committed a civil infraction as provided in that  
5 section. The court has jurisdiction over a juvenile 14 years of age  
6 or older who is charged with a specified juvenile violation only if  
7 the prosecuting attorney files a petition in the court instead of  
8 authorizing a complaint and warrant. As used in this sub-  
9 subdivision, "specified juvenile violation" means 1 or more of the  
10 following:

11 (A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,  
12 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328,  
13 MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,  
14 750.349, 750.520b, 750.529, 750.529a, and 750.531.

15 (B) A violation of section 84 or 110a(2) of the Michigan penal  
16 code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is  
17 armed with a dangerous weapon. As used in this paragraph,  
18 "dangerous weapon" means 1 or more of the following:

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

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

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

27 (iv) An object or device that is used or fashioned in a manner

1 to lead a person to believe the object or device is an object or  
2 device described in subparagraphs (i) to (iii).

3 (C) A violation of section 186a of the Michigan penal code,  
4 1931 PA 328, MCL 750.186a, regarding escape or attempted escape  
5 from a juvenile facility, but only if the juvenile facility from  
6 which the individual escaped or attempted to escape was 1 of the  
7 following:

8 (i) A high-security or medium-security facility operated by the  
9 ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** or a  
10 county juvenile agency.

11 (ii) A high-security facility operated by a private agency  
12 under contract with the ~~family independence agency~~ **DEPARTMENT OF**  
13 **HUMAN SERVICES** or a county juvenile agency.

14 (D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of  
15 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

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

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

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

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

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

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

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

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

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

25           (1) Whose parent or other person legally responsible for the  
26 care and maintenance of the juvenile, when able to do so, neglects  
27 or refuses to provide proper or necessary support, education,

1 medical, surgical, or other care necessary for his or her health or  
2 morals, who is subject to a substantial risk of harm to his or her  
3 mental well-being, who is abandoned by his or her parents,  
4 guardian, or other custodian, or who is without proper custody or  
5 guardianship. As used in this sub-subdivision:

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

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

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

20 (3) Whose parent has substantially failed, without good cause,  
21 to comply with a limited guardianship placement plan described in  
22 section 5205 of the estates and protected individuals code, 1998 PA  
23 386, MCL 700.5205, regarding the juvenile.

24 (4) Whose parent has substantially failed, without good cause,  
25 to comply with a court-structured plan described in section 5207 or  
26 5209 of the estates and protected individuals code, 1998 PA 386,  
27 MCL 700.5207 and 700.5209, regarding the juvenile.

1           (5) If the juvenile has a guardian under the estates and  
2 protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102,  
3 and the juvenile's parent meets both of the following criteria:

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

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

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

21           (c) Jurisdiction over juveniles under 18 years of age,  
22 jurisdiction of whom has been waived to the family division of  
23 circuit court by a circuit court under a provision in a temporary  
24 order for custody of juveniles based upon a complaint for divorce  
25 or upon a motion related to a complaint for divorce by the  
26 prosecuting attorney, in a divorce judgment dissolving a marriage  
27 between the juvenile's parents, or by an amended judgment relative

1 to the juvenile's custody in a divorce.

2 (d) If the court finds on the record that voluntary services  
3 have been exhausted or refused, concurrent jurisdiction in  
4 proceedings concerning a juvenile between the ages of 17 and 18  
5 found within the county who is 1 or more of the following:

6 (1) Repeatedly addicted to the use of drugs or the intemperate  
7 use of alcoholic liquors.

8 (2) Repeatedly associating with criminal, dissolute, or  
9 disorderly persons.

10 (3) Found of his or her own free will and knowledge in a house  
11 of prostitution, assignation, or ill-fame.

12 (4) Repeatedly associating with thieves, prostitutes, pimps,  
13 or procurers.

14 (5) Willfully disobedient to the reasonable and lawful  
15 commands of his or her parents, guardian, or other custodian and in  
16 danger of becoming morally depraved.

17 If a juvenile is brought before the court in a county other  
18 than that in which the juvenile resides, before a hearing and with  
19 the consent of the judge of the court in the county of residence,  
20 the court may enter an order transferring jurisdiction of the  
21 matter to the court of the county of residence. Consent to transfer  
22 jurisdiction is not required if the county of residence is a county  
23 juvenile agency and satisfactory proof of residence is furnished to  
24 the court of the county of residence. The order does not constitute  
25 a legal settlement in this state that is required for the purpose  
26 of section 55 of the social welfare act, 1939 PA 280, MCL 400.55.  
27 The order and a certified copy of the proceedings in the

1 transferring court shall be delivered to the court of the county of  
2 residence. A case designated as a case in which the juvenile shall  
3 be tried in the same manner as an adult under section 2d of this  
4 chapter may be transferred for venue or for juvenile disposition,  
5 but shall not be transferred on grounds of residency. If the case  
6 is not transferred, the court having jurisdiction of the offense  
7 shall try the case.

8 (e) Authority to establish or assist in developing a program  
9 or programs within the county to prevent delinquency and provide  
10 services to act upon reports submitted to the court related to the  
11 behavior of a juvenile who does not require formal court  
12 jurisdiction but otherwise falls within subdivision (a). These  
13 services shall be used only if the juvenile and his or her parents,  
14 guardian, or custodian voluntarily accepts them.

15 (f) If the court operates a detention home for juveniles  
16 within the court's jurisdiction under subdivision (a)(1), authority  
17 to place a juvenile within that home pending trial if the juvenile  
18 is within the circuit court's jurisdiction under section 606 of the  
19 revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if  
20 the circuit court orders the family division of circuit court in  
21 the same county to place the juvenile in that home. The family  
22 division of circuit court shall comply with that order.

23 (g) Authority to place a juvenile in a county jail under  
24 section 27a of chapter IV of the code of criminal procedure, 1927  
25 PA 175, MCL 764.27a, if the court designates the case under section  
26 2d of this chapter as a case in which the juvenile is to be tried  
27 in the same manner as an adult and the court determines there is



1 probable cause to believe that the offense was committed and  
2 probable cause to believe the juvenile committed that offense.

3 (h) Jurisdiction over a proceeding under section 2950 or 2950a  
4 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950  
5 and 600.2950a, in which a minor less than 18 years of age is the  
6 respondent, or a proceeding to enforce a valid foreign protection  
7 order issued against a respondent who is a minor less than 18 years  
8 of age. A personal protection order shall not be issued against a  
9 respondent who is a minor less than 10 years of age. Venue for an  
10 initial action under section 2950 or 2950a of the revised  
11 judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, is  
12 proper in the county of residence of either the petitioner or  
13 respondent. If the respondent does not live in this state, venue  
14 for the initial action is proper in the petitioner's county of  
15 residence.