

SENATE BILL No. 251

April 14, 2015, Introduced by Senators PROOS and JONES and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 11 of chapter XIIIA (MCL 712A.11), as amended by 1996 PA 409, and by adding section 2f to chapter XIIIA.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIIA

SEC. 2F. (1) IF THE COURT DETERMINES THAT FORMAL JURISDICTION SHOULD NOT BE ACQUIRED OVER A JUVENILE, THE COURT MAY PROCEED IN AN INFORMAL MANNER REFERRED TO AS A CONSENT CALENDAR.

(2) A CASE SHALL NOT BE PLACED ON THE CONSENT CALENDAR UNLESS THE JUVENILE AND THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN AND THE PROSECUTOR AGREE TO HAVE THE CASE PLACED ON THE CONSENT CALENDAR.

(3) THE COURT MAY TRANSFER A CASE FROM THE FORMAL CALENDAR TO THE CONSENT CALENDAR AT ANY TIME BEFORE DISPOSITION. A CASE

1 INVOLVING THE ALLEGED COMMISSION OF AN OFFENSE AS THAT TERM IS
2 DEFINED IN SECTION 31 OF THE WILLIAM VAN REGENMORTER CRIME VICTIM'S
3 RIGHTS ACT, 1985 PA 87, MCL 780.781, SHALL ONLY BE PLACED ON THE
4 CONSENT CALENDAR UPON COMPLIANCE WITH THE PROCEDURES SET FORTH IN
5 SECTION 36B OF THE WILLIAM VAN REGENMORTER CRIME VICTIM'S RIGHTS
6 ACT, 1985 PA 87, MCL 780.786B.

7 (4) AFTER A CASE IS PLACED ON THE CONSENT CALENDAR, THE
8 PROSECUTOR SHALL PROVIDE THE VICTIM WITH NOTICE AS REQUIRED BY
9 ARTICLE 2 OF THE WILLIAM VAN REGENMORTER CRIME VICTIM'S RIGHTS ACT,
10 1985 PA 87, MCL 780.781 TO 780.802.

11 (5) CONSENT CALENDAR CASES MUST BE MAINTAINED IN THE FOLLOWING
12 NONPUBLIC MANNER:

13 (A) ACCESS TO CONSENT CALENDAR CASE RECORDS SHALL BE PROVIDED
14 TO THE JUVENILE, THE JUVENILE'S PARENTS, GUARDIAN, OR LEGAL
15 CUSTODIAN, THE GUARDIAN AD LITEM, COUNSEL FOR THE JUVENILE, THE
16 DEPARTMENT OF HUMAN SERVICES IF RELATED TO AN INVESTIGATION OF
17 NEGLECT AND ABUSE, LAW ENFORCEMENT PERSONNEL, PROSECUTOR, AND OTHER
18 COURTS.

19 (B) FOR PURPOSES OF THIS SUBSECTION, "CASE RECORDS" INCLUDES
20 THE PLEADINGS, MOTIONS, AUTHORIZED PETITIONS, NOTICES, MEMORANDA,
21 BRIEFS, EXHIBITS, AVAILABLE TRANSCRIPTS, FINDINGS OF THE COURT,
22 REGISTER OF ACTIONS, CONSENT CALENDAR CASE PLAN, AND COURT ORDERS
23 RELATED TO THE CASE PLACED ON THE CONSENT CALENDAR.

24 (C) THE CONTENTS OF THE CONFIDENTIAL FILE, AS DEFINED IN MCR
25 3.903, SHALL CONTINUE TO BE MAINTAINED CONFIDENTIALLY.

26 (6) THE COURT SHALL CONDUCT A CONSENT CALENDAR CONFERENCE WITH
27 THE JUVENILE AND THE JUVENILE'S PARENT, GUARDIAN, OR LEGAL

1 CUSTODIAN TO DISCUSS THE ALLEGATIONS. THE PROSECUTING ATTORNEY AND
2 VICTIM MAY BE, BUT ARE NOT REQUIRED TO BE, PRESENT.

3 (7) IF IT APPEARS TO THE COURT THAT THE JUVENILE HAS ENGAGED
4 IN CONDUCT THAT WOULD SUBJECT THE JUVENILE TO THE JURISDICTION OF
5 THE COURT, THE COURT SHALL ISSUE A WRITTEN CONSENT CALENDAR CASE
6 PLAN. ALL OF THE FOLLOWING APPLY TO A CONSENT CALENDAR CASE PLAN:

7 (A) THE PLAN MAY INCLUDE A REQUIREMENT THAT THE JUVENILE PAY
8 ACTUAL COURT COSTS AND MUST INCLUDE A REQUIREMENT THAT THE JUVENILE
9 PAY RESTITUTION UNDER THE WILLIAM VAN REGENMORTER CRIME VICTIM'S
10 RIGHTS ACT, 1985 PA 87, MCL 780.751 TO 780.834.

11 (B) A CONSENT CALENDAR CASE PLAN SHALL NOT CONTAIN A PROVISION
12 REMOVING THE JUVENILE FROM THE CUSTODY OF THE JUVENILE'S PARENT,
13 GUARDIAN, OR LEGAL CUSTODIAN.

14 (C) THE CONSENT CALENDAR CASE PLAN IS NOT AN ORDER OF THE
15 COURT, BUT SHALL BE INCLUDED AS A PART OF THE CASE RECORD.

16 (D) VIOLATION OF THE TERMS OF THE CONSENT CALENDAR CASE PLAN
17 MAY RESULT IN THE COURT'S RETURNING THE CASE TO THE FORMAL CALENDAR
18 FOR FURTHER PROCEEDINGS CONSISTENT WITH SUBSECTION (10).

19 (8) THE COURT SHALL NOT ENTER AN ORDER OF DISPOSITION IN A
20 CASE WHILE IT IS PLACED ON THE CONSENT CALENDAR.

21 (9) UPON SUCCESSFUL COMPLETION BY THE JUVENILE OF THE CONSENT
22 CALENDAR CASE PLAN, THE COURT SHALL CLOSE THE CASE AND SHALL
23 DESTROY ALL RECORDS OF THE PROCEEDING IN ACCORDANCE WITH THE
24 RECORDS MANAGEMENT POLICIES AND PROCEDURES OF THE STATE COURT
25 ADMINISTRATIVE OFFICE, ESTABLISHED IN ACCORDANCE WITH SUPREME COURT
26 RULES.

27 (10) IF IT APPEARS TO THE COURT AT ANY TIME THAT PROCEEDING ON

1 THE CONSENT CALENDAR IS NOT IN THE BEST INTEREST OF EITHER THE
2 JUVENILE OR THE PUBLIC, THE COURT SHALL PROCEED AS FOLLOWS:

3 (A) IF THE COURT DID NOT AUTHORIZE THE ORIGINAL PETITION, THE
4 COURT MAY, WITHOUT HEARING, TRANSFER THE CASE FROM THE CONSENT
5 CALENDAR TO THE FORMAL CALENDAR ON THE CHARGES CONTAINED IN THE
6 ORIGINAL PETITION TO DETERMINE WHETHER THE PETITION SHOULD BE
7 AUTHORIZED.

8 (B) IF THE COURT AUTHORIZED THE ORIGINAL PETITION, THE COURT
9 MAY TRANSFER THE CASE FROM THE CONSENT CALENDAR TO THE FORMAL
10 CALENDAR ON THE CHARGES CONTAINED IN THE ORIGINAL PETITION ONLY
11 AFTER A HEARING. AFTER TRANSFER TO THE FORMAL CALENDAR, THE COURT
12 SHALL PROCEED WITH THE CASE FROM WHERE IT LEFT OFF BEFORE BEING
13 PLACED ON THE CONSENT CALENDAR.

14 (11) STATEMENTS MADE BY THE JUVENILE DURING THE PROCEEDING ON
15 THE CONSENT CALENDAR SHALL NOT BE USED AGAINST THE JUVENILE AT A
16 TRIAL ON THE FORMAL CALENDAR ON THE SAME CHARGE.

17 (12) UPON A JUDICIAL DETERMINATION THAT THE JUVENILE HAS
18 COMPLETED THE TERMS OF THE CONSENT CALENDAR CASE PLAN, THE COURT
19 SHALL REPORT THE SUCCESSFUL COMPLETION OF THE CONSENT CALENDAR TO
20 THE JUVENILE AND THE DEPARTMENT OF STATE POLICE. THE DEPARTMENT OF
21 STATE POLICE SHALL MAINTAIN A NONPUBLIC RECORD OF THE CASE. THIS
22 RECORD SHALL BE OPEN TO THE COURTS OF THIS STATE, ANOTHER STATE, OR
23 THE UNITED STATES, THE DEPARTMENT OF CORRECTIONS, LAW ENFORCEMENT
24 PERSONNEL, AND PROSECUTORS ONLY FOR USE IN THE PERFORMANCE OF THEIR
25 DUTIES OR TO DETERMINE WHETHER AN EMPLOYEE OF THE COURT,
26 DEPARTMENT, LAW ENFORCEMENT AGENCY, OR PROSECUTOR'S OFFICE HAS
27 VIOLATED HIS OR HER CONDITIONS OF EMPLOYMENT OR WHETHER AN

1 **APPLICANT MEETS CRITERIA FOR EMPLOYMENT WITH THE COURT, DEPARTMENT,**
2 **LAW ENFORCEMENT AGENCY, OR PROSECUTOR'S OFFICE.**

3 Sec. 11. (1) Except as provided in subsection (2), if a person
4 gives information to the court that a juvenile is within section
5 2(a)(2) to (6), (b), (c), or (d) of this chapter, a preliminary
6 inquiry may be made to determine whether the interests of the
7 public or the juvenile require that further action be taken. If the
8 court determines that formal jurisdiction should be acquired, the
9 court shall authorize a petition to be filed. **HOWEVER, THE COURT**
10 **MAY PROCEED ON THE CONSENT CALENDAR UNDER SECTION 2F OF THIS**
11 **CHAPTER IF AT ANY TIME BEFORE DISPOSITION THE COURT DETERMINES THAT**
12 **A CASE SHOULD NOT PROCEED ON THE FORMAL CALENDAR BUT THAT THE**
13 **PROTECTIVE AND SUPPORTIVE ACTION BY THE COURT WILL SERVE THE BEST**
14 **INTERESTS OF THE JUVENILE AND THE PUBLIC.**

15 (2) Only the prosecuting attorney may file a petition
16 requesting the court to take jurisdiction of a juvenile allegedly
17 within section 2(a)(1) of this chapter. If the prosecuting attorney
18 submits a petition requesting the court to take jurisdiction of a
19 juvenile allegedly within section 2(a)(1) of this chapter and the
20 court determines that formal jurisdiction should be acquired, the
21 court shall authorize a petition to be filed.

22 (3) The petition described in subsections (1) and (2) shall be
23 verified and may be upon information and belief. The petition shall
24 set forth plainly the facts that bring the juvenile within this
25 chapter and shall contain all of the following information:

- 26 (a) The juvenile's name, birth date, and address.
27 (b) The name and address of the juvenile's parents.

1 (c) The name and address of the juvenile's legal guardian, if
2 there is one.

3 (d) The name and address of each person having custody or
4 control of the juvenile.

5 (e) The name and address of the juvenile's nearest known
6 relative, if no parent or guardian can be found.

7 (4) If any of the facts required under subsection (3) are not
8 known to the petitioner, the petition shall state that the facts
9 are not known. If the juvenile attains his or her seventeenth
10 birthday after the filing of the petition, the court's jurisdiction
11 shall continue beyond the juvenile's seventeenth birthday and the
12 court may hear and dispose of the petition under this chapter.

13 (5) When a petition is authorized, the court shall examine the
14 court file to determine if a juvenile has had fingerprints taken as
15 required under section 3 of ~~Act No. 289 of the Public Acts of 1925,~~
16 ~~being section 28.243 of the Michigan Compiled Laws. 1925 PA 289,~~
17 **MCL 28.243**. If a juvenile has not had his or her fingerprints
18 taken, the court shall do either of the following:

19 (a) Order the juvenile to submit himself or herself to the
20 police agency that arrested or obtained the warrant for the arrest
21 of the juvenile so the juvenile's fingerprints can be taken.

22 (b) Order the juvenile committed to the custody of the sheriff
23 for the taking of the juvenile's fingerprints.

24 (6) A petition or other court record may be amended at any
25 stage of the proceedings as the ends of justice require.

26 (7) If the juvenile diversion act, ~~Act No. 13 of the Public~~
27 ~~Acts of 1988, being sections 722.821 to 722.831 of the Michigan~~

1 ~~Compiled Laws, 1988 PA 13, MCL 722.821 TO 722.831,~~ is complied with
2 and the court determines that court services can be used in the
3 prevention of delinquency without formal jurisdiction, the court
4 may offer court services to a juvenile without a petition being
5 authorized as provided in section 2(e) of this chapter.