

Act No. 185  
Public Acts of 2016  
Approved by the Governor  
June 20, 2016  
Filed with the Secretary of State  
June 21, 2016  
EFFECTIVE DATE: September 19, 2016

**STATE OF MICHIGAN  
98TH LEGISLATURE  
REGULAR SESSION OF 2016**

Introduced by Senators Proos and Jones

# ENROLLED SENATE BILL No. 251

AN ACT to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” by amending section 11 of chapter XIIA (MCL 712A.11), as amended by 1996 PA 409, and by adding section 2f to chapter XIIA.

*The People of the State of Michigan enact:*

## CHAPTER XIIA

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 involving the alleged commission of an offense as that term is defined in section 31 of the William Van Regenmorter crime victim’s rights act, 1985 PA 87, MCL 780.781, shall only be placed on the consent calendar upon compliance with the procedures set forth in section 36b of the William Van Regenmorter crime victim’s rights act, 1985 PA 87, MCL 780.786b.

(4) After a case is placed on the consent calendar, the prosecutor shall provide the victim with notice as required by article 2 of the William Van Regenmorter crime victim’s rights act, 1985 PA 87, MCL 780.781 to 780.802.

(5) Consent calendar cases must be maintained in the following nonpublic manner:

(a) Access to consent calendar case records shall be provided to the juvenile, the juvenile’s parents, guardian, or legal custodian, the guardian ad litem, counsel for the juvenile, the department of health and human services if related to an investigation of neglect and abuse, law enforcement personnel, prosecutor, and other courts. However, consent calendar case records shall not be disclosed to federal agencies or military recruiters. For purposes of this subsection, “case records” includes the pleadings, motions, authorized petitions, notices, memoranda, briefs, exhibits, available transcripts, findings of the court, register of actions, consent calendar case plan, and court orders related to the case placed on the consent calendar.

(b) The contents of the confidential file, as defined in MCR 3.903, shall continue to be maintained confidentially.

(6) The court shall conduct a consent calendar conference with the juvenile, the juvenile's attorney, if any, and the juvenile's parent, guardian, or legal custodian to discuss the allegations. The prosecuting attorney and victim may be, but are not required to be, present.

(7) If it appears to the court that the juvenile has engaged in conduct that would subject the juvenile to the jurisdiction of the court, the court shall issue a written consent calendar case plan. All of the following apply to a consent calendar case plan:

(a) The plan may include a provision requiring the juvenile, parent, guardian, or legal custodian to reimburse the court for the cost of the consent calendar services for the juvenile. The reimbursement amount shall be reasonable, taking into account the juvenile's income and resources. The plan shall also include a requirement that the juvenile pay restitution under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(b) A consent calendar case plan shall not contain a provision removing the juvenile from the custody of the juvenile's parent, guardian, or legal custodian.

(c) The consent calendar case plan is not an order of the court, but shall be included as a part of the case record.

(d) Violation of the terms of the consent calendar case plan may result in the court's returning the case to the formal calendar for further proceedings consistent with subsection (10).

(8) The court shall not enter an order of disposition in a case while it is on the consent calendar.

(9) Upon successful completion by the juvenile of the consent calendar case plan, the court shall close the case and shall destroy all records of the proceeding in accordance with the records management policies and procedures of the state court administrative office, established in accordance with supreme court rules.

(10) If it appears to the court at any time that proceeding on the consent calendar is not in the best interest of either the juvenile or the public, the court shall proceed as follows:

(a) If the court did not authorize the original petition, the court may, without hearing, transfer the case from the consent calendar to the formal calendar on the charges contained in the original petition to determine whether the petition should be authorized.

(b) If the court authorized the original petition, the court may transfer the case from the consent calendar to the formal calendar on the charges contained in the original petition only after a hearing. After transfer to the formal calendar, the court shall proceed with the case from where it left off before being placed on the consent calendar.

(11) Statements made by the juvenile during the proceeding on the consent calendar shall not be used against the juvenile at a trial on the formal calendar on the same charge.

(12) Upon a judicial determination that the juvenile has completed the terms of the consent calendar case plan, the court shall report the successful completion of the consent calendar to the juvenile and the department of state police. The department of state police shall maintain a nonpublic record of the case. This record shall be open to the courts of this state, another state, or the United States, the department of corrections, law enforcement personnel, and prosecutors only for use in the performance of their duties or to determine whether an employee of the court, department, law enforcement agency, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, department, law enforcement agency, or prosecutor's office.

Sec. 11. (1) Except as provided in subsection (2), if a person gives information to the court that a juvenile is within section 2(a)(2) to (4), (b), (c), or (d) of this chapter, a preliminary inquiry may be made to determine whether the interests of the public or the juvenile require that further action be taken. If the court determines that formal jurisdiction should be acquired, the court shall authorize a petition to be filed. However, the court may proceed on the consent calendar under section 2f of this chapter if at any time before disposition the court determines that a case should not proceed on the formal calendar but that the protective and supportive action by the court will serve the best interests of the juvenile and the public.

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

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

(a) The juvenile's name, birth date, and address.

(b) The name and address of the juvenile's parents.

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

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

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

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

(5) When a petition is authorized, the court shall examine the court file to determine if a juvenile has had fingerprints taken as required under section 3 of 1925 PA 289, MCL 28.243. If a juvenile has not had his or her fingerprints taken, the court shall do either of the following:

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

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

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

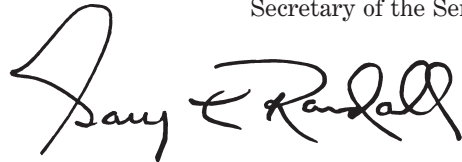
(7) If the juvenile diversion act, 1988 PA 13, MCL 722.821 to 722.831, is complied with and the court determines that court services can be used in the prevention of delinquency without formal jurisdiction, the court may offer court services to a juvenile without a petition being authorized as provided in section 2(e) of this chapter.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

.....  
Governor