

HOUSE BILL No. 5202

November 1, 2017, Introduced by Rep. Kosowski and referred to the Committee on Law and Justice.

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 2014 PA 519.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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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~~**OVER** proceedings concerning a juvenile ~~under~~**LESS THAN** 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 **AND SUBDIVISION (J)**, the juvenile has violated any municipal ordinance or law of the state or of the United States. If the court enters

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

9 (A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,
10 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328,
11 MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,
12 750.349, 750.520b, 750.529, 750.529a, and 750.531.

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

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

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

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

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

1 (C) A violation of section 186a of the Michigan penal code,
2 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
3 from a juvenile facility, but only if the juvenile facility from
4 which the individual escaped or attempted to escape was 1 of the
5 following:

6 (i) A high-security or medium-security facility operated by
7 the department of **HEALTH AND** human services or a county juvenile
8 agency.

9 (ii) A high-security facility operated by a private agency
10 under contract with the department of **HEALTH AND** human services or
11 a county juvenile agency.

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

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

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

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

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

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

26 (2) The juvenile has deserted his or her home without
27 sufficient cause, and the court finds on the record that the

1 juvenile has been placed or refused alternative placement or the
2 juvenile and the juvenile's parent, guardian, or custodian have
3 exhausted or refused family counseling.

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

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

21 (b) Jurisdiction ~~in~~ **OVER** proceedings concerning a juvenile
22 ~~under~~ **LESS THAN** 18 years of age found within the county:

23 (1) Whose parent or other person legally responsible for the
24 care and maintenance of the juvenile, when able to do so, neglects
25 or refuses to provide proper or necessary support, education,
26 medical, surgical, or other care necessary for his or her health or
27 morals, who is subject to a substantial risk of harm to his or her

1 mental well-being, who is abandoned by his or her parents,
2 guardian, or other custodian, or who is without proper custody or
3 guardianship. As used in this sub-subdivision:

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

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

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

18 (3) If the juvenile is dependent and is in danger of
19 substantial physical or psychological harm. The juvenile may be
20 found to be dependent when any of the following occurs:

21 (A) The juvenile is homeless or not domiciled with a parent or
22 other legally responsible person.

23 (B) The juvenile has repeatedly run away from home and is
24 beyond the control of a parent or other legally responsible person.

25 (C) The juvenile is alleged to have committed a commercial
26 sexual activity as that term is defined in section 462a of the
27 Michigan penal code, 1931 PA 328, MCL 750.462a or a delinquent act

1 that is the result of force, fraud, coercion, or manipulation
2 exercised by a parent or other adult.

3 (D) The juvenile's custodial parent or legally responsible
4 person has died or has become permanently incapacitated and no
5 appropriate parent or legally responsible person is willing and
6 able to provide care for the juvenile.

7 (4) Whose parent has substantially failed, without good cause,
8 to comply with a limited guardianship placement plan described in
9 section 5205 of the estates and protected individuals code, 1998 PA
10 386, MCL 700.5205, regarding the juvenile.

11 (5) Whose parent has substantially failed, without good cause,
12 to comply with a court-structured plan described in section 5207 or
13 5209 of the estates and protected individuals code, 1998 PA 386,
14 MCL 700.5207 and 700.5209, regarding the juvenile.

15 (6) If the juvenile has a guardian under the estates and
16 protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206,
17 and the juvenile's parent meets both of the following criteria:

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

25 (B) The parent, having the ability to visit, contact, or
26 communicate with the juvenile, has regularly and substantially
27 failed or neglected, without good cause, to do so for 2 years or

1 more before the filing of the petition.

2 If a petition is filed in the court alleging that a juvenile
3 is within the provisions of subdivision (b)(1), (2), (3), (4), (5),
4 or (6) and the custody of that juvenile is subject to the prior or
5 continuing order of another court of record of this state, the
6 manner of notice to the other court of record and the authority of
7 the court to proceed is governed by rule of the supreme court.

8 (c) Jurisdiction over juveniles ~~under~~ **LESS THAN** 18 years of
9 age, jurisdiction of whom has been waived to the family division of
10 circuit court by a circuit court under a provision in a temporary
11 order for custody of juveniles based upon a complaint for divorce
12 or upon a motion related to a complaint for divorce by the
13 prosecuting attorney, in a divorce judgment dissolving a marriage
14 between the juvenile's parents, or by an amended judgment relative
15 to the juvenile's custody in a divorce.

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

20 (1) Repeatedly addicted to the use of drugs or the intemperate
21 use of alcoholic liquors.

22 (2) Repeatedly associating with criminal, dissolute, or
23 disorderly persons.

24 (3) ~~Found~~ **EXCEPT AS PROVIDED IN SUBDIVISION (J), FOUND** of his
25 or her own free will and knowledge in a house of prostitution,
26 assignation, or ill-fame.

27 (4) ~~Repeatedly~~ **EXCEPT AS PROVIDED IN SUBDIVISION (J),**

1 **REPEATEDLY** associating with thieves, prostitutes, pimps, or
2 procurers.

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

6 If a juvenile is brought before the court in a county other
7 than that in which the juvenile resides, before a hearing and with
8 the consent of the judge of the court in the county of residence,
9 the court may enter an order transferring jurisdiction of the
10 matter to the court of the county of residence. Consent to transfer
11 jurisdiction is not required if the county of residence is a county
12 juvenile agency and satisfactory proof of residence is furnished to
13 the court of the county of residence. The order does not constitute
14 a legal settlement in this state that is required for the purpose
15 of section 55 of the social welfare act, 1939 PA 280, MCL 400.55.
16 The order and a certified copy of the proceedings in the
17 transferring court ~~shall~~**MUST** be delivered to the court of the
18 county of residence. A case designated as a case in which the
19 juvenile ~~shall~~**WILL** be tried in the same manner as an adult under
20 section 2d of this chapter may be transferred for venue or for
21 juvenile disposition, but ~~shall~~**MUST** not be transferred on grounds
22 of residency. If the case is not transferred, the court having
23 jurisdiction of the offense shall try the case.

24 (e) Authority to establish or assist in developing a program
25 or programs within the county to prevent delinquency and provide
26 services to act upon reports submitted to the court related to the
27 behavior of a juvenile who does not require formal court

1 jurisdiction but otherwise falls within subdivision (a). These
2 services ~~shall~~**MUST** be used only if the juvenile and his or her
3 parents, guardian, or custodian voluntarily accepts them.

4 (f) If the court operates a detention home for juveniles
5 within the court's jurisdiction under subdivision (a)(1), authority
6 to place a juvenile within that home pending trial if the juvenile
7 is within the circuit court's jurisdiction under section 606 of the
8 revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if
9 the circuit court orders the family division of circuit court in
10 the same county to place the juvenile in that home. The family
11 division of circuit court shall comply with that order.

12 (g) Authority to place a juvenile in a county jail under
13 section 27a of chapter IV of the code of criminal procedure, 1927
14 PA 175, MCL 764.27a, if the court designates the case under section
15 2d of this chapter as a case in which the juvenile is to be tried
16 in the same manner as an adult and the court determines there is
17 probable cause to believe that the offense was committed and
18 probable cause to believe the juvenile committed that offense.

19 (h) Jurisdiction over a proceeding under section 2950 or 2950a
20 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950
21 and 600.2950a, in which a minor less than 18 years of age is the
22 respondent, or a proceeding to enforce a valid foreign protection
23 order issued against a respondent who is a minor less than 18 years
24 of age. A personal protection order ~~shall~~**MUST** not be issued
25 against a respondent who is a minor less than 10 years of age.
26 Venue for an initial action under section 2950 or 2950a of the
27 revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and

1 600.2950a, is proper in the county of residence of either the
2 petitioner or respondent. If the respondent does not live in this
3 state, venue for the initial action is proper in the petitioner's
4 county of residence.

5 (i) In a proceeding under this chapter concerning a juvenile's
6 care and supervision, the court may issue orders affecting a party
7 as necessary. This subdivision does not apply after May 1, 2018. As
8 used in this subdivision, "party" means 1 of the following:

9 (i) In a delinquency proceeding, the petitioner and juvenile.

10 (ii) In a child protective proceeding, the petitioner,
11 department of **HEALTH AND** human services, child, respondent, parent,
12 guardian, or legal custodian, and any licensed child caring
13 institution or child placing agency under contract with the
14 department of **HEALTH AND** human services to provide for a juvenile's
15 care and supervision.

16 **(J) JURISDICTION OVER PROCEEDINGS CONCERNING A JUVENILE LESS**
17 **THAN 18 YEARS OF AGE FOUND TO BE ENGAGING IN CONDUCT THAT WOULD BE**
18 **A VIOLATION OF SECTION 448, 449, 449A, 450, 451, 452, 454, 455,**
19 **456, 457, 458, 459, OR 462 OF THE MICHIGAN PENAL CODE, 1931 PA 328,**
20 **MCL 750.448, 750.449, 750.449A, 750.450, 750.451, 750.452, 750.454,**
21 **750.455, 750.456, 750.457, 750.458, 750.459, AND 750.462, OR A**
22 **LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION 448, 449,**
23 **449A, 450, 451, 452, 454, 455, 456, 457, 458, 459, OR 462 OF THE**
24 **MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.448, 750.449, 750.449A,**
25 **750.450, 750.451, 750.452, 750.454, 750.455, 750.456, 750.457,**
26 **750.458, 750.459, AND 750.462, IF ENGAGED IN BY A PERSON WHO IS 18**
27 **YEARS OF AGE OR OLDER. THIS SUBDIVISION APPLIES TO ANY CASE FILED**

1 ON OR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
2 THIS SUBDIVISION AND TO CASES PENDING IN THE CIRCUIT COURT ON THAT
3 EFFECTIVE DATE. ANY CASE PENDING IN THE CIRCUIT COURT ON THE
4 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION
5 MUST BE TRANSFERRED TO THE PROBATE COURT FOR PROCEEDINGS UNDER THIS
6 SUBDIVISION.

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

9 Enacting section 2. This amendatory act does not take effect
10 unless all of the following bills of the 99th Legislature are
11 enacted into law:

12 (a) Senate Bill No. _____ or House Bill No. 5203 (request no.
13 03517'17).

14 (b) Senate Bill No. _____ or House Bill No. 5204 (request no.
15 03518'17).

16 (c) Senate Bill No. _____ or House Bill No. 5205 (request no.
17 03519'17).

18 (d) Senate Bill No. _____ or House Bill No. 5206 (request no.
19 03520'17).