

# Legislative Analysis



## JUVENILE DIVERSION ACT

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4625 as enacted**  
**Public Act 287 of 2023**  
**Sponsor: Rep. Brenda Carter**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 4626 as enacted**  
**Public Act 288 of 2023**  
**Sponsor: Rep. Kara Hope**

**House Committee: Criminal Justice**  
**Senate Committee: Committee of the Whole**  
**Complete to 1-20-24**

### SUMMARY:

House Bills 4625 and 4626 amend the Juvenile Diversion Act to allow, and in some cases require, the use of a risk screening tool and a mental health screening tool before a diversion decision is made for a minor; to generally prohibit the terms of a diversion agreement from taking longer than three months to complete; and to provide that a minor accused or charged with a specified juvenile violation (instead of an assaultive crime) cannot be diverted.

The bills take effect October 1, 2024.

The act defines *divert* or *diversion* as the placement that occurs when a formally recorded apprehension is made by a law enforcement agency for an act by a minor that if a petition were filed with the court would bring that minor within section 2(a) of chapter XIIA of the Probate Code (governing Family Division of Circuit Court jurisdiction over violations of law or ordinance and certain status offenses), and instead of petitioning the court or authorizing a petition, either of the following occurs:

- The minor is released into the custody of their parent, guardian, or custodian and the investigation is discontinued.
- The minor and the minor's parent, guardian, or custodian agree to work with a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation.

### **Specified juvenile violations**

Currently, the act provides that a juvenile accused of or charged with an assaultive offense must not be diverted, and defines an *assaultive crime* as any of the following:

- Armed robbery (MCL 750.529).
- Assault by strangulation or suffocation (MCL 750.84).
- Assault with a deadly weapon (MCL 750.82).
- Assault with intent to commit a felony (MCL 750.87).
- Assault with intent to commit criminal sexual conduct (MCL 750.520g).
- Assault with intent to commit murder (MCL 750.83).
- Assault with intent to do great bodily harm (MCL 750.84).

- Assault with intent to maim (MCL 750.86).
- Assault with intent to rob while armed (MCL 750.89).
- Assault with intent to rob while unarmed (MCL 750.88).
- Carjacking (MCL 750.529a).
- First-degree criminal sexual conduct (MCL 750.520b).
- First-degree murder (MCL 750.316).
- Fourth-degree criminal sexual conduct (MCL 750.520e).
- Kidnapping (MCL 750.349).
- Kidnapping a child under the age of 14 (MCL 750.350).
- Manslaughter (MCL 750.321).
- Mayhem (MCL 750.397).
- Prisoner taking another person as hostage (MCL 750.349a).
- Second-degree criminal sexual conduct (MCL 750.520c).
- Second-degree murder (MCL 750.317).
- Third-degree criminal sexual conduct (MCL 750.520d).
- Unarmed robbery (MCL 750.530).

House Bill 4625 instead provides that a juvenile accused of or charged with a *specified juvenile violation*, meaning any of the following, must not be diverted:

- Any of the following violations:
  - Armed robbery (MCL 750.529).
  - Assault by strangulation or suffocation, if armed with a dangerous weapon (MCL 750.84).
  - Assault with intent to commit murder (MCL 750.83).
  - Assault with intent to do great bodily harm, if armed with a dangerous weapon (MCL 750.84).
  - Assault with intent to maim (MCL 750.86).
  - Assault with intent to rob while armed (MCL 750.89).
  - Attempted murder (MCL 750.91).
  - Carjacking (MCL 750.529a).
  - Escape or attempted escape from a medium- or high-security facility operated by the Department of Health and Human Services (DHHS) or a county juvenile agency or from a high-security facility operated by a private agency under contract with the DHHS or a county juvenile agency (MCL 750.186a).
  - First-degree arson (MCL 750.72).
  - First-degree criminal sexual conduct (MCL 750.520b).
  - First-degree home invasion, if armed with a dangerous weapon (MCL 750.110a(2)),
  - First-degree murder (MCL 750.316).
  - Kidnapping (MCL 750.349).
  - Manufacture, creation, or delivery, or possession with intent to do so, of 1,000 grams or more of a Schedule 1 or 2 narcotic or cocaine (MCL 333.7401(2)(a)(i)).
  - Possession of 1,000 grams or more of a Schedule 1 or 2 narcotic or cocaine (MCL 333.7403(2)(a)(i)).
  - Robbery of a bank, safe, or vault (MCL 750.531).
  - Second-degree murder (MCL 750.317).

- Any of the following violations:
  - An attempt, conspiracy, or solicitation to commit any of the crimes specifically listed above.
  - A lesser-included offense of any of the crimes specifically listed above, if the juvenile is charged with that listed crime.
  - Another violation arising out of the same transaction of any of the crimes specifically listed above, if the juvenile is charged with that listed crime.
- Any of the following violations:
  - Assault with a deadly weapon, if committed in a weapon free school zone (MCL 750.82(2)).
  - Manslaughter (MCL 750.321).
  - Mayhem (MCL 750.397).
  - Second-degree criminal sexual conduct (MCL 750.520c).

**Risk and mental health screening tools**

House Bill 4625 allows a risk screening tool and a mental health screening tool to be conducted on a minor before a diversion decision is made for the minor. However, those screening tools cannot be used on a minor who is accused or charged with a specified juvenile violation or who is currently under supervision in the juvenile justice system by the court or by DHHS.

In addition, under the bill, a minor cannot be diverted under an agreement to work with a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation unless both of the following requirements are met:

- The law enforcement official or court intake worker receives the results of a risk screening tool and a mental health screening tool for the minor, conducted by a designated individual or agency trained in those screening tools.
- The law enforcement official or court intake worker uses the results of the risk screening tool and the mental health screening tool, and the best interests of public safety and the minor, to inform the decision to divert the minor.

The bill requires the State Court Administrative Office (SCAO), under the supervision and direction of the supreme court, to create guidelines for the use of the screening tools described above. The screening tools described above must comply with those guidelines and be research-based and nationally validated for use with minors.

Under the bill, the results of a minor’s risk screening tool and mental health screening tool, if conducted, must be included in the information required to be filed with the court when a decision is made to divert a minor.

In addition, a risk screening tool and a mental health screening tool conducted as part of a proceeding under the act, and any information obtained from a minor in the course of those screening or provided by the minor in order to participate in a diversion program (including any admission, confession, or incriminating evidence) are not admissible into evidence in any adjudicatory hearing in which the minor is accused and are not subject to subpoena or any other court process for use in any other proceeding or for any other purpose.

### **Time period of diversion agreement**

House Bill 4626 provides that the time period for a minor to complete the terms of a diversion agreement must not exceed three months, unless the law enforcement official or court intake worker determines that a longer period is needed for the minor to complete a specific treatment program and documents this determination in the information required to be filed with the court when a decision is made to divert a minor. The diversion agreement cannot include a term requiring the reimbursement of costs related to diversion services.

### **Other provisions**

House Bill 4626 requires that, when a decision is made to divert a minor, the time period to complete the terms of the diversion agreement be included in the information that the law enforcement officer or court intake worker must file with the court where the minor lives. (As noted above, if the period exceeds three months, the information also must include the determination that a longer period is necessary for the minor to complete a specific treatment program.) In addition, if the diversion is under an agreement to work with a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation, as described above, the information filed with the court must include the results of the minor's risk screening tool and mental health screening tool.

House Bill 4625 provides that restitution must not be considered when, in cases where a petition has not been filed with the court or not been authorized, a decision is being made as to whether a minor may be diverted and an agreement made to refer the minor to a person or public or private organization or agency that will assist the minor and the minor's family in resolving the problem that initiated the investigation into an alleged offense by the minor.

HB 4625: MCL 722.822, 722.823, and 722.826

HB 4626: MCL 722.825 and 722.826

## **BACKGROUND:**

The Michigan Task Force on Juvenile Justice Reform was created by Executive Order 2021-6 as a bipartisan advisory body in the Department of Health and Human Services<sup>1</sup> to “lead a data-driven analysis of [Michigan’s] juvenile justice system and recommend proven practices and strategies for reform grounded in data, research, and fundamental constitutional principles.” In particular, in the words of its final report,<sup>2</sup> the task force was “charged with developing recommendations to improve state law, policy, and appropriations guided by the following objectives:

- Safely reduce placement in detention and residential placement and associated costs.
- Increase the safety and well-being of youth impacted by the juvenile justice system.
- Reduce racial and ethnic disparities among youth impacted by the juvenile justice system.
- Improve the efficiency and effectiveness of the state’s and counties’ juvenile justice systems.
- Increase accountability and transparency within the juvenile justice system.

---

<sup>1</sup> <https://www.legislature.mi.gov/documents/2021-2022/executiveorder/pdf/2021-EO-06.pdf>

<sup>2</sup> <https://micounties.org/wp-content/uploads/Michigan-Taskforce-on-Juvenile-Justice-Reform-Final-Report.pdf>

- Better align practices with research and constitutional mandates.”

The task force issued its final report on July 18, 2022.<sup>3</sup>

The bills appear to implement parts of the task force’s unanimous recommendations 7 and 9.

### **FISCAL IMPACT:**

House Bills 4625 and 4626 would increase costs for the Department of Health and Human Services and local units of government by an indeterminate amount. The fiscal impact of the bill on the counties would be dependent on the cost of adopting a mental health screening tool and a risk screening tool in accordance with guidelines set by the Supreme Court. Additionally, increased costs to DHHS or local county governments would depend upon an increased number of juveniles that might be diverted and referred for treatment or services under the provisions of the bill. Under the provisions of HB 4624, in-home care would be eligible for a 75% state 25% county reimbursement rate while out-of-home care is eligible for 50% state 50% county reimbursement rate.

Legislative Analyst: Rick Yuille  
Fiscal Analyst: Sydney Brown

---

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

---

<sup>3</sup> <https://www.michigan.gov/whitmer/news/press-releases/2022/07/18/task-force-on-juvenile-justice-reform-approves-blueprint-for-transforming-juvenile-justice>