

# SENATE BILL NO. 420

June 28, 2023, Introduced by Senators IRWIN, CHANG, BAYER, SHINK, WOJNO, GEISS and SANTANA and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1988 PA 13, entitled  
"Juvenile diversion act,"  
by amending sections 5 and 6 (MCL 722.825 and 722.826), as amended  
by 1996 PA 137.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 5. (1) If a decision is made to divert a minor with a  
2 referral under section 3(1)(b), a conference with the minor and the  
3 minor's parent, guardian, or custodian ~~shall~~**must** be held to  
4 consider alternatives to the filing of a petition with the court or  
5 to the authorization of a petition. The law enforcement official or

1 **court** intake worker shall notify the minor and the minor's parent,  
2 guardian, or custodian of the proposed conference and shall inform  
3 the minor, and the minor's parent, guardian, or custodian of all of  
4 the following:

5 (a) That participation in the conference or resulting referral  
6 plan is voluntary.

7 (b) That an attorney may accompany the minor and the minor's  
8 parent, guardian, or custodian at the conference.

9 (c) The alternative referral programs available and the  
10 criteria utilized to determine whether to file a petition with the  
11 court or to dispose of the petition with a referral.

12 (d) That if diversion is agreed to and the minor complies with  
13 the terms of the diversion agreement and the referral plan, a  
14 petition cannot be filed with the court, or if a petition has been  
15 filed, the petition cannot be authorized.

16 (2) The conference to consider alternatives to the filing of a  
17 petition with the court or to consider alternatives to the  
18 authorization of a petition ~~shall~~**must** not be held until after the  
19 questioning, if any, of the minor has been completed or after an  
20 investigation has been made concerning the alleged offense. Mention  
21 of, or promises concerning, diversion ~~shall~~**must** not be made by a  
22 law enforcement official or court intake worker in the presence of  
23 the minor or the minor's parent, guardian, or custodian during any  
24 questioning of the minor. Information divulged by the minor during  
25 the conference or after the diversion is agreed to, but before a  
26 petition is filed with the court or has been authorized, ~~shall~~**must**  
27 not be used against the minor.

28 (3) If a conference held under this section results in  
29 diversion that imposes conditions on the minor and that will

1 prevent the filing of a petition with the court or the  
 2 authorization of a petition, the terms of the diversion agreement  
 3 ~~shall~~**must** be set forth in writing, dated, and signed by the law  
 4 enforcement official or court intake worker, the minor, and the  
 5 minor's parent, guardian, or custodian. **The time period for a minor  
 6 to complete the terms of a diversion agreement must not exceed 3  
 7 months, unless the law enforcement official or court intake worker  
 8 determines that a longer period is needed for the minor to complete  
 9 a specific treatment program and documents this determination as  
 10 required under section 6.**

11 (4) If a conference is held under this section and an  
 12 agreement under subsection (3) is not reached, a petition may be  
 13 filed with the court as provided by law and a petition may be  
 14 authorized as provided by law. If an agreement under subsection (3)  
 15 is not reached and a petition is to be filed, the petition ~~shall~~  
 16 **must** be filed with the court not later than 30 days after the  
 17 conference.

18 (5) If the minor fails to comply with the terms of the  
 19 diversion agreement and the referral plan, the law enforcement  
 20 official or the court intake worker may revoke the diversion  
 21 agreement. If the diversion agreement is revoked, a petition may be  
 22 filed with the court as provided by law and a petition may be  
 23 authorized as provided by law.

24 Sec. 6. (1) When a decision is made to divert a minor, the law  
 25 enforcement official or court intake worker shall file with the  
 26 court in the county in which the minor resides or is found all of  
 27 the following information:

- 28 (a) The minor's name, address, and date of birth.
- 29 (b) The act or offense for which the minor was apprehended.

1 (c) The date and place of the act or offense for which the  
2 minor was apprehended.

3 (d) The diversion decision made, whether referred or released.

4 (e) The nature of the minor's compliance with the diversion  
5 agreement.

6 (f) **The time period to complete the terms of the diversion**  
7 **agreement and, if the period exceeds 3 months, the determination**  
8 **that a longer period is necessary for the minor to complete a**  
9 **specific treatment program.**

10 (2) If a diversion agreement is revoked ~~pursuant to~~ **under**  
11 section 5(5), the law enforcement official or court intake worker  
12 shall file **the fact of and reasons for the revocation** with the  
13 court in which the information described in subsection (1) is  
14 filed. ~~the fact of and reasons for the revocation.~~