

Act No. 533  
Public Acts of 2014  
Approved by the Governor  
January 10, 2015  
Filed with the Secretary of State  
January 14, 2015  
EFFECTIVE DATE: January 14, 2015

**STATE OF MICHIGAN  
97TH LEGISLATURE  
REGULAR SESSION OF 2014**

Introduced by Reps. Jenkins and Kurtz

# ENROLLED HOUSE BILL No. 5745

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 sections 1 and 2a of chapter XIIA (MCL 712A.1 and 712A.2a), section 1 as amended by 2012 PA 541 and section 2a as amended by 2011 PA 226.

*The People of the State of Michigan enact:*

## CHAPTER XIIA

Sec. 1. (1) As used in this chapter:

- (a) “Civil infraction” means that term as defined in section 113 of the revised judicature act of 1961, 1961 PA 236, MCL 600.113.
- (b) “Competency evaluation” means a court-ordered examination of a juvenile directed to developing information relevant to a determination of his or her competency to proceed at a particular stage of a court proceeding involving a juvenile who is the subject of a delinquency petition.
- (c) “Competency hearing” means a hearing to determine whether a juvenile is competent to proceed.
- (d) “County juvenile agency” means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.
- (e) “Court” means the family division of circuit court.
- (f) “Department” means the department of human services. A reference in this chapter to the “department of social welfare” or the “family independence agency” means the department of human services.
- (g) “Foreign protection order” means that term as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.
- (h) “Incompetent to proceed” means that a juvenile, based on age-appropriate norms, lacks a reasonable degree of rational and factual understanding of the proceeding or is unable to do 1 or more of the following:
- (i) Consult with and assist his or her attorney in preparing his or her defense in a meaningful manner.
  - (ii) Sufficiently understand the charges against him or her.

(i) "Juvenile" means a person who is less than 17 years of age who is the subject of a delinquency petition.

(j) "Least restrictive environment" means a supervised community placement, preferably a placement with the juvenile's parent, guardian, relative, or a facility or conditions of treatment that is a residential or institutional placement only utilized as a last resort based on the best interest of the juvenile or for reasons of public safety.

(k) "Licensed child caring institution" means a child caring institution as defined and licensed under 1973 PA 116, MCL 722.111 to 722.128.

(l) "MCI" means the Michigan children's institute created and established by 1935 PA 220, MCL 400.201 to 400.214.

(m) "Mental health code" means the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(n) "Personal protection order" means a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, and includes a valid foreign protection order.

(o) "Qualified juvenile forensic mental health examiner" means 1 of the following who performs forensic mental health examinations for the purposes of sections 1062 to 1074 of the mental health code but does not exceed the scope of his or her practice as authorized by state law:

(i) A psychiatrist or psychologist who possesses experience or training in the following:

(A) Forensic evaluation procedures for juveniles.

(B) Evaluation, diagnosis, and treatment of children and adolescents with emotional disturbance, mental illness, or developmental disabilities.

(C) Clinical understanding of child and adolescent development.

(D) Familiarity with competency standards in this state.

(ii) Beginning September 28, 2014, a mental health professional other than a psychiatrist or psychologist who has completed a juvenile competency training program for forensic mental health examiners that is endorsed by the department under section 1072 of the mental health code and who possesses experience or training in all of the following:

(A) Forensic evaluation procedures for juveniles.

(B) Evaluation, diagnosis, and treatment of children and adolescents with emotional disturbance, mental illness, or developmental disabilities.

(C) Clinical understanding of child and adolescent development.

(D) Familiarity with competency standards in this state.

(p) "Qualified restoration provider" means an individual who the court determines, as a result of the opinion provided by the qualified forensic mental health examiner, has the skills and training necessary to provide restoration services. The court shall take measures to avoid any conflict of interest among agencies or individuals who may provide evaluation and restoration.

(q) "Restoration" means the process by which education or treatment of a juvenile results in that juvenile becoming competent to proceed.

(r) "Serious misdemeanor" means that term as defined in section 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.811.

(s) "Valid foreign protection order" means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

(2) Except as otherwise provided, proceedings under this chapter are not criminal proceedings.

(3) This chapter shall be liberally construed so that each juvenile coming within the court's jurisdiction receives the care, guidance, and control, preferably in his or her own home, conducive to the juvenile's welfare and the best interest of the state. If a juvenile is removed from the control of his or her parents, the juvenile shall be placed in care as nearly as possible equivalent to the care that should have been given to the juvenile by his or her parents.

Sec. 2a. (1) Except as otherwise provided in this section, if the court has exercised jurisdiction over a juvenile under section 2(a) or (b) of this chapter, jurisdiction shall continue for a period of 2 years beyond the maximum age of jurisdiction conferred under section 2 of this chapter, unless the juvenile is released sooner by court order.

(2) If the department files a report with the court under section 15 of the young adult voluntary foster care act, 2011 PA 225, MCL 400.655, the court shall determine whether it is in the youth's best interests to continue in voluntary foster care within 21 days of the filing of the report. A hearing is not required under this subsection, but may be held on the court's own motion or at the request of the youth or the department.

(3) If the court finds that the voluntary foster care agreement is in the youth's best interests, the court shall issue an order containing individualized findings to support its determinations made under subsection (2) and close the case in accordance with section 19 of the young adult voluntary foster care act, 2011 PA 225, MCL 400.659. The individualized findings shall be based on the department's written report and other materials and information submitted to the court.

(4) If the court has appointed a guardian under section 19a or 19c of this chapter for a youth age 16 or older, the court shall retain jurisdiction of the youth until the department determines the youth's eligibility to receive extended guardianship assistance under the young adult voluntary foster care act, 2011 PA 225, MCL 400.641 to 400.671, that shall be completed within 120 days of the youth's eighteenth birthday. If the department determines the youth will receive extended guardianship assistance, the court shall retain jurisdiction of the youth until that youth no longer receives guardianship assistance.

(5) If the court has exercised jurisdiction over a juvenile under section 2(a)(1) of this chapter for an offense that, if committed by an adult, would be a violation or attempted violation of section 72, 83, 84, 86, 88, 89, 91, 110a(2), 186a, 316, 317, 349, 520b, 520c, 520d, 520g, 529, 529a, 530, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.84, 750.86, 750.88, 750.89, 750.91, 750.110a, 750.186a, 750.316, 750.317, 750.349, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, 750.530, and 750.531, or section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, jurisdiction may be continued under section 18d of this chapter until the juvenile is 21 years of age.

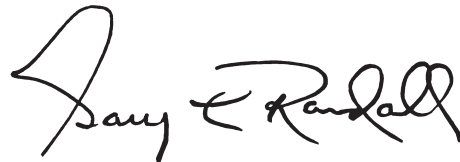
(6) If the court exercised jurisdiction over a child under section 2(h) of this chapter, jurisdiction of the court continues until the order expires but action regarding the personal protection order after the respondent's eighteenth birthday is not subject to this chapter.

(7) This section does not apply if the juvenile is sentenced to the jurisdiction of the department of corrections.

(8) Except as provided in subsection (9), as used in this chapter, "child", "minor", "youth", or any other term signifying a person under the age of 18 applies to a person 18 years of age or older concerning whom proceedings are commenced in the court under section 2 of this chapter and over whom the court has continuing jurisdiction under subsections (1) to (6).

(9) For the purpose of this section only, "juvenile" applies to a person 18 years of age or older concerning whom proceedings are commenced in the court under section 2 of this chapter and over whom the court has continuing jurisdiction under subsections (1) to (6).

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor