



# HOUSE BILL No. 5889

November 10 1994 Introduced by Reps Vorva Galloway McNutt Hammerstrom Crissman London Dalman, Jamian Whyman Sikkema Kaza Jersevic Martin Stille Voorhees Rhead Goschka Fitzgerald Horton Middleton Cropsey Bullard Kukuk Munsell Gnodtke Dobb Dolan Bandstra Brackenridge DeLange, McManus Middaugh, Gernaat Lowe Jaye Hill Llewellyn and Nye and referred to the Committee on Judiciary

A bill to amend section 18d of chapter XIIIA of Act No 288  
of the Public Acts of 1939, entitled as amended

An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property and the statutes governing the change of name of adults and children the adoption of adults and children and the jurisdiction of the juvenile division of the probate court to prescribe the powers and duties of the juvenile division of the probate court and the judges and other officers thereof to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court to prescribe pleading evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court to provide for appeals from the juvenile division of the probate court to prescribe the powers and duties of certain state departments, agencies, and officers and to provide remedies and penalties for the violation of this act,

as amended by Act No 192 of the Public Acts of 1994 being  
section 712A 18d of the Michigan Compiled Laws

IHL PLOPLL OI IHE STALE OI MICHIGAN LNACT

1       Section 1     Section 18d of chapter XIIA of Act No 288 of  
2 the Public Acts of 1939, as amended by Act No 192 of the Public  
3 Acts of 1994 being section 712A 18d of the Michigan Compiled  
4 Laws is amended to read as follows

5                               CHAPTER XIIA

6       Sec 18d     (1) If a child is committed under  
7 section 18(1)(e) of this chapter for an offense that, if commit-  
8 ted by an adult would be a violation or attempted violation of  
9 section 72 83 84 88 89, 91, 316 317 349 520b, 520c 520d  
10 520g 529, 529a or 530 of the Michigan penal code Act No 328  
11 of the Public Acts of 1931 being sections 750 72 750 83,  
12 750 84, 750 88 750 89 750 91 750 316 750 317 750 349  
13 750 520b 750 520c 750 520d, 750 520g 750 529 750 529a and  
14 750 530 of the Michigan Compiled Laws, or section 7401(2)(a)(1)  
15 or 7403(2)(a)(1) of the public health code Act No 368 of the  
16 Public Acts of 1978 being sections 333 7401 and 333 7403 of the  
17 Michigan Compiled Laws the court shall conduct a review hearing  
18 to determine whether the child has been rehabilitated and whether  
19 the child presents a serious risk to public safety If the court  
20 determines that the child has not been rehabilitated or that the  
21 child presents a serious risk to public safety, jurisdiction over  
22 the child shall be continued In making this determination the  
23 court shall consider all of the following

24       (a) The extent and nature of the child s participation in  
25 education, counseling, or work programs

1 (b) The child's willingness to accept responsibility for  
2 prior behavior

3 (c) The child's behavior in his or her current placement

4 (d) The child's prior record and character and his or her  
5 physical and mental maturity

6 (e) The child's potential for violent conduct as demon-  
7 strated by prior behavior

8 (f) The recommendations of the institution agency, or  
9 facility charged with the child's care for the child's release or  
10 continued custody

11 (g) Other information the prosecuting attorney or child may  
12 submit

13 (2) THE CHILD HAS THE BURDEN OF PROOF IN DEMONSTRATING  
14 WHETHER THE CHILD HAS BEEN REHABILITATED OR PRESENTS A SERIOUS  
15 RISK TO PUBLIC SAFETY THE CHILD MAY USE THE COMMITMENT REPORT  
16 REQUIRED BY SUBSECTION (5) IN MEETING THE BURDEN OF PROOF

17 (3) ~~-(2)-~~ Unless adjourned for good cause a review hearing  
18 shall be scheduled and held as near as possible to, but before  
19 the child's nineteenth birthday If the institution agency or  
20 facility to which the child was committed believes the child has  
21 been rehabilitated and does not present a serious risk to public  
22 safety the institution agency, or facility may petition the  
23 court to conduct a review hearing any time before the child  
24 becomes 19 years of age or if the court has continued jurisdic-  
25 tion under subsection (1), any time before the child becomes 21  
26 years of age

1       (4) ~~-(3)-~~ Not less than 14 days before a review hearing is  
2 to be conducted, the prosecuting attorney THE child and if  
3 addresses are known the child s parent or guardian shall be  
4 notified The notice shall state that the court may extend  
5 jurisdiction over the child and shall advise the child and the  
6 child's parent or guardian of the right to legal counsel If  
7 legal counsel has not been retained or appointed to represent the  
8 child the court shall appoint legal counsel and may assess the  
9 cost of providing counsel as costs against the child or those  
10 responsible for the child's support, or both, if the persons to  
11 be assessed are financially able to comply

12       (5) ~~-(4)-~~ The institution agency, or facility charged with  
13 the care of the child shall prepare commitment reports as pro-  
14 vided in section 5 of the juvenile facilities act, Act No 73 of  
15 the Public Acts of 1988, being section 803 225 of the Michigan  
16 Compiled Laws, for use by the court at a review hearing held  
17 under this section