

# HOUSE BILL No. 5335

October 30, 1997, Introduced by Reps. Hale, Law, Leland and Kelly and referred to the Committee on Appropriations.

A bill to amend 1988 PA 73, entitled "The juvenile facilities act," by amending the title and sections 2, 3, 4, 5, 5a, and 6 (MCL 803.222, 803.223, 803.224, 803.225, 803.225a, and 803.226), the title as amended by 1988 PA 176, sections 2 and 4 as amended by 1996 PA 416, and section 5a as added by 1996 PA 511.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

### TITLE

2

An act to provide for certain responsibilities and duties of

3

the ~~department of social services~~ FAMILY INDEPENDENCE AGENCY

4

AND COUNTY JUVENILE AGENCIES and certain facilities, institu-

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tions, and agencies; and to provide for the preparation of cer-

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tain reports pertaining to certain juveniles.

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Sec. 2. As used in this act:

1 (A) "COUNTY JUVENILE AGENCY" MEANS THAT TERM AS DEFINED IN  
2 SECTION 2 OF THE COUNTY JUVENILE AGENCY ACT.

3 (B) ~~(a)~~ "Department" means the family independence  
4 agency.

5 (C) ~~(b)~~ "Juvenile" means a person within the jurisdiction  
6 of the family division of the circuit court under section 2(a) of  
7 chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~  
8 ~~section 712A.2 of the Michigan Compiled Laws~~ 1939 PA 288, MCL  
9 712A.2, within the jurisdiction of the circuit court under sec-  
10 tion 606 of the revised judicature act of 1961, ~~Act No. 236 of~~  
11 ~~the Public Acts of 1961, being section 600.606 of the Michigan~~  
12 ~~Compiled Laws~~ 1961 PA 236, MCL 600.606, or within the jurisdic-  
13 tion of the recorder's court of the city of Detroit under section  
14 10a(1)(c) of ~~Act No. 369 of the Public Acts of 1919, being sec-~~  
15 ~~tion 725.10a of the Michigan Compiled Laws~~ 1919 PA 369, MCL  
16 725.10A.

17 (D) ~~(c)~~ "Juvenile facility" means a county facility, an  
18 institution operated as an agency of the county or the family  
19 division of ~~the~~ circuit court, or ~~a state~~ AN institution or  
20 agency described in the youth rehabilitation services act, ~~Act~~  
21 ~~No. 150 of the Public Acts of 1974, being sections 803.301 to~~  
22 ~~803.309 of the Michigan Compiled Laws~~ 1974 PA 150, MCL 803.301  
23 TO 803.309, to which a juvenile has been committed under section  
24 18(1)(e) of chapter XIIIA of ~~Act No. 288 of the Public Acts of~~  
25 ~~1939, being section 712A.18 of the Michigan Compiled Laws~~ 1939  
26 PA 288, MCL 712A.18, or under section 27a of chapter IV or  
27 section 1 of chapter IX of the code of criminal procedure, ~~Act~~

1 ~~No. 175 of the Public Acts of 1927, being sections 764.27a and~~  
2 ~~769.1 of the Michigan Compiled Laws 1927 PA 175, MCL 764.27A AND~~  
3 ~~769.1.~~

4 Sec. 3. If a juvenile is committed to a juvenile facility,  
5 the department OR COUNTY JUVENILE AGENCY, AS APPLICABLE, shall  
6 prepare for the court that committed the juvenile AN annual  
7 ~~reports~~ REPORT stating the services being provided to the juve-  
8 nile, where the juvenile has been placed, and the juvenile's  
9 progress in that placement.

10 Sec. 4. (1) If a juvenile within the jurisdiction of the  
11 circuit court under section 606 of the revised judicature act of  
12 1961, ~~Act No. 236 of the Public Acts of 1961, being section~~  
13 ~~600.606 of the Michigan Compiled Laws 1961 PA 236, MCL 600.606,~~  
14 or within the jurisdiction of the recorder's court of the city of  
15 Detroit under section 10a(1)(c) of ~~Act No. 369 of the Public~~  
16 ~~Acts of 1919, being section 725.10a of the Michigan Compiled~~  
17 ~~Laws 1919 PA 369, MCL 725.10A,~~ is committed to a juvenile facil-  
18 ity pending trial, the department OR COUNTY JUVENILE AGENCY, AS  
19 APPLICABLE, shall inquire into the juvenile's antecedents, char-  
20 acter, and circumstances and shall report in writing to the court  
21 before the juvenile's sentencing.

22 (2) A report prepared under subsection (1) shall include all  
23 of the following:

24 (a) An evaluation of and a prognosis for the juvenile's  
25 adjustment in the community based on factual information con-  
26 tained in the report.

1 (b) A recommendation as to whether the juvenile is more  
2 likely to be rehabilitated by the services and facilities  
3 available in adult programs and procedures than in juvenile pro-  
4 grams and procedures.

5 (c) A recommendation as to what disposition is in the best  
6 interests of the public welfare and the protection of the public  
7 security.

8 Sec. 5. (1) Before a juvenile hearing under section 18d of  
9 chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~  
10 ~~section 712A.18d of the Michigan Compiled Laws~~ 1939 PA 288, MCL  
11 712A.18D, or under section 1b of chapter IX of the code of crimi-  
12 nal procedure, ~~Act No. 175 of the Public Acts of 1927, being~~  
13 ~~section 769.1b of the Michigan Compiled Laws~~ 1927 PA 175, MCL  
14 769.1B, the department OR COUNTY JUVENILE AGENCY, AS APPLICABLE,  
15 shall prepare a commitment report for the court. A commitment  
16 report shall include all of the following:

17 (a) The services and programs currently being utilized by,  
18 or offered to, the juvenile and the juvenile's participation in  
19 those services and programs.

20 (b) Where the juvenile currently resides and the juvenile's  
21 behavior in his or her current placement.

22 (c) The juvenile's efforts toward rehabilitation.

23 (d) Recommendations for the juvenile's release or continued  
24 custody.

25 (2) If the department OR COUNTY JUVENILE AGENCY, AS  
26 APPLICABLE, believes that the juvenile has been rehabilitated and  
27 does not present a serious risk to public safety, the department

1 OR COUNTY JUVENILE AGENCY may petition the court to conduct a  
2 review hearing at any time before the juvenile becomes 19 years  
3 of age — or, if the committing court has continued jurisdiction  
4 over the juvenile, at any time before the juvenile becomes 21  
5 years of age.

6 (3) The annual report required by section 3 may be combined  
7 with a review hearing under this section.

8 Sec. 5a. (1) A juvenile convicted of or found responsible  
9 for a violation of section 91, 316, or 317 of the Michigan penal  
10 code, ~~Act No. 328 of the Public Acts of 1931, being sections~~  
11 ~~750.91, 750.316, and 750.317 of the Michigan Compiled Laws~~ 1931  
12 PA 328, MCL 750.91, 750.316, AND 750.317, or a violation or  
13 attempted violation of section 349, 520b, 520c, 520d, 520e, or  
14 520g of ~~Act No. 328 of the Public Acts of 1931, being sections~~  
15 ~~750.349, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g of~~  
16 ~~the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328,  
17 MCL 750.349, 750.520B, 750.520C, 750.520D, 750.520E, AND  
18 750.520G, who is under the supervision of the ~~family indepen-~~  
19 ~~dence agency~~ DEPARTMENT OR A COUNTY JUVENILE AGENCY under sec-  
20 tion 18 of chapter XIIIA of ~~Act No. 288 of the Public Acts of~~  
21 ~~1939, being section 712A.18 of the Michigan Compiled Laws~~ 1939  
22 PA 288, MCL 712A.18, shall not be placed in a community placement  
23 of any kind and shall not be discharged from wardship until he or  
24 she has provided samples for chemical testing for DNA identifica-  
25 tion profiling or a determination of the sample's genetic markers  
26 and has provided samples for a determination of his or her  
27 secretor status. However, if, at the time the juvenile is to be

1 discharged from wardship, the department of state police already  
2 has a sample from the juvenile that meets the requirements of the  
3 rules promulgated under the DNA identification profiling system  
4 act, ~~Act No. 250 of the Public Acts of 1990, being sections~~  
5 ~~28.171 to 28.176 of the Michigan Compiled Laws~~ 1990 PA 250, MCL  
6 28.171 TO 28.176, the juvenile is not required to provide another  
7 sample.

8 (2) The samples required to be collected under this section  
9 shall be collected by the department OR COUNTY JUVENILE AGENCY,  
10 AS APPLICABLE, and transmitted by the department OR COUNTY JUVE-  
11 NILE AGENCY to the department of state police in the manner pre-  
12 scribed by rules promulgated under the DNA identification profil-  
13 ing system act, ~~Act No. 250 of the Public Acts of 1990~~ 1990 PA  
14 250, MCL 28.171 TO 28.176.

15 (3) The department OR COUNTY JUVENILE AGENCY may collect a  
16 sample under this section regardless of whether the juvenile con-  
17 sents to the collection. The department OR COUNTY JUVENILE  
18 AGENCY is not required to give the juvenile an opportunity for a  
19 hearing or obtain a court order before collecting the sample.

20 (4) As used in this section, "sample" means a portion of a  
21 juvenile's blood, saliva, or tissue collected from the juvenile.

22 Sec. 6. The department AND A COUNTY JUVENILE AGENCY may  
23 enter into contracts necessary to carry out the duties and  
24 responsibilities of this act.

25 Enacting section 1. This amendatory act does not take  
26 effect unless the United States department of health and human  
27 services grants part 3 of the family independence agency's waiver

1 filed under the child welfare demonstration project to permit a  
2 transfer of title IV-E funding from the state to 1 or more coun-  
3 ties and the family independence agency files with the secretary  
4 of state a certification that the necessary waiver was granted.

5 Enacting section 2. This amendatory act does not take  
6 effect unless all of the following bills of the 89th Legislature  
7 are enacted into law:

8 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
9 (request no. 03597'97 \*).

10 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
11 (request no. 03598'97 \*).

12 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
13 (request no. 03598'97 a \*).

14 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
15 (request no. 03598'97 b \*).

16 (e) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
17 (request no. 03599'97 \*).

18 (f) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
19 (request no. 03644'97 \*).

20 (g) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
21 (request no. 03917'97 \*).