

HOUSE BILL No. 6078

September 16, 1998, Introduced by Rep. LaForge and referred to the Committee on Human Services and Children.

A bill 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; and to provide remedies and penalties,"

by amending section 2 of chapter XIIIA (MCL 712A.2), as amended by 1996 PA 409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIIA

1

2 Sec. 2. The court has the following authority and
3 jurisdiction:

4 (a) Exclusive original jurisdiction superior to and regard-
5 less of the jurisdiction of any other court in proceedings con-
6 cerning a juvenile under 17 years of age who is found within the
7 county if 1 or more of the following ~~applies~~ APPLY:

8 (1) Except as otherwise provided in this sub-subdivision,
9 the juvenile has violated any municipal ordinance or law of the
10 state or of the United States. The court has jurisdiction over a
11 juvenile 14 years of age or older who is charged with a specified
12 juvenile violation only if the prosecuting attorney files a peti-
13 tion in the court instead of authorizing a complaint and
14 warrant. As used in this sub-subdivision, "specified juvenile
15 violation" means any of the following:

16 (A) A violation of section 72, 83, 86, 89, 91, 316, 317,
17 349, 520b, 529, 529a, or 531 of the Michigan penal code, ~~Act~~
18 ~~No. 328 of the Public Acts of 1931, being sections 750.72,~~
19 ~~750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349,~~
20 ~~750.520b, 750.529, 750.529a, and 750.531 of the Michigan Compiled~~
21 ~~Laws.~~ 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91,
22 750.316, 750.317, 750.349, 750.520B, 750.529, 750.529A, AND
23 750.531.

24 (B) A violation of section 84 or 110a(2) of ~~Act No. 328 of~~
25 ~~the Public Acts of 1931, being sections 750.84 and 750.110a of~~
26 ~~the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328,
27 MCL 750.84 AND 750.110A, if the juvenile is armed with a

1 dangerous weapon. As used in this paragraph, "dangerous weapon"
2 means 1 or more of the following:

3 (i) A loaded or unloaded firearm, whether operable or
4 inoperable.

5 (ii) A knife, stabbing instrument, brass knuckles, black-
6 jack, club, or other object specifically designed or customarily
7 carried or possessed for use as a weapon.

8 (iii) An object that is likely to cause death or bodily
9 injury when used as a weapon and that is used as a weapon or car-
10 ried or possessed for use as a weapon.

11 (iv) An object or device that is used or fashioned in a
12 manner to lead a person to believe the object or device is an
13 object or device described in subparagraphs (i) to (iii).

14 (C) A violation of section 186a of ~~Act No. 328 of the~~
15 ~~Public Acts of 1931, being section 750.186a of the Michigan~~
16 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
17 750.186A, regarding escape or attempted escape from a juvenile
18 facility, but only if the juvenile facility from which the indi-
19 vidual escaped or attempted to escape was 1 of the following:

20 (i) A high-security or medium-security facility operated by
21 the family independence agency.

22 (ii) A high-security facility operated by a private agency
23 under contract with the family independence agency.

24 (D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of
25 the public health code, ~~Act No. 368 of the Public Acts of 1978,~~
26 ~~being sections 333.7401 and 333.7403 of the Michigan Compiled~~
27 ~~Laws~~ 1978 PA 368, MCL 333.7401 AND 333.7403.

1 (E) An attempt to commit a violation described in paragraphs
2 (A) to (D).

3 (F) Conspiracy to commit a violation described in paragraphs
4 (A) to (D).

5 (G) Solicitation to commit a violation described in para-
6 graphs (A) to (D).

7 (H) Any lesser included offense of a violation described in
8 paragraphs (A) to (G) if the individual is charged with a viola-
9 tion described in paragraphs (A) to (G).

10 (I) Any other violation arising out of the same transaction
11 as a violation described in paragraphs (A) to (G) if the individ-
12 ual is charged with a violation described in paragraphs (A) to
13 (G).

14 (2) The juvenile has deserted his or her home without suffi-
15 cient cause and the court finds on the record that the juvenile
16 has been placed or refused alternative placement or the juvenile
17 and the juvenile's parent, guardian, or custodian have exhausted
18 or refused family counseling.

19 (3) The juvenile is repeatedly disobedient to the reasonable
20 and lawful commands of his or her parents, guardian, or custodian
21 and the court finds on the record by clear and convincing evi-
22 dence that court-accessed services are necessary.

23 (4) The juvenile willfully and repeatedly absents himself or
24 herself from school or other learning program intended to meet
25 the juvenile's educational needs, or repeatedly violates rules
26 and regulations of the school or other learning program, and the
27 court finds on the record that the juvenile, the juvenile's

1 parent, guardian, ~~or~~ custodian, OR NONPARENT ADULT, and school
2 officials or learning program personnel have met on the
3 juvenile's educational problems, and educational counseling and
4 alternative agency help have been sought. As used in this
5 sub-subdivision only, "learning program" means an organized edu-
6 cational program that is appropriate, given the age, intelli-
7 gence, ability, and any psychological limitations of a juvenile,
8 in the subject areas of reading, spelling, mathematics, science,
9 history, civics, writing, and English grammar.

10 (b) Jurisdiction in proceedings concerning any juvenile
11 under 18 years of age found within the county:

12 (1) Whose parent or other person legally responsible for the
13 care and maintenance of the juvenile, when able to do so,
14 neglects or refuses to provide proper or necessary support, edu-
15 cation, medical, surgical, or other care necessary for his or her
16 health or morals, who is subject to a substantial risk of harm to
17 his or her mental well-being, who is abandoned by his or her par-
18 ents, guardian, or other custodian, or who is without proper cus-
19 tody or guardianship. As used in this sub-subdivision:

20 (A) "Education" means learning based on an organized educa-
21 tional program that is appropriate, given the age, intelligence,
22 ability, and any psychological limitations of a juvenile, in the
23 subject areas of reading, spelling, mathematics, science, histo-
24 ry, civics, writing, and English grammar.

25 (B) "Without proper custody or guardianship" does not mean a
26 parent has placed the juvenile with another person who is legally
27 responsible for the care and maintenance of the juvenile and who

1 is able to and does provide the juvenile with proper care and
2 maintenance.

3 (2) Whose home or environment, by reason of neglect, cruel-
4 ty, drunkenness, criminality, or depravity on the part of a
5 parent, guardian, NONPARENT ADULT, or other custodian, is an
6 unfit place for the juvenile to live in.

7 (3) Whose parent has substantially failed, without good
8 cause, to comply with a limited guardianship placement plan
9 described in section 424a of the revised probate code, ~~Act~~
10 ~~No. 642 of the Public Acts of 1978, being section 700.424a of the~~
11 ~~Michigan Compiled Laws~~ 1978 PA 642, MCL 700.424A, regarding the
12 juvenile.

13 (4) Whose parent has substantially failed, without good
14 cause, to comply with a court-structured plan described in
15 section 424b or 424c of the revised probate code, ~~Act No. 642 of~~
16 ~~the Public Acts of 1978, being sections 700.424b and 700.424c of~~
17 ~~the Michigan Compiled Laws~~ 1978 PA 642, MCL 700.424B AND
18 700.424C, regarding the juvenile.

19 (5) If the juvenile has a guardian under the revised probate
20 code, ~~Act No. 642 of the Public Acts of 1978, being sections~~
21 ~~700.1 to 700.993 of the Michigan Compiled Laws~~ 1978 PA 642, MCL
22 700.1 TO 700.993, and the juvenile's parent meets both of the
23 following criteria:

24 (A) The parent, having the ability to support or assist in
25 supporting the juvenile, has failed or neglected, without good
26 cause, to provide regular and substantial support for the
27 juvenile for a period of 2 years or more before the filing of the

1 petition or, if a support order has been entered, has failed to
2 substantially comply with the order for a period of 2 years or
3 more before the filing of the petition.

4 (B) The parent, having the ability to visit, contact, or
5 communicate with the juvenile, has regularly and substantially
6 failed or neglected, without good cause, to do so for a period of
7 2 years or more before the filing of the petition.

8 If a petition is filed in the court alleging that a juvenile
9 is within the provisions of subdivision (b)(1), (2), (3), (4), or
10 (5), and the custody of that juvenile is subject to the prior or
11 continuing order of another court of record of this state, the
12 manner of notice to the other court of record and the authority
13 of the court to proceed is governed by rule of the supreme
14 court.

15 (c) Jurisdiction over juveniles under 18 years of age,
16 jurisdiction of whom has been waived to the family division of
17 circuit court by a circuit court pursuant to a provision in a
18 temporary order for custody of juveniles based upon a complaint
19 for divorce or upon a motion pursuant to a complaint for divorce
20 by the prosecuting attorney, in a divorce judgment dissolving a
21 marriage between the parents of the juveniles, or by an amended
22 judgment relative to the custody of the juvenile in a divorce.

23 (d) If the court finds on the record that voluntary services
24 have been exhausted or refused, concurrent jurisdiction in pro-
25 ceedings concerning any juvenile between the ages of 17 and 18
26 found within the county:

1 (1) Who is repeatedly addicted to the use of drugs or the
2 intemperate use of alcoholic liquors.

3 (2) Who repeatedly associates with criminal, dissolute, or
4 disorderly persons.

5 (3) Who is found of his or her own free will and knowledge
6 in a house of prostitution, assignation, or ill-fame.

7 (4) Who repeatedly associates with thieves, prostitutes,
8 pimps, or procurers.

9 (5) Who is willfully disobedient to the reasonable and
10 lawful commands of his or her parents, guardian, or other custo-
11 dian and is in danger of becoming morally depraved.

12 If any juvenile is brought before the family division of
13 circuit court in a county other than that in which the juvenile
14 resides, the court may, before a hearing and with the consent of
15 the judge of the family division of circuit court in the county
16 of residence, enter an order transferring the jurisdiction of the
17 matter to the court of the county of residence. The order is not
18 a legal settlement as defined in section 55 of the social welfare
19 act, ~~Act No. 280 of the Public Acts of 1939, being section~~
20 ~~400.55 of the Michigan Compiled Laws~~ 1939 PA 280, MCL 400.55.
21 The order, together with a certified copy of the proceedings in
22 the transferring court, shall be delivered to the court of the
23 county or circuit of residence. A case designated as a case in
24 which the juvenile shall be tried in the same manner as an adult
25 under section 2d of this chapter may be transferred for venue or
26 for juvenile disposition, but shall not be transferred on grounds
27 of residency. If the case is not transferred, the case shall be

1 tried by the the family division of circuit court having
2 jurisdiction of the offense.

3 (e) Authority to establish or assist in developing a program
4 or programs within the county to prevent delinquency and provide
5 services to act upon reports submitted to the court related to
6 the behavior of juveniles who do not require formal court juris-
7 diction but otherwise fall within subdivision (a). These serv-
8 ices shall be used only if they are voluntarily accepted by the
9 juvenile and his or her parents, guardian, or custodian.

10 (f) If the court operates a detention home for juveniles
11 within the court's jurisdiction under subdivision (a)(1), author-
12 ity to place a juvenile within that home pending trial if the
13 juvenile is within the circuit court's jurisdiction under section
14 606 of the revised judicature act of 1961, ~~Act No. 236 of the~~
15 ~~Public Acts of 1961, being section 600.606 of the Michigan~~
16 ~~Compiled Laws, or within the recorder's court of the city of~~
17 ~~Detroit's jurisdiction under section 10a(1)(c) of Act No. 369 of~~
18 ~~the Public Acts of 1919, being section 725.10a of the Michigan~~
19 ~~Compiled Laws, and if the circuit court or the recorder's court~~
20 ~~of the city of Detroit orders the family division of circuit~~
21 ~~court in the same county to place the juvenile in that home~~ 1961
22 PA 236, MCL 600.606. The family division of circuit court shall
23 comply with that order.

24 (g) Authority to place a juvenile in a county jail under
25 section 27a of chapter IV of the code of criminal procedure, ~~Act~~
26 ~~No. 175 of the Public Acts of 1927, being section 764.27a of the~~
27 ~~Michigan Compiled Laws~~ 1927 PA 175, MCL 764.27A, if the case is

1 designated by the court under section 2d of this chapter as a
2 case in which the juvenile is to be tried in the same manner as
3 an adult, and the court has determined that there is probable
4 cause to believe that the offense was committed and that there is
5 probable cause to believe the juvenile committed that offense.

6 (H) AS USED IN THIS SECTION, "NONPARENT ADULT" MEANS A
7 PERSON WHO MEETS ALL OF THE FOLLOWING CRITERIA:

8 (i) IS 18 YEARS OF AGE OR OLDER.

9 (ii) HAS SUBSTANTIAL AND REGULAR CONTACT WITH THE CHILD
10 UNDER THE JURISDICTION OF THE COURT PURSUANT TO THIS CHAPTER.

11 (iii) IS NOT THAT CHILD'S PARENT OR SOMEONE WHO ACTS IN LOCO
12 PARENTIS TO THE CHILD UNDER THE JURISDICTION OF THE COURT PURSU-
13 ANT TO THIS CHAPTER.

14 (iv) IS NOT RELATED TO THE CHILD UNDER THE JURISDICTION OF
15 THE COURT PURSUANT TO THIS CHAPTER BY BLOOD OR AFFINITY TO THE
16 FOURTH DEGREE.