

COURT JURISDICTION UNDER RAISE THE AGE

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Senate Bill 683 as reported from committee
Sponsor: Sen. Michael D. MacDonald
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety
Complete to 11-2-21

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 118 of 2021)

SUMMARY:

Senate Bill 683 would amend Chapter XIIA of the Probate Code, known as the juvenile code.

One of the changes made by the recently effective Raise the Age legislation¹ is that a person who commits a crime while he or she is *under the age of 18* will first be within the jurisdiction of the family division of the circuit court. (Previously, this applied to a person who was *under the age of 17* at the time the crime was committed).

Senate Bill 683 would provide that, for crimes committed before October 1, 2021 (when the Raise the Age amendments took effect), if an individual is determined during the pendency of a criminal charge in a court other than the family division of the circuit court to have been *under the age of 17* at the time the crime was committed, the case would have to be transferred without delay to the family division of the circuit court of the county where the other court is located or where the individual resides. For an offense committed on or after October 1, 2021, the case would have to be transferred to the family division of the appropriate circuit court if the individual was *under the age of 18* at the time the offense occurred.

In addition, the family division of the circuit court does not now have jurisdiction over a *juvenile after he or she attains the age of 18 years*, except as provided in section 2a of the juvenile code. The bill would provide instead that the family division of the circuit court does not have jurisdiction of an *individual after he or she attains the age of 19 years*, except as provided in section 2a.

(Section 2a applies the term *juvenile*, for the purposes of section 2a only, to a person 18 years of age or older concerning whom proceedings are commenced in the court under section 2 of the juvenile code and over whom the court has continuing jurisdiction under section 2a(1) to (6). Among other things, those provisions continue the jurisdiction of the court for an additional two years beyond the maximum age of jurisdiction in section 2 of the code for juveniles over which the court has exercised jurisdiction under section 2(a) or (b). This had extended the court's continuing jurisdiction over these juveniles to age 19 before the Raise the Age amendments took effect and now extends that jurisdiction to the

¹ See <https://www.legislature.mi.gov/documents/2019-2020/billanalysis/House/pdf/2019-HLA-4133-67514053.pdf>

age of 20. For certain listed felonies for which the court has exercised jurisdiction over a juvenile, section 2a continues the court's jurisdiction to the age of 21.)

MCL 712A.3 and 712A.5

BACKGROUND:

The juvenile court process is very different from the process in place for adults. A person who, as of October 1, 2021, is under 18 and commits a criminal offense is typically adjudicated in the family division of the circuit court. If the person committed a felony, depending on the nature or seriousness of the offense, the person may receive a typical juvenile disposition in the family division (referred to as a delinquency proceeding), receive an adult sentence in the family division, or be waived to adult criminal court and tried and sentenced as an adult.

In general, the following types of cases are under the jurisdiction of the family division of the circuit court:

- Cases involving youths under 18 years of age (as of October 1, 2021) that would be a misdemeanor or a felony if committed by an adult. This includes certain violations under the Michigan Vehicle Code, such as operating while intoxicated (OWI), driving on a suspended license, and operating without insurance.
- Civil infractions and municipal ordinances.
- Status offenses (truancy, running away from home, and incorrigibility). Status offenses do not apply to adults.
- Cases involving abuse or neglect of the juvenile.

BRIEF DISCUSSION:

Provisions of the Raise the Age legislation enacted in 2019 became effective October 1, 2021. Their major change is that if a youth who is 17 years of age commits a crime after that date, he or she will initially be under the jurisdiction of the family division of the circuit court and may be adjudicated as a juvenile in juvenile court rather than automatically being charged as an adult—although he or she may be waived to adult court for certain offenses. However, a 17-year-old who committed a crime before October 1, 2021, is not affected by the Raise the Age amendments and will be charged and tried as an adult in adult court. Senate Bill 683 would add language to the juvenile code clarifying this.

The bill also would amend section 5 of the code to remove the term *juvenile*, which is a defined term referring to a person under the age of 18 who is the subject of a delinquency petition, and replace it with *individual*. The bill would provide that the court's jurisdiction would not continue after the individual reaches 19 years of age (rather than 18 years of age). The bill was said to be needed to extend the jurisdiction of the court another year to provide time for cases to finish being adjudicated before the court lost jurisdiction and the case had to be dismissed. The bill, it was argued, would allow a case to finish adjudication in the family division.

FISCAL IMPACT:

Senate Bill 683 would not have a significant fiscal impact on the Department of Health and Human Services (DHHS) or local units of government

POSITIONS:

The Prosecuting Attorneys Association of Michigan (PAAM) indicated support for the bill. (10-26-21)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Sydney Brown

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.