

HOUSE BILL NO. 4626

May 23, 2023, Introduced by Reps. Hope, Wilson, Tsernoglou, Morse, Paiz, Pohutsky, Byrnes, Miller, Young, Rheingans, Wegela, Dievendorf, Hood, Grant, O'Neal, Breen, Price, Brixie, Morgan, Hoskins, MacDonell, Edwards, Brenda Carter, Brabec, Arbit, Glanville, McKinney, Scott, Conlin and Aiyash and referred to the Committee on Criminal Justice.

A bill to amend 1988 PA 13, entitled
"Juvenile diversion act,"
by amending sections 5 and 6 (MCL 722.825 and 722.826), as amended
by 1996 PA 137.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) If a decision is made to divert a minor with a
2 referral under section 3(1)(b), a conference with the minor and the
3 minor's parent, guardian, or custodian ~~shall~~**must** be held to
4 consider alternatives to the filing of a petition with the court or
5 to the authorization of a petition. The law enforcement official or

1 **court** intake worker shall notify the minor and the minor's parent,
2 guardian, or custodian of the proposed conference and shall inform
3 the minor, and the minor's parent, guardian, or custodian of all of
4 the following:

5 (a) That participation in the conference or resulting referral
6 plan is voluntary.

7 (b) That an attorney may accompany the minor and the minor's
8 parent, guardian, or custodian at the conference.

9 (c) The alternative referral programs available and the
10 criteria utilized to determine whether to file a petition with the
11 court or to dispose of the petition with a referral.

12 (d) That if diversion is agreed to and the minor complies with
13 the terms of the diversion agreement and the referral plan, a
14 petition cannot be filed with the court, or if a petition has been
15 filed, the petition cannot be authorized.

16 (2) The conference to consider alternatives to the filing of a
17 petition with the court or to consider alternatives to the
18 authorization of a petition ~~shall~~**must** not be held until after the
19 questioning, if any, of the minor has been completed or after an
20 investigation has been made concerning the alleged offense. Mention
21 of, or promises concerning, diversion ~~shall~~**must** not be made by a
22 law enforcement official or court intake worker in the presence of
23 the minor or the minor's parent, guardian, or custodian during any
24 questioning of the minor. Information divulged by the minor during
25 the conference or after the diversion is agreed to, but before a
26 petition is filed with the court or has been authorized, ~~shall~~**must**
27 not be used against the minor.

28 (3) If a conference held under this section results in
29 diversion that imposes conditions on the minor and that will

1 prevent the filing of a petition with the court or the
2 authorization of a petition, the terms of the diversion agreement
3 ~~shall~~**must** be set forth in writing, dated, and signed by the law
4 enforcement official or court intake worker, the minor, and the
5 minor's parent, guardian, or custodian. **The time period for a minor
6 to complete the terms of a diversion agreement must not exceed 3
7 months, unless the law enforcement official or court intake worker
8 determines that a longer period is needed for the minor to complete
9 a specific treatment program and documents this determination as
10 required under section 6.**

11 (4) If a conference is held under this section and an
12 agreement under subsection (3) is not reached, a petition may be
13 filed with the court as provided by law and a petition may be
14 authorized as provided by law. If an agreement under subsection (3)
15 is not reached and a petition is to be filed, the petition ~~shall~~
16 **must** be filed with the court not later than 30 days after the
17 conference.

18 (5) If the minor fails to comply with the terms of the
19 diversion agreement and the referral plan, the law enforcement
20 official or the court intake worker may revoke the diversion
21 agreement. If the diversion agreement is revoked, a petition may be
22 filed with the court as provided by law and a petition may be
23 authorized as provided by law.

24 Sec. 6. (1) When a decision is made to divert a minor, the law
25 enforcement official or court intake worker shall file with the
26 court in the county in which the minor resides or is found all of
27 the following information:

28 (a) The minor's name, address, and date of birth.

29 (b) The act or offense for which the minor was apprehended.

1 (c) The date and place of the act or offense for which the
2 minor was apprehended.

3 (d) The diversion decision made, whether referred or released.

4 (e) The nature of the minor's compliance with the diversion
5 agreement.

6 (f) **The time period to complete the terms of the diversion**
7 **agreement and, if the period exceeds 3 months, the determination**
8 **that a longer period is necessary for the minor to complete a**
9 **specific treatment program.**

10 (2) If a diversion agreement is revoked ~~pursuant to~~ **under**
11 section 5(5), the law enforcement official or court intake worker
12 shall file **the fact of and reasons for the revocation** with the
13 court in which the information described in subsection (1) is
14 filed. ~~the fact of and reasons for the revocation.~~