

SENATE BILL No. 283

April 23, 1991, Introduced by Senators DI NELLO and BARCIA
and referred to the Committee on Family Law, Criminal Law,
and Corrections.

A bill to amend section 2 of chapter XIIA 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. 314 of the Public Acts of 1990, being
section 712A.2 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2 of chapter XIIA of Act No. 288 of the
2 Public Acts of 1939, as amended by Act No. 314 of the Public Acts
3 of 1990, being section 712A.2 of the Michigan Compiled Laws, is
4 amended to read as follows:

5 **CHAPTER XIIA**

6 Sec. 2. The juvenile division of the probate court shall
7 have the following authority and jurisdiction:

8 (a) Exclusive original jurisdiction superior to and regard-
9 less of the jurisdiction of any other court in proceedings con-
10 cerning a child under 17 years of age who is found within the
11 county if 1 or more of the following applies:

(1) Except as otherwise provided in this subparagraph, the child has violated any municipal ordinance or law of the state or of the United States. The juvenile division of the probate court shall have jurisdiction over a child ~~15~~ 13 years of age or older who is charged with a violation of section 83, 89, 91, 316, 317, 520b, or 529 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.83, 750.89, 750.91, 750.316, 750.317, 750.520b, and 750.529 of the Michigan Compiled Laws, or section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws, if the prosecuting attorney files a petition in juvenile court instead of authorizing a complaint and warrant.

25 (2) The child has deserted his or her home without
26 sufficient cause and the court finds on the record that the child

1 has been placed or refused alternative placement or the child and
2 the child's parent, guardian, or custodian have exhausted or
3 refused family counseling.

4 (3) The child is repeatedly disobedient to the reasonable
5 and lawful commands of his or her parents, guardian, or custodian
6 and the court finds on the record by clear and convincing evi-
7 dence that court-accessed services are necessary.

8 (4) The child willfully and repeatedly absents himself or
9 herself from school or other learning program intended to meet
10 the child's educational needs, or repeatedly violates rules and
11 regulations of the school or other learning program, and the
12 court finds on the record that the child, the child's parent,
13 guardian, or custodian, and school officials or learning program
14 personnel have met on the child's educational problems, and edu-
15 cational counseling and alternative agency help have been
16 sought. As used in this subparagraph only, "learning program"
17 means an organized educational program that is appropriate, given
18 the age, intelligence, ability, and any psychological limitations
19 of a child, in the subject areas of reading, spelling, mathemat-
20 ics, science, history, civics, writing, and English grammar.

21 (b) Jurisdiction in proceedings concerning any child under
22 18 years of age found within the county:

23 (1) Whose parent or other person legally responsible for the
24 care and maintenance of the child, when able to do so, neglects
25 or refuses to provide proper or necessary support, education,
26 medical, surgical, or other care necessary for his or her health
27 or morals, who is subject to a substantial risk of harm to his or

1 her mental well-being, who is abandoned by his or her parents,
2 guardian, or other custodian, or who is without proper custody or
3 guardianship. As used in this subparagraph:

4 (A) "Education" means learning based on an organized educa-
5 tional program that is appropriate, given the age, intelligence,
6 ability, and any psychological limitations of a child, in the
7 subject areas of reading, spelling, mathematics, science, histo-
8 ry, civics, writing, and English grammar.

9 (B) "Without proper custody or guardianship" does not
10 include the situation ~~where~~ IN WHICH a parent has placed the
11 child with another person who is legally responsible for the care
12 and maintenance of the child and who is able to and does provide
13 the child with proper care and maintenance.

14 (2) Whose home or environment, by reason of neglect, cruel-
15 ty, drunkenness, criminality, or depravity on the part of a
16 parent, guardian, or other custodian, is an unfit place for the
17 child to live in.

18 (3) Whose parent has substantially failed, without good
19 cause, to comply with a limited guardianship placement plan
20 described in section 424a of the revised probate code, Act
21 No. 642 of the Public Acts of 1978, being section 700.424a of the
22 Michigan Compiled Laws, regarding the child.

23 (4) Whose parent has substantially failed, without good
24 cause, to comply with a court-structured plan described in
25 section 424b or 424c of the revised probate code, Act No. 642 of
26 the Public Acts of 1978, being sections 700.424b and 700.424c of
27 the Michigan Compiled Laws, regarding the child.

1 (5) If the child has a guardian under the revised probate
2 code, Act No. 642 of the Public Acts of 1978, being sections
3 700.1 to 700.993 of the Michigan Compiled Laws, whose parent
4 meets both of the following criteria:

5 (a) The parent, having the ability to support or assist in
6 supporting the child, has failed or neglected, without good
7 cause, to provide regular and substantial support for the child
8 for a period of 2 years or more before the filing of the petition
9 or, if a support order has been entered, has failed to substan-
10 tially comply with the order for a period of 2 years or more
11 before the filing of the petition.

12 (b) The parent, having the ability to visit, contact, or
13 communicate with the child, has regularly and substantially
14 failed or neglected, without good cause, to do so for a period of
15 2 years or more before the filing of the petition.

16 If a petition is filed in any probate court alleging that a
17 child is within the provisions of subdivision (b)(1), (2), (3),
18 (4), or (5), and the custody of that child is subject to the
19 prior or continuing order of another court of record of this
20 state, the manner of notice to the other court and the authority
21 of the probate court to proceed shall be governed by rule of the
22 supreme court.

23 (c) Jurisdiction over children under 18 years of age, juris-
24 diction of whom has been waived to the juvenile division of the
25 probate court by a circuit court pursuant to a provision in a
26 temporary order for custody of children based upon a complaint
27 for divorce or upon a motion pursuant to a complaint for divorce

1 by the prosecuting attorney, in a decree of divorce dissolving a
2 marriage between the parents of the minor children, or by an
3 amended decree relative to the custody of the child in a
4 divorce.

5 (d) If the court finds on the record that voluntary services
6 have been exhausted or refused, concurrent jurisdiction in pro-
7 ceedings concerning any child between the ages of 17 and 18 found
8 within the county:

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

11 (2) Who repeatedly associates with criminal, dissolute, or
12 disorderly persons.

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

15 (4) Who repeatedly associates with thieves, prostitutes,
16 pimps, or procurers.

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

20 If any child is brought before the juvenile division of the
21 probate court in a county other than that in which the child
22 resides, the court may enter an order prior to hearing transfer-
23 ring the jurisdiction of the matter to the court of the county of
24 residence, which shall not be construed as a legal settlement as
25 defined in section 55 of the social welfare act, Act No. 280 of
26 the Public Acts of 1939, as amended, being section 400.55 of the
27 Michigan Compiled Laws, with the consent of the judge of probate

1 of the county of residence, which order, together with a
2 certified copy of the proceedings in the court of the county
3 other than the county of residence, shall be delivered to the
4 court of the county of residence.

5 (e) Authority to establish or assist in the development of a
6 program or programs within the county to prevent delinquency and
7 provide services to act upon reports submitted to the court
8 related to the behavior of children who do not require formal
9 court jurisdiction but otherwise fall within subdivision (a).
10 These services shall be used only if they are voluntarily
11 accepted by the child and his or her parents, guardian, or
12 custodian.

13 (f) If the court operates a detention home for children
14 within the court's jurisdiction under subdivision (a)(1), author-
15 ity to place a child within that home pending trial if the child
16 is within the circuit court's jurisdiction under section 606 of
17 the revised judicature act of 1961, Act No. 236 of the Public
18 Acts of 1961, being section 600.606 of the Michigan Compiled
19 Laws, or within the recorder's court of the city of Detroit's
20 jurisdiction under section 10a(1)(c) of Act No. 369 of the Public
21 Acts of 1919, being section 725.10a of the Michigan Compiled
22 Laws, and the child is ordered so placed by the circuit court or
23 the recorder's court of the city of Detroit. If the circuit
24 court or the recorder's court of the city of Detroit issues an
25 order to the juvenile division of the probate court in the county
26 in which the circuit court or the recorder's court is located and
27 orders a child placed in a detention home operated as an agency

1 of the court pending trial, the juvenile division of the probate
2 court shall comply with that order.

3 Section 2. This amendatory act shall not take effect unless
4 Senate Bill No. 282
5 of the 86th Legislature is enacted into law.