



HOUSE BILL No. 4242

February 11, 1993, Introduced by Reps. McBryde, Llewellyn, Hoffman, Goschka, Kukuk, Dalman, Lowe, London, Hill, Jamian, Hammerstrom, Weeks, Horton, Rocca, Bobier, Galloway, Whyman, Bullard, Bodem, Gernaat, Walberg, Jersevic, Nye, McManus, Porreca, Dolan, Brackenridge, Gnodtke, Middaugh, Gustafson, Dobb, Sikkema, Gilmer, Martin, Shugars, Bankes, Stille, Munsell, Middleton and Fitzgerald and referred to the Committee on Judiciary.

A bill to amend sections 1b and 28 of chapter IX of Act No. 175 of the Public Acts of 1927, entitled as amended "The code of criminal procedure," section 1b of chapter IX as added and section 28 of chapter IX as amended by Act No. 78 of the Public Acts of 1988, being sections 769.1b and 769.28 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1b and 28 of chapter IX of Act No. 175
2 of the Public Acts of 1927, section 1b of chapter IX as added and
3 section 28 of chapter IX as amended by Act No. 78 of the Public
4 Acts of 1988, being sections 769.1b and 769.28 of the Michigan
5 Compiled Laws, are amended to read as follows:

CHAPTER IX

1
2 Sec. 1b. (1) If a juvenile is placed on probation and com-
3 mitted under section 1(3) or (4) of this chapter to a state
4 institution or agency described in the youth rehabilitation serv-
5 ices act, Act No. 150 of the Public Acts of 1974, being sections
6 803.301 to 803.309 of the Michigan Compiled Laws, the court shall
7 conduct a review hearing to determine whether the juvenile has
8 been rehabilitated and whether the juvenile presents a serious
9 risk to public safety. If the court determines that the juvenile
10 has not been rehabilitated or that the juvenile presents a seri-
11 ous risk to public safety, jurisdiction over the juvenile shall
12 be continued. In making this determination, the court shall con-
13 sider the following:

14 (a) The extent and nature of the juvenile's participation in
15 education, counseling, or work programs.

16 (b) The juvenile's willingness to accept responsibility for
17 prior behavior.

18 (c) The juvenile's behavior in his or her current
19 placement.

20 (d) The prior record and character of the juvenile and his
21 or her physical and mental maturity.

22 (e) The juvenile's potential for violent conduct as demon-
23 strated by prior behavior.

24 (f) The recommendations of the state institution or agency
25 charged with the juvenile's care for the juvenile's release or
26 continued custody.

1 (g) Other information the prosecuting attorney or juvenile
2 may submit.

3 (2) A review hearing shall be scheduled and held unless
4 adjourned for good cause as near as possible to, but before, the
5 juvenile's nineteenth birthday. If the state institution or
6 agency to which the juvenile was committed believes that the
7 juvenile has been rehabilitated and that the juvenile does not
8 present a serious risk to public safety, the state institution or
9 agency may petition the court to conduct a review hearing at any
10 time before the juvenile becomes 19 years of age or, if the court
11 has continued jurisdiction under subsection (1), at any time
12 before the juvenile becomes 21 years of age.

13 (3) Not less than 14 days before a review hearing UNDER SUB-
14 SECTION (1) is to be conducted, the prosecuting attorney, juve-
15 nile, and, if addresses are known, the juvenile's parent or
16 guardian shall be notified. The notice shall state that the
17 court may extend jurisdiction over the juvenile and shall advise
18 the juvenile and the juvenile's parent or guardian of the right
19 to legal counsel. If legal counsel has not been retained or
20 appointed to represent the juvenile, the court shall appoint
21 legal counsel and may assess the cost of providing counsel as
22 costs against the juvenile or those responsible for the
23 juvenile's support, or both, if the persons to be assessed are
24 financially able to comply.

25 (4) THE COURT SHALL CONDUCT A FINAL REVIEW OF THE JUVENILE'S
26 PROBATION AND COMMITMENT UNDER SECTION 1(3) NOT LESS THAN 3
27 MONTHS BEFORE THE END OF THE PERIOD THAT THE JUVENILE IS ON

1 PROBATION AND COMMITTED TO THE STATE INSTITUTION AND AGENCY. IF
2 THE COURT DETERMINES AT THIS REVIEW THAT THE BEST INTERESTS OF
3 THE PUBLIC WOULD BE SERVED BY IMPOSING ANY OTHER SENTENCE PRO-
4 VIDED BY LAW FOR AN ADULT OFFENDER, THE COURT MAY IMPOSE THE
5 SENTENCE. IN MAKING ITS DETERMINATION, THE COURT SHALL CONSIDER
6 THE CRITERIA SPECIFIED IN SUBSECTION (1) AND ALL OF THE FOLLOWING
7 CRITERIA:

8 (A) THE EFFECT OF TREATMENT ON THE JUVENILE'S
9 REHABILITATION.

10 (B) WHETHER THE JUVENILE IS LIKELY TO BE DANGEROUS TO THE
11 PUBLIC IF RELEASED.

12 (C) WHAT IS IN THE BEST INTERESTS OF THE PUBLIC WELFARE AND
13 THE PROTECTION OF PUBLIC SECURITY.

14 (5) NOT LESS THAN 14 DAYS BEFORE A FINAL REVIEW HEARING
15 UNDER SUBSECTION (4) IS TO BE CONDUCTED, THE PROSECUTING ATTOR-
16 NEY, JUVENILE, AND, IF ADDRESSES ARE KNOWN, THE JUVENILE'S PARENT
17 OR GUARDIAN SHALL BE NOTIFIED. THE NOTICE SHALL STATE THAT THE
18 COURT MAY IMPOSE A SENTENCE UPON THE JUVENILE PURSUANT TO SUBSEC-
19 TION (4) AND SHALL ADVISE THE JUVENILE AND THE JUVENILE'S PARENT
20 OR GUARDIAN OF THE RIGHT TO LEGAL COUNSEL. IF LEGAL COUNSEL HAS
21 NOT BEEN RETAINED OR APPOINTED TO REPRESENT THE JUVENILE, THE
22 COURT SHALL APPOINT LEGAL COUNSEL AND MAY ASSESS THE COST OF PRO-
23 VIDING COUNSEL AS COSTS AGAINST THE JUVENILE OR THOSE RESPONSIBLE
24 FOR THE JUVENILE'S SUPPORT, OR BOTH, IF THE PERSONS TO BE
25 ASSESSED ARE FINANCIALLY ABLE TO COMPLY.

26 (6) AFTER A SENTENCE IS IMPOSED PURSUANT TO SUBSECTION (4),
27 THE JUVENILE SHALL RECEIVE CREDIT FOR THE PERIOD OF TIME SERVED

1 ON PROBATION AND COMMITTED TO A STATE AGENCY OR INSTITUTION UNDER
2 SECTION 1(3) OF THIS CHAPTER.

3 (7) ~~(4)~~ The state institution or agency charged with the
4 care of the juvenile shall prepare commitment reports as provided
5 in section 5 of the juvenile facilities act, ACT NO. 73 OF THE
6 PUBLIC ACTS OF 1988, BEING SECTION 803.225 OF THE MICHIGAN
7 COMPILED LAWS, for use by the court at a review hearing held
8 under this section.

9 Sec. 28. Notwithstanding any provision of law to the con-
10 trary, ~~in case of the commitment or sentence of~~ a person con-
11 victed of a crime or contempt of court AND COMMITTED OR SENTENCED
12 to imprisonment for a maximum of 1 year or less ~~, the commitment~~
13 ~~or sentence~~ shall be ~~made~~ COMMITTED OR SENTENCED to the county
14 jail of the county in which the person was convicted, and not to
15 a state penal institution. This section ~~shall~~ DOES not apply
16 to a juvenile placed on probation and committed to a state insti-
17 tution or agency described in the youth rehabilitation services
18 act, Act No. 150 of the Public Acts of 1974, being sections
19 803.301 to 803.309 of the Michigan Compiled Laws, under
20 section 1(3) or (4) of this chapter, EXCEPT TO THE EXTENT THE
21 COURT SUBSEQUENTLY IMPOSES A SENTENCE ON THE JUVENILE PURSUANT TO
22 SECTION 1B(4) OF THIS CHAPTER.