



SENATE BILL No. 671

June 2, 1993, Introduced by Senator VAN REGENMORTER and referred to the Committee on Judiciary.

A bill to amend section 2 of chapter XIIIA 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 XIIIA 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:

CHAPTER XIIIA

5
6 Sec. 2. The juvenile division of the probate court ~~shall~~
7 ~~have~~ HAS 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:

12 (1) Except as otherwise provided in this subparagraph, the
13 child has violated any municipal ordinance or law of the state or
14 of the United States. The juvenile division of the probate court
15 ~~shall have~~ HAS jurisdiction over a child 15 years of age or
16 older who is charged with ~~a~~ ANY OF THE FOLLOWING, ONLY IF THE
17 PROSECUTING ATTORNEY FILES A PETITION IN THE JUVENILE DIVISION OF
18 THE PROBATE COURT INSTEAD OF AUTHORIZING A COMPLAINT AND WARRANT:

19 (A) A violation of section 83, 89, 91, 316, 317, 520b, or
20 529 of the Michigan penal code, Act No. 328 of the Public Acts of
21 1931, being sections 750.83, 750.89, 750.91, 750.316, 750.317,
22 750.520b, and 750.529 of the Michigan Compiled Laws, or section
23 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, Act
24 No. 368 of the Public Acts of 1978, being sections 333.7401 and
25 333.7403 of the Michigan Compiled Laws. ~~if the prosecuting~~
26 ~~attorney files a petition in juvenile court instead of~~

1 ~~authorizing a complaint and warrant.~~ THE JUVENILE DIVISION OF
2 THE PROBATE COURT DOES NOT HAVE JURISDICTION OVER A CHILD 15
3 YEARS OF AGE OR OLDER WHO IS CONVICTED OF A LESSER INCLUDED
4 OFFENSE OF A VIOLATION DESCRIBED IN THIS SUB-SUBPARAGRAPH IF THE
5 CHILD IS WITHIN THE CIRCUIT COURT'S JURISDICTION UNDER
6 SECTION 606 OF THE REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF
7 THE PUBLIC ACTS OF 1961, BEING SECTION 600.606 OF THE MICHIGAN
8 COMPILED LAWS, OR WITHIN THE JURISDICTION OF THE RECORDER'S COURT
9 OF THE CITY OF DETROIT UNDER SECTION 10A OF ACT NO. 369 OF THE
10 PUBLIC ACTS OF 1919, BEING SECTION 725.10A OF THE MICHIGAN
11 COMPILED LAWS.

12 (B) A VIOLATION OF A LAW OF THIS STATE PUNISHABLE BY IMPRIS-
13 ONMENT FOR MORE THAN 1 YEAR THAT IS NOT DESCRIBED IN
14 SUB-SUBPARAGRAPH (A) BUT ARISES OUT OF THE SAME COURSE OF CONDUCT
15 AS A VIOLATION DESCRIBED IN SUB-SUBPARAGRAPH (A). THE JUVENILE
16 DIVISION OF THE PROBATE COURT DOES NOT HAVE JURISDICTION OVER A
17 CHILD 15 YEARS OF AGE OR OLDER WHO IS CONVICTED OF A LESSER
18 INCLUDED OFFENSE OF A VIOLATION DESCRIBED IN THIS
19 SUB-SUBPARAGRAPH IF THE CHILD IS WITHIN THE CIRCUIT COURT'S
20 JURISDICTION UNDER SECTION 606 OF ACT NO. 236 OF THE PUBLIC ACTS
21 OF 1961 OR WITHIN THE JURISDICTION OF THE RECORDER'S COURT OF THE
22 CITY OF DETROIT UNDER SECTION 10A OF ACT NO. 369 OF THE PUBLIC
23 ACTS OF 1919.

24 (2) The child has deserted his or her home without suffi-
25 cient cause and the court finds on the record that the child has
26 been placed or refused alternative placement or the child and the

1 child's parent, guardian, or custodian have exhausted or refused
2 family counseling.

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

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

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

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

1 guardian, or other custodian, or who is without proper custody or
2 guardianship. As used in this subparagraph:

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

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

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

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

22 (4) Whose parent has substantially failed, without good
23 cause, to comply with a court-structured plan described in
24 section 424b or 424c of the revised probate code, Act No. 642 of
25 the Public Acts of 1978, being sections 700.424b and 700.424c of
26 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) ~~-(a)-~~ The parent, having the ability to support or
6 assist in supporting the child, has failed or neglected, without
7 good cause, to provide regular and substantial support for the
8 child for a period of 2 years or more before the filing of the
9 petition or, if a support order has been entered, has failed to
10 substantially comply with the order for a period of 2 years or
11 more before the filing of the petition.

12 (B) ~~-(b)-~~ The parent, having the ability to visit, contact,
13 or 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~~ JUDGMENT of divorce
2 dissolving a marriage between the parents of the minor children,
3 or by an amended ~~decree~~ JUDGMENT relative to the custody of the
4 child in a 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 PROBATE judge ~~of~~

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

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

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

1 ~~court is located and orders a child placed in a detention home~~
2 ~~operated as an agency of the court pending trial, the~~ TO PLACE
3 THE CHILD IN THAT HOME. THE juvenile division ~~of the probate~~
4 ~~court~~ shall comply with that order.

5 Section 2. This amendatory act shall not take effect unless
6 all of the following bills of the 87th Legislature are enacted
7 into law:

8 (a) Senate Bill No. 672.

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10 (b) Senate Bill No. 673.

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12 (c) Senate Bill No. 674.

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