

Act No. 258
Public Acts of 1996
Approved by the Governor
June 11, 1996
Filed with the Secretary of State
June 12, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Reps. Hammerstrom, Dalman, Crissman, Rhead, Geiger, Walberg, Fitzgerald, Voorhees, Bullard, Bush, Lowe and Hill
Reps. Anthony, Bodem, Byl, DeHart, DeMars, Dobb, Dolan, Gagliardi, Gnodtke, Goschka, Green, Hanley, Horton, Jaye, Jellema, Jersevic, Johnson, Kaza, Kukuk, Law, Llewellyn, London, McBryde, McNutt, Middaugh, Middleton, Nye, Olshove, Palamara, Perricone, Pitoniak, Rocca, Ryan, Sikkema, Tesanovich, Varga and Weeks named co-sponsors

ENROLLED HOUSE BILL No. 4038

AN ACT to amend sections 17 and 23 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," section 17 as amended by Act No. 73 of the Public Acts of 1989, being sections 712A.17 and 712A.23 of the Michigan Compiled Laws; and to add section 18g.

The People of the State of Michigan enact:

Section 1. Sections 17 and 23 of chapter XIIA of Act No. 288 of the Public Acts of 1939, section 17 as amended by Act No. 73 of the Public Acts of 1989, being sections 712A.17 and 712A.23 of the Michigan Compiled Laws, are amended and section 18g is added to read as follows:

CHAPTER XIIA

Sec. 17. (1) The court may conduct a hearing other than a criminal hearing in an informal manner. The court may adjourn a hearing under this chapter from time to time. The court shall require stenographic notes or other transcript to be taken of the hearing.

(2) In a hearing other than a criminal trial under this chapter, any person interested in the hearing may demand a jury of 6 individuals, or the judge of probate, on his or her own motion, may order a jury of 6 individuals to try the case. In a criminal trial, a jury may be demanded as provided by law. The jury shall be summoned and impaneled in accordance with chapter 13 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.1300 to 600.1376 of the Michigan Compiled Laws, and, in the case of a criminal trial, as provided in chapter VIII of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 768.1 to 768.36 of the Michigan Compiled Laws.

(3) A parent, guardian, or other custodian of a juvenile held under this chapter has the right to give bond or other security for the appearance of the juvenile at the hearing of the case.

(4) The prosecuting attorney shall appear for the people when requested by the court, and in a proceeding under section 2(a)(1) of this chapter, the prosecuting attorney shall appear if the proceeding requires a hearing and the taking of testimony.

(5) In a proceeding under section 2(b) of this chapter, upon request of the family independence agency or an agent of the family independence agency under contract with the family independence agency, the prosecuting attorney shall serve as a legal consultant to the family independence agency or its agent at all stages of the proceeding. If in a proceeding under section 2(b) of this chapter the prosecuting attorney does not appear on behalf of the family independence agency or its agent, the family independence agency may contract with an attorney of its choice for legal representation.

(6) A member of a local foster care review board established under Act No. 422 of the Public Acts of 1984, being sections 722.131 to 722.140 of the Michigan Compiled Laws, shall be admitted to a hearing under subsection (1).

(7) Upon motion of any party or a victim, the court may close the hearing of a case brought under this chapter to members of the general public during the testimony of a juvenile witness or the victim if the court finds that closing the hearing is necessary to protect the welfare of the juvenile witness or the victim. In determining whether closing the hearing is necessary to protect the welfare of the juvenile witness or the victim, the court shall consider the following:

(a) The age of the juvenile witness or the victim.

(b) The psychological maturity of the juvenile witness or the victim.

(c) The nature of the proceeding.

(d) The desire of the juvenile witness or his or her family or guardian or the desire of the victim to have the testimony taken in a room closed to the public.

(8) As used in subsection (7), "juvenile witness" does not include a juvenile against whom a proceeding is brought under section 2(a)(1) of this chapter.

Sec. 18g. (1) In addition to any other disposition under this act, a juvenile other than a juvenile sentenced in the same manner as an adult under section 18(1)(n) of this chapter shall be committed under section 18(1)(e) of this chapter to a detention facility for a specified period of time if all of the following circumstances exist:

(a) The juvenile is under the jurisdiction of the juvenile division of the probate court under section 2(a)(1) of this chapter.

(b) The juvenile is adjudicated as or convicted of violating a criminal municipal ordinance or law of this state or the United States.

(c) The juvenile is found to have used a firearm during the criminal violation.

(2) The period of time specified under subsection (1) shall not exceed the length of the sentence that could have been imposed if the juvenile had been sentenced as an adult.

(3) "Firearm" means that term as defined in section 3t of chapter 1 of the Revised Statutes of 1846, being section 8.3t of the Michigan Compiled Laws.

Sec. 23. Evidence regarding the disposition of a juvenile under this chapter and evidence obtained in a dispositional proceeding under this chapter shall not be used against that juvenile for any purpose in any judicial proceeding except in a subsequent case against that juvenile under this chapter. This section does not apply to a criminal conviction under this chapter.

Section 2. This amendatory act applies to offenses committed on or after its effective date.

Section 3. This amendatory act shall take effect January 1, 1997.

Section 4. This amendatory act shall not take effect unless all of the following bills of the 88th Legislature are enacted into law:

(a) Senate Bill No. 281.

(b) Senate Bill No. 283.

(c) Senate Bill No. 682.

(d) Senate Bill No. 689.

(e) Senate Bill No. 699.

(f) Senate Bill No. 700.

- (g) Senate Bill No. 724.
- (h) Senate Bill No. 867.
- (i) Senate Bill No. 870.
- (j) House Bill No. 4037.
- (k) House Bill No. 4044.
- (l) House Bill No. 4371.
- (m) House Bill No. 4445.
- (n) House Bill No. 4486.
- (o) House Bill No. 4487.
- (p) House Bill No. 4490.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.