

Act No. 137  
Public Acts of 1996  
Approved by the Governor  
March 21, 1996  
Filed with the Secretary of State  
March 21, 1996

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

**Introduced by Reps. Kelly, DeHart, Prusi, Tesanovich, Agee, Hanley, Freeman, Brater, LaForge, Cherry, Curtis, Gire, Jersevic, Profit, Jaye, Dolan, Brewer, Baird, Parks, Pitoniak, Dalman and Willard**

# **ENROLLED HOUSE BILL No. 4980**

AN ACT to amend sections 5 and 6 of Act No. 13 of the Public Acts of 1988, entitled "An act to permit certain minors to be diverted from the juvenile court system; to establish diversion criteria and procedures; to require certain records to be made and kept; to prescribe certain powers and duties of juvenile courts and of law enforcement agencies; and to prescribe certain penalties," being sections 722.825 and 722.826 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 5 and 6 of Act No. 13 of the Public Acts of 1988, being sections 722.825 and 722.826 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 5. (1) If a decision is made to divert a minor with a referral under section 3(1)(b), a conference with the minor and the minor's parent, guardian, or custodian shall be held to consider alternatives to the filing of a petition with the court or to the authorization of a petition. The law enforcement official or intake worker shall notify the minor and the minor's parent, guardian, or custodian of the proposed conference and shall inform the minor, and the minor's parent, guardian, or custodian of all of the following:

- (a) That participation in the conference or resulting referral plan is voluntary.
- (b) That an attorney may accompany the minor and the minor's parent, guardian, or custodian at the conference.
- (c) The alternative referral programs available and the criteria utilized to determine whether to file a petition with the court or to dispose of the petition with a referral.
- (d) That if diversion is agreed to and the minor complies with the terms of the diversion agreement and the referral plan, a petition cannot be filed with the court, or if a petition has been filed, the petition cannot be authorized.

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

(3) If a conference held under this section results in diversion that imposes conditions on the minor and that will prevent the filing of a petition with the court or the authorization of a petition, the terms of the diversion agreement shall be set forth in writing, dated, and signed by the law enforcement official or court intake worker, the minor, and the minor's parent, guardian, or custodian.

(4) If a conference is held under this section and an agreement under subsection (3) is not reached, a petition may be filed with the court as provided by law and a petition may be authorized as provided by law. If an agreement under subsection (3) is not reached and a petition is to be filed, the petition shall be filed with the court not later than 30 days after the conference.

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

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

- (a) The minor's name, address, and date of birth.
- (b) The act or offense for which the minor was apprehended.
- (c) The date and place of the act or offense for which the minor was apprehended.
- (d) The diversion decision made, whether referred or released.
- (e) The nature of the minor's compliance with the diversion agreement.

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

Section 2. This amendatory act shall take effect May 1, 1996.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved -----

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Governor.