

# HOUSE BILL No. 6082

September 16, 1998, Introduced by Reps. Scott and LaForge and referred to the Committee on Human Services and Children.

A bill to amend 1939 PA 288, entitled

"An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties,"

by amending section 17 of chapter XIIIA (MCL 712A.17), as amended by 1997 PA 169.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

## CHAPTER XIIIA

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2       Sec. 17. (1) The court may conduct a hearing other than a  
3 criminal hearing in an informal manner. The court shall require  
4 stenographic notes or another transcript to be taken of the  
5 hearing. The court shall adjourn a hearing or grant a continu-  
6 ance regarding a case under section 2(b) of this chapter only for  
7 good cause with factual findings on the record and not solely  
8 upon stipulation of counsel or for the convenience of a party.  
9 In addition to a factual finding of good cause, the court shall  
10 not adjourn the hearing or grant a continuance unless 1 of the  
11 following is also true:

12       (a) The motion for the adjournment or continuance is made in  
13 writing not less than 14 days before the hearing.

14       (b) The court grants the adjournment or continuance upon its  
15 own motion after taking into consideration the child's best  
16 interests. An adjournment or continuance granted under this sub-  
17 division shall not last more than 28 days unless the court states  
18 on the record the specific reasons why a longer adjournment or  
19 continuance is necessary.

20       (2) In a hearing other than a criminal trial under this  
21 chapter, any person interested in the hearing may demand a jury  
22 of 6 individuals — or the court, on its own motion, may order a  
23 jury of 6 individuals to try the case. In a criminal trial, a  
24 jury may be demanded as provided by law. The jury shall be sum-  
25 moned and impaneled in accordance with chapter 13 of the revised  
26 judicature act of 1961, 1961 PA 236, MCL 600.1300 to 600.1376,  
27 and, in the case of a criminal trial, as provided in chapter VIII

1 of the code of criminal procedure, 1927 PA 175, MCL 768.1 to  
2 768.36.

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

7 (4) The prosecuting attorney shall appear for the people  
8 when requested by the court, and in a proceeding under section  
9 2(a)(1) of this chapter, the prosecuting attorney shall appear if  
10 the proceeding requires a hearing and the taking of testimony.

11 (5) In a proceeding under section 2(b) of this chapter, upon  
12 request of the family independence agency or an agent of the  
13 family independence agency under contract with the family inde-  
14 pendence agency, the prosecuting attorney shall serve as a legal  
15 consultant to the family independence agency or its agent at all  
16 stages of the proceeding. If in a proceeding under section 2(b)  
17 of this chapter the prosecuting attorney does not appear on  
18 behalf of the family independence agency or its agent, the family  
19 independence agency ~~may~~ SHALL contract with an attorney of its  
20 choice for legal representation.

21 (6) A member of a local foster care review board established  
22 under 1984 PA 422, MCL 722.131 to 722.139a, shall be admitted to  
23 a hearing under subsection (1).

24 (7) Upon motion of any party or a victim, the court may  
25 close the hearing of a case brought under this chapter to members  
26 of the general public during the testimony of a juvenile witness  
27 or the victim if the court finds that closing the hearing is

1 necessary to protect the welfare of the juvenile witness or the  
2 victim. In determining whether closing the hearing is necessary  
3 to protect the welfare of the juvenile witness or the victim, the  
4 court shall consider the following:

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

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

8 (c) The nature of the proceeding.

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

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