



HOUSE BILL No. 4855

September 28, 1999, Introduced by Reps. Basham, Bogardus, Hale and Sanborn and referred to the Committee on Education.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 2, 6a, and 11 of chapter XIIA (MCL 712A.2,
712A.6a, and 712A.11), section 2 as amended by 1998 PA 530, sec-
tion 6a as added by 1996 PA 252, and section 11 as amended by
1996 PA 409, and by adding section 17e to chapter XIIA.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

Sec. 2. The court has the following authority and
jurisdiction:

(a) Exclusive original jurisdiction superior to and regard-
less of the jurisdiction of any other court in proceedings con-
cerning a juvenile under 17 years of age who is found within the
county if 1 or more of the following applies:

1 (1) Except as otherwise provided in this sub-subdivision,
2 the juvenile has violated any municipal ordinance or law of the
3 state or of the United States. If the court enters into an
4 agreement under section 2e of this chapter, the court has juris-
5 diction over a juvenile who committed a civil infraction as pro-
6 vided in that section. The court has jurisdiction over a juve-
7 nile 14 years of age or older who is charged with a specified
8 juvenile violation only if the prosecuting attorney files a peti-
9 tion in the court instead of authorizing a complaint and
10 warrant. As used in this sub-subdivision, "specified juvenile
11 violation" means any of the following:

12 (A) A violation of section 72, 83, 86, 89, 91, 316, 317,
13 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA
14 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316,
15 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

16 (B) A violation of section 84 or 110a(2) of the Michigan
17 penal code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile
18 is armed with a dangerous weapon. As used in this paragraph,
19 "dangerous weapon" means 1 or more of the following:

20 (i) A loaded or unloaded firearm, whether operable or
21 inoperable.

22 (ii) A knife, stabbing instrument, brass knuckles, black-
23 jack, club, or other object specifically designed or customarily
24 carried or possessed for use as a weapon.

25 (iii) An object that is likely to cause death or bodily
26 injury when used as a weapon and that is used as a weapon or
27 carried or possessed for use as a weapon.

1 (iv) An object or device that is used or fashioned in a
2 manner to lead a person to believe the object or device is an
3 object or device described in subparagraphs (i) to (iii).

4 (C) A violation of section 186a of the Michigan penal code,
5 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
6 from a juvenile facility, but only if the juvenile facility from
7 which the individual escaped or attempted to escape was 1 of the
8 following:

9 (i) A high-security or medium-security facility operated by
10 the family independence agency or a county juvenile agency.

11 (ii) A high-security facility operated by a private agency
12 under contract with the family independence agency or a county
13 juvenile agency.

14 (D) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of
15 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.

16 (E) An attempt to commit a violation described in paragraphs
17 (A) to (D).

18 (F) Conspiracy to commit a violation described in paragraphs
19 (A) to (D).

20 (G) Solicitation to commit a violation described in para-
21 graphs (A) to (D).

22 (H) Any lesser included offense of a violation described in
23 paragraphs (A) to (G) if the individual is charged with a viola-
24 tion described in paragraphs (A) to (G).

25 (I) Any other violation arising out of the same transaction
26 as a violation described in paragraphs (A) to (G) if the

1 individual is charged with a violation described in paragraphs
2 (A) to (G).

3 (2) The juvenile has deserted his or her home without suffi-
4 cient cause and the court finds on the record that the juvenile
5 has been placed or refused alternative placement or the juvenile
6 and the juvenile's parent, guardian, or custodian have exhausted
7 or refused family counseling.

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

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

25 (5) THE JUVENILE IS ABSENT FROM SCHOOL WITHOUT VALID EXCUSE
26 FOR MORE THAN 5 DAYS IN A SEMESTER IN VIOLATION OF SECTION 1580
27 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1580.

1 (b) Jurisdiction in proceedings concerning any juvenile
2 under 18 years of age found within the county:

3 (1) Whose parent or other person legally responsible for the
4 care and maintenance of the juvenile, when able to do so,
5 neglects or refuses to provide proper or necessary support, edu-
6 cation, medical, surgical, or other care necessary for his or her
7 health or morals, who is subject to a substantial risk of harm to
8 his or her mental well-being, who is abandoned by his or her par-
9 ents, guardian, or other custodian, or who is without proper cus-
10 tody or guardianship. As used in this sub-subdivision:

11 (A) "Education" means learning based on an organized educa-
12 tional program that is appropriate, given the age, intelligence,
13 ability, and any psychological limitations of a juvenile, in the
14 subject areas of reading, spelling, mathematics, science, histo-
15 ry, civics, writing, and English grammar.

16 (B) "Without proper custody or guardianship" does not mean a
17 parent has placed the juvenile with another person who is legally
18 responsible for the care and maintenance of the juvenile and who
19 is able to and does provide the juvenile with proper care and
20 maintenance.

21 (2) Whose home or environment, by reason of neglect, cruel-
22 ty, drunkenness, criminality, or depravity on the part of a
23 parent, guardian, nonparent adult, or other custodian, is an
24 unfit place for the juvenile to live in.

25 (3) Whose parent has substantially failed, without good
26 cause, to comply with a limited guardianship placement plan

1 described in section 424a of the revised probate code, 1978 PA
2 642, MCL 700.424a, regarding the juvenile.

3 (4) Whose parent has substantially failed, without good
4 cause, to comply with a court-structured plan described in
5 section 424b or 424c of the revised probate code, 1978 PA 642,
6 MCL 700.424b and 700.424c, regarding the juvenile.

7 (5) If the juvenile has a guardian under the revised probate
8 code, 1978 PA 642, MCL 700.1 to 700.993, and the juvenile's
9 parent meets both of the following criteria:

10 (A) The parent, having the ability to support or assist in
11 supporting the juvenile, has failed or neglected, without good
12 cause, to provide regular and substantial support for the juve-
13 nile for 2 years or more before the filing of the petition or, if
14 a support order has been entered, has failed to substantially
15 comply with the order for 2 years or more before the filing of
16 the petition.

17 (B) The parent, having the ability to visit, contact, or
18 communicate with the juvenile, has regularly and substantially
19 failed or neglected, without good cause, to do so for 2 years or
20 more before the filing of the petition.

21 If a petition is filed in the court alleging that a juvenile
22 is within the provisions of subdivision (b)(1), (2), (3), (4), or
23 (5) and the custody of that juvenile is subject to the prior or
24 continuing order of another court of record of this state, the
25 manner of notice to the other court of record and the authority
26 of the court to proceed is governed by rule of the supreme
27 court.

1 (c) Jurisdiction over juveniles under 18 years of age,
2 jurisdiction of whom has been waived to the family division of
3 circuit court by a circuit court under a provision in a temporary
4 order for custody of juveniles based upon a complaint for divorce
5 or upon a motion pursuant to a complaint for divorce by the pros-
6 ecuting attorney, in a divorce judgment dissolving a marriage
7 between the parents of the juveniles, or by an amended judgment
8 relative to the custody of the juvenile in a divorce.

9 (d) If the court finds on the record that voluntary services
10 have been exhausted or refused, concurrent jurisdiction in pro-
11 ceedings concerning any juvenile between the ages of 17 and 18
12 found within the county who is any of the following:

13 (1) Repeatedly addicted to the use of drugs or the intemper-
14 ate use of alcoholic liquors.

15 (2) Repeatedly associating with criminal, dissolute, or dis-
16 orderly persons.

17 (3) Found of his or her own free will and knowledge in a
18 house of prostitution, assignation, or ill-fame.

19 (4) Repeatedly associating with thieves, prostitutes, pimps,
20 or procurers.

21 (5) Willfully disobedient to the reasonable and lawful com-
22 mands of his or her parents, guardian, or other custodian and in
23 danger of becoming morally depraved.

24 If any juvenile is brought before the court in a county
25 other than that in which the juvenile resides, before a hearing
26 and with the consent of the judge of the court in the county of
27 residence, the court may enter an order transferring jurisdiction

1 of the matter to the court of the county of residence. Consent
2 to transfer jurisdiction is not required if the county of resi-
3 dence is a county juvenile agency and satisfactory proof of resi-
4 dence is furnished to the court of the county of residence. The
5 order is not a legal settlement as defined in section 55 of the
6 social welfare act, 1939 PA 280, MCL 400.55. The order and a
7 certified copy of the proceedings in the transferring court shall
8 be delivered to the court of the county of residence. A case
9 designated as a case in which the juvenile shall be tried in the
10 same manner as an adult under section 2d of this chapter may be
11 transferred for venue or for juvenile disposition, but shall not
12 be transferred on grounds of residency. If the case is not
13 transferred, the case shall be tried by the court having juris-
14 diction of the offense.

15 (e) Authority to establish or assist in developing a program
16 or programs within the county to prevent delinquency and provide
17 services to act upon reports submitted to the court related to
18 the behavior of juveniles who do not require formal court juris-
19 diction but otherwise fall within subdivision (a). These serv-
20 ices shall be used only if they are voluntarily accepted by the
21 juvenile and his or her parents, guardian, or custodian.

22 (f) If the court operates a detention home for juveniles
23 within the court's jurisdiction under subdivision (a)(1), author-
24 ity to place a juvenile within that home pending trial if the
25 juvenile is within the circuit court's jurisdiction under section
26 606 of the revised judicature act of 1961, 1961 PA 236, MCL
27 600.606, and if the circuit court orders the family division of

1 circuit court in the same county to place the juvenile in that
2 home. The family division of circuit court shall comply with
3 that order.

4 (g) Authority to place a juvenile in a county jail under
5 section 27a of chapter IV of the code of criminal procedure, 1927
6 PA 175, MCL 764.27a, if the court designates the case under sec-
7 tion 2d of this chapter as a case in which the juvenile is to be
8 tried in the same manner as an adult and the court determines
9 there is probable cause to believe that the offense was committed
10 and probable cause to believe the juvenile committed that
11 offense.

12 (h) Jurisdiction over a proceeding under section 2950 or
13 2950a of the revised judicature act of 1961, 1961 PA 236,
14 MCL 600.2950 and 600.2950a, in which a minor less than 18 years
15 of age is the respondent. Venue for an initial action under sec-
16 tion 2950 or 2950a of the revised judicature act of 1961, 1961
17 PA 236, MCL 600.2950 and 600.2950a, is proper in the county of
18 residence of either the petitioner or respondent. If the respon-
19 dent does not live in this state, venue for the initial action is
20 proper in the petitioner's county of residence.

21 Sec. 6a. The parent or guardian of a juvenile who is within
22 the court's jurisdiction under section 2(a)(1), (4), OR (5) of
23 this chapter shall attend each hearing held under this chapter
24 unless the court excuses the parent or guardian from attendance
25 for good cause. A parent or guardian who fails to attend the
26 juvenile's hearing without good cause may be held in contempt and
27 subject to fines. Failure of a parent or guardian to attend a

1 hearing, however, is not grounds for an adjournment, continuance,
2 or other delay of the proceeding and does not provide a basis for
3 appellate or other relief.

4 Sec. 11. (1) ~~Except as provided in subsection (2), if~~ IF
5 a person gives information to the court that a juvenile is within
6 section 2(a)(2) to ~~(6)~~ (4), (b), (c), or (d) of this chapter, a
7 preliminary inquiry may be made to determine whether the inter-
8 ests of the public or the juvenile require that further action be
9 taken. If the court determines that formal jurisdiction should
10 be acquired, the court shall authorize a petition to be filed.

11 (2) Only the prosecuting attorney may file a petition
12 requesting the court to take jurisdiction of a juvenile allegedly
13 within section 2(a)(1) of this chapter. If the prosecuting
14 attorney submits a petition requesting the court to take juris-
15 diction of a juvenile allegedly within section 2(a)(1) of this
16 chapter and the court determines that formal jurisdiction should
17 be acquired, the court shall authorize a petition to be filed.

18 (3) IF A PETITION IS FILED REQUESTING THE COURT TO TAKE
19 JURISDICTION OF A JUVENILE ALLEGEDLY WITHIN SECTION 2(A)(5) OF
20 THIS CHAPTER, THE COURT SHALL HOLD A HEARING WITHIN 10 DAYS. IF
21 THE COURT DETERMINES THAT THE ALLEGATIONS IN THE PETITION ARE
22 SUPPORTED, THE COURT SHALL AUTHORIZE A PETITION TO BE FILED AND
23 OBTAIN FORMAL JURISDICTION. THE COURT SHALL NOTIFY THE PROSECUT-
24 ING ATTORNEY UNLESS HE OR SHE FILED THE PETITION.

25 (4) ~~(3)~~ The petition described in subsections (1), ~~and~~
26 (2), AND (3) shall be verified and may be upon information and
27 belief. The petition shall set forth plainly the facts that

1 bring the juvenile within this chapter and shall contain all of
2 the following information:

3 (a) The juvenile's name, birth date, and address.

4 (b) The name and address of the juvenile's parents.

5 (c) The name and address of the juvenile's legal guardian,
6 if there is one.

7 (d) The name and address of each person having custody or
8 control of the juvenile.

9 (e) The name and address of the juvenile's nearest known
10 relative, if no parent or guardian can be found.

11 (5) ~~-(4)-~~ If any of the facts required under subsection
12 ~~-(3)-~~ (4) are not known to the petitioner, the petition shall
13 state that the facts are not known. If the juvenile attains his
14 or her seventeenth birthday after the filing of the petition, the
15 court's jurisdiction shall continue beyond the juvenile's seven-
16 teenth birthday and the court may hear and dispose of the peti-
17 tion under this chapter.

18 (6) ~~-(5)-~~ When a petition is authorized, the court shall
19 examine the court file to determine if a juvenile has had finger-
20 prints taken as required under section 3 of ~~Act No. 289 of the~~
21 ~~Public Acts of 1925, being section 28.243 of the Michigan~~
22 ~~Compiled Laws~~ 1925 PA 289, MCL 28.243. If a juvenile has not
23 had his or her fingerprints taken, the court shall do either of
24 the following:

25 (a) Order the juvenile to submit himself or herself to the
26 police agency that arrested or obtained the warrant for the

1 JUVENILE'S arrest ~~of the juvenile~~ so the juvenile's
2 fingerprints can be taken.

3 (b) Order the juvenile committed to the SHERIFF'S custody
4 ~~of the sheriff~~ for ~~the~~ taking ~~of~~ the juvenile's
5 fingerprints.

6 (7) ~~(6)~~ A petition or other court record may be amended at
7 any stage of the proceedings as the ends of justice require.

8 (8) ~~(7)~~ If the juvenile diversion act, ~~Act No. 13 of the~~
9 ~~Public Acts of 1988, being sections 722.821 to 722.831 of the~~
10 ~~Michigan Compiled Laws~~ 1988 PA 13, MCL 722.821 TO 722.831, is
11 complied with and the court determines that court services can be
12 used in the prevention of delinquency without formal jurisdic-
13 tion, the court may offer court services to a juvenile without a
14 petition being authorized as provided in section 2(e) of this
15 chapter.

16 SEC. 17E. (1) WITHIN 10 DAYS AFTER ACQUIRING JURISDICTION
17 OVER A JUVENILE UNDER SECTION 2(A)(5) OF THIS CHAPTER, THE COURT
18 SHALL HOLD A HEARING.

19 (2) THE COURT SHALL ENTER AN ORDER OF DISPOSITION WITHIN 5
20 DAYS AFTER THE HEARING. THE ORDER OF DISPOSITION SHALL DO ALL OF
21 THE FOLLOWING:

22 (A) ORDER THE JUVENILE TO ATTEND SCHOOL AS PROVIDED BY LAW.

23 (B) ORDER THE JUVENILE TO PERFORM AT LEAST 4 HOURS OF COMMU-
24 NITY SERVICE OR TO SERVE AT LEAST 4 HOURS OF DETENTION AT SCHOOL
25 WITH HIS OR HER PARENT OR LEGAL GUARDIAN.

26 (3) IN ADDITION, THE ORDER OF DISPOSITION MAY CONTAIN ANY
27 PROVISION AUTHORIZED UNDER SECTION 18 OF THIS CHAPTER.

1 Enacting section 1. This amendatory act does not take
2 effect unless Senate Bill No. _____ or House Bill
3 No. 4853 (request no. 03512'99) of the 90th Legislature is
4 enacted into law.