

# SENATE BILL No. 485

May 17, 2001, Introduced by Senators PETERS, DINGELL, MURPHY, DE BEAUSSAERT, SMITH, HART, EMERSON, MILLER, CHERRY, SCOTT and LELAND and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend 1939 PA 288, entitled  
"Probate code of 1939,"  
by amending sections 2, 6, 6a, and 11 of chapter XIIA (MCL  
712A.2, 712A.6, 712A.6a, and 712A.11), section 2 of chapter XIIA  
as amended by 2000 PA 55, sections 6 and 11 of chapter XIIA as  
amended by 1996 PA 409, and section 6a of chapter XIIA as amended  
by 1996 PA 252, and by adding sections 11a and 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  
regardless of the jurisdiction of another court in proceedings

1 concerning a juvenile under 17 years of age who is found within  
2 the county if 1 or more of the following ~~applies~~ APPLY:

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

14 (A) A violation of section 72, 83, 86, 89, 91, 316, 317,  
15 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA  
16 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316,  
17 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

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

22 (i) A loaded or unloaded firearm, whether operable or  
23 inoperable.

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

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

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

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

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

14       (ii) A high-security facility operated by a private agency  
15 under contract with the family independence agency or a county  
16 juvenile agency.

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

19       (E) An attempt to commit a violation described in paragraphs  
20 (A) to (D).

21       (F) Conspiracy to commit a violation described in paragraphs  
22 (A) to (D).

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

25       (H) A lesser included offense of a violation described in  
26 paragraphs (A) to (G) if the individual is charged with a  
27 violation described in paragraphs (A) to (G).

1 (I) Another violation arising out of the same transaction as  
2 a violation described in paragraphs (A) to (G) if the individual  
3 is charged with a violation described in paragraphs (A) to (G).

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

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

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

26 (5) THE JUVENILE IS A TRUANT AS DEFINED IN THE STATE  
27 APPROVED LOCAL TRUANCY POLICY REQUIRED UNDER SECTION 1590 OF THE

1 REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1590, AND, IF  
2 APPLICABLE, A PARENT OR OTHER PERSON IN PARENTAL RELATIONSHIP  
3 FAILS TO RESPOND TO WRITTEN NOTICE REQUIRED BY THE STATE APPROVED  
4 LOCAL TRUANCY POLICY OR THE PARENT OR OTHER PERSON IN PARENTAL  
5 RELATIONSHIP CONTINUES TO FAIL TO COMPLY WITH THE STATE APPROVED  
6 LOCAL TRUANCY POLICY.

7 (b) Jurisdiction in proceedings concerning a juvenile under  
8 18 years of age found within the county:

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

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

22 (B) "Without proper custody or guardianship" does not mean a  
23 parent has placed the juvenile with another person who is legally  
24 responsible for the care and maintenance of the juvenile and who  
25 is able to and does provide the juvenile with proper care and  
26 maintenance.

1       (2) Whose home or environment, by reason of neglect,  
2 cruelty, drunkenness, criminality, or depravity on the part of a  
3 parent, guardian, nonparent adult, or other custodian, is an  
4 unfit place for the juvenile to live in.

5       (3) Whose parent has substantially failed, without good  
6 cause, to comply with a limited guardianship placement plan  
7 described in section 5205 of the estates and protected individu-  
8 als code, 1998 PA 386, MCL 700.5205, regarding the juvenile.

9       (4) Whose parent has substantially failed, without good  
10 cause, to comply with a court-structured plan described in sec-  
11 tion 5207 or 5209 of the estates and protected individuals code,  
12 1998 PA 386, MCL 700.5207 and 700.5209, regarding the juvenile.

13       (5) If the juvenile has a guardian under the estates and  
14 protected individuals code, 1998 PA 386, MCL 700.1101 to  
15 700.8102, and the juvenile's parent meets both of the following  
16 criteria:

17       (A) The parent, having the ability to support or assist in  
18 supporting the juvenile, has failed or neglected, without good  
19 cause, to provide regular and substantial support for the juve-  
20 nile for 2 years or more before the filing of the petition or, if  
21 a support order has been entered, has failed to substantially  
22 comply with the order for 2 years or more before the filing of  
23 the petition.

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

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

8        (c) Jurisdiction over juveniles under 18 years of age,  
9 jurisdiction of whom has been waived to the family division of  
10 circuit court by a circuit court under a provision in a temporary  
11 order for custody of juveniles based upon a complaint for divorce  
12 or upon a motion related to a complaint for divorce by the prose-  
13 cuting attorney, in a divorce judgment dissolving a marriage  
14 between the juvenile's parents, or by an amended judgment rela-  
15 tive to the juvenile's custody in a divorce.

16        (d) If the court finds on the record that voluntary services  
17 have been exhausted or refused, concurrent jurisdiction in pro-  
18 ceedings concerning a juvenile between the ages of 17 and 18  
19 found within the county who is 1 or more of the following:

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

22        (2) Repeatedly associating with criminal, dissolute, or dis-  
23 orderly persons.

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

26        (4) Repeatedly associating with thieves, prostitutes, pimps,  
27 or procurers.

1 (5) Willfully disobedient to the reasonable and lawful  
2 commands of his or her parents, guardian, or other custodian and  
3 in danger of becoming morally depraved.

4 If a juvenile is brought before the court in a county other  
5 than that in which the juvenile resides, before a hearing and  
6 with the consent of the judge of the court in the county of resi-  
7 dence, the court may enter an order transferring jurisdiction of  
8 the matter to the court of the county of residence. Consent to  
9 transfer jurisdiction is not required if the county of residence  
10 is a county juvenile agency and satisfactory proof of residence  
11 is furnished to the court of the county of residence. The order  
12 does not constitute a legal settlement in this state that is  
13 required for the purpose of section 55 of the social welfare act,  
14 1939 PA 280, MCL 400.55. The order and a certified copy of the  
15 proceedings in the transferring court shall be delivered to the  
16 court of the county of residence. A case designated as a case in  
17 which the juvenile shall be tried in the same manner as an adult  
18 under section 2d of this chapter may be transferred for venue or  
19 for juvenile disposition, but shall not be transferred on grounds  
20 of residency. If the case is not transferred, the court having  
21 jurisdiction of the offense shall try the case.

22 (e) Authority to establish or assist in developing a program  
23 or programs within the county to prevent delinquency and provide  
24 services to act upon reports submitted to the court related to  
25 the behavior of a juvenile who does not require formal court  
26 jurisdiction but otherwise falls within subdivision (a). These



1 services shall be used only if the juvenile and his or her  
2 parents, guardian, or custodian voluntarily accepts them.

3 (f) If the court operates a detention home for juveniles  
4 within the court's jurisdiction under subdivision (a)(1), author-  
5 ity to place a juvenile within that home pending trial if the  
6 juvenile is within the circuit court's jurisdiction under section  
7 606 of the revised judicature act of 1961, 1961 PA 236, MCL  
8 600.606, and if the circuit court orders the family division of  
9 circuit court in the same county to place the juvenile in that  
10 home. The family division of circuit court shall comply with  
11 that order.

12 (g) Authority to place a juvenile in a county jail under  
13 section 27a of chapter IV of the code of criminal procedure, 1927  
14 PA 175, MCL 764.27a, if the court designates the case under sec-  
15 tion 2d of this chapter as a case in which the juvenile is to be  
16 tried in the same manner as an adult and the court determines  
17 there is probable cause to believe that the offense was committed  
18 and probable cause to believe the juvenile committed that  
19 offense.

20 (h) Jurisdiction over a proceeding under section 2950 or  
21 2950a of the revised judicature act of 1961, 1961 PA 236,  
22 MCL 600.2950 and 600.2950a, in which a minor less than 18 years  
23 of age is the respondent. Venue for an initial action under sec-  
24 tion 2950 or 2950a of the revised judicature act of 1961, 1961  
25 PA 236, MCL 600.2950 and 600.2950a, is proper in the county of  
26 residence of either the petitioner or respondent. If the

1 respondent does not live in this state, venue for the initial  
2 action is proper in the petitioner's county of residence.

3 (I) JURISDICTION OVER AN ADULT WHO VIOLATES SECTION 1599 OF  
4 THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1599, AND WHO IS  
5 THE PARENT OR GUARDIAN OF A JUVENILE OVER WHOM THE COURT HAS  
6 JURISDICTION UNDER SECTION 2(A)(5) OF THIS CHAPTER. A PROCEEDING  
7 UNDER THIS SUBDIVISION IS A CRIMINAL PROCEEDING THAT SHALL BE  
8 CONDUCTED IN THE SAME MANNER AND WITH ALL THE SAME PROCEDURAL  
9 PROTECTIONS AND GUARANTEES AS A TRIAL FOR THAT VIOLATION IN A  
10 COURT OF GENERAL CRIMINAL JURISDICTION.

11 Sec. 6. The court has jurisdiction over adults as provided  
12 in this chapter and may make orders affecting adults as in the  
13 opinion of the court are necessary for the physical, mental, or  
14 moral well-being of a particular juvenile or juveniles under its  
15 jurisdiction. ~~However~~ EXCEPT AS OTHERWISE PROVIDED IN THIS  
16 CHAPTER, those orders shall be incidental to the COURT'S juris-  
17 diction ~~of the court~~ over the juvenile or juveniles.

18 Sec. 6a. The parent or guardian of a juvenile who is within  
19 the court's jurisdiction under section 2(a)(1), (4), OR (5) of  
20 this chapter shall attend each hearing held under this chapter  
21 unless the court excuses the parent or guardian from attendance  
22 for good cause. A parent or guardian who fails to attend the  
23 juvenile's hearing without good cause may be held in contempt and  
24 subject to fines. Failure of a parent or guardian to attend a  
25 hearing, however, is not grounds for an adjournment, continuance,  
26 or other delay of the proceeding and does not provide a basis for  
27 appellate or other relief.

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

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

16       (3) ONLY THE SCHOOL DISTRICT SUPERINTENDENT OR INTERMEDIATE  
17 SUPERINTENDENT OR HIS OR HER DESIGNEE OR THE PROSECUTING ATTORNEY  
18 MAY FILE A PETITION REQUESTING THE COURT TO TAKE JURISDICTION OF  
19 A JUVENILE ALLEGEDLY WITHIN SECTION 2(A)(5) OF THIS CHAPTER. IF  
20 A PETITION IS FILED, THE COURT SHALL HOLD A HEARING WITHIN 10  
21 DAYS. IF THE COURT DETERMINES THAT THE ALLEGATIONS IN THE PETI-  
22 TION ARE SUPPORTED, THE COURT SHALL AUTHORIZE A PETITION TO BE  
23 FILED AND OBTAIN FORMAL JURISDICTION. THE COURT SHALL NOTIFY THE  
24 PROSECUTING 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. 11A. IF THE COURT ACQUIRES JURISDICTION OVER A JUVE-  
17 NILE UNDER SECTION 2(A)(5) OF THIS CHAPTER, THE PROSECUTING  
18 ATTORNEY MAY FILE A COMPLAINT ALLEGING A VIOLATION OF SECTION  
19 1599 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1599, BY  
20 THE JUVENILE'S PARENT OR GUARDIAN IN THE SAME MANNER AS FOR THE  
21 DISTRICT COURT.

22 SEC. 17E. (1) WITHIN 10 DAYS AFTER ACQUIRING JURISDICTION  
23 OVER A JUVENILE UNDER SECTION 2(A)(5) OF THIS CHAPTER, THE COURT  
24 SHALL HOLD A HEARING. THE JUVENILE, THE JUVENILE'S PARENT OR  
25 GUARDIAN, THE SCHOOL DISTRICT SUPERINTENDENT OF SCHOOLS OR INTER-  
26 MEDIATE SUPERINTENDENT OR HIS OR HER DESIGNEE, AND ANY INTERESTED

1 PARTY SHALL HAVE THE OPPORTUNITY AT THE HEARING TO PROPOSE A  
2 RESOLUTION TO THE JUVENILE'S ATTENDANCE PROBLEMS.

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

6 (A) ORDER THE JUVENILE TO ATTEND HIS OR HER SCHOOL OR AN  
7 ALTERNATIVE AS PROVIDED BY LAW.

8 (B) ORDER THE SECRETARY OF STATE TO DO 1 OF THE FOLLOWING:

9 (i) SUSPEND THE JUVENILE'S OPERATOR'S OR CHAUFFEUR'S LICENSE  
10 FOR A SPECIFIED PERIOD OF NOT MORE THAN 2 YEARS UNLESS THE COURT  
11 SHORTENS OR ELIMINATES THE SUSPENSION PERIOD UNDER THIS SECTION.  
12 IF THE JUVENILE'S LICENSE IS SUSPENDED WHEN THE COURT ENTERS THE  
13 ORDER, THE SUSPENSION UNDER THIS SECTION SHALL BEGIN AT THE END  
14 OF THAT SUSPENSION.

15 (ii) DENY THE JUVENILE AN OPERATOR'S OR CHAUFFEUR'S LICENSE  
16 FOR A SPECIFIED PERIOD OF NOT MORE THAN 2 YEARS AFTER THE JUVE-  
17 NILE IS OTHERWISE ELIGIBLE FOR A LICENSE UNLESS THE COURT REIN-  
18 STATES THE JUVENILE'S ELIGIBILITY UNDER THIS SECTION.

19 (C) REQUIRE ANY OTHER ACTIONS BY THE JUVENILE, THE  
20 JUVENILE'S PARENT OR GUARDIAN, OR SCHOOL AUTHORITIES NECESSARY TO  
21 RESOLVE THE JUVENILE'S ATTENDANCE PROBLEM.

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

24 (4) THE COURT MAY SHORTEN THE LICENSE SUSPENSION OR DENIAL  
25 PERIOD UNDER SUBSECTION (2)(B) OR END THE PERIOD IF THE JUVENILE  
26 SATISFIES SCHOOL ATTENDANCE REQUIREMENTS SPECIFIED BY THE COURT  
27 IN ITS ORDER AND THE COURT DETERMINES THAT SHORTENING OR

1 ELIMINATING THE PERIOD IS IN THE JUVENILE'S BEST INTERESTS. THE  
2 COURT SHALL ORDER THE SECRETARY OF STATE TO SHORTEN OR END THE  
3 LICENSE SUSPENSION OR DENIAL PERIOD.

4 (5) A DESIGNEE OF A SCHOOL DISTRICT SUPERINTENDENT OR INTER-  
5 MEDIATE SUPERINTENDENT DESCRIBED IN SUBSECTION (1) SHALL BE AN  
6 ADMINISTRATOR OR TEACHER OF THE SCHOOL OR SCHOOL DISTRICT.

7 Enacting section 1. This amendatory act does not take  
8 effect unless all of the following bills of the 91st Legislature  
9 are enacted into law:

10 (a) Senate Bill No. 484.

11

12 (b) Senate Bill No. 483.

13

14 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
15 no. S02107'01 \*\*).