

# SENATE BILL No. 1235

April 17, 2002, Introduced by Senators BULLARD, VAN REGENMORTER and GOUGEON  
and referred to the Committee on Judiciary.

A bill to amend 1988 PA 13, entitled  
"Juvenile diversion act,"  
by amending section 5 (MCL 722.825), as amended by 1996 PA 137.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

10       (a) That participation in the conference or resulting  
11 referral plan is voluntary.

1 (b) That an attorney may accompany the minor and the minor's  
2 parent, guardian, or custodian at the conference.

3 (c) The alternative referral programs available and the cri-  
4 teria utilized to determine whether to file a petition with the  
5 court or to dispose of the petition with a referral.

6 (d) That if diversion is agreed to and the minor complies  
7 with the terms of the diversion agreement and the referral plan,  
8 a petition cannot be filed with the court, or if a petition has  
9 been filed, the petition cannot be authorized.

10 (2) The conference to consider alternatives to the filing of  
11 a petition with the court or to consider alternatives to the  
12 authorization of a petition shall not be held until after the  
13 questioning, if any, of the minor has been completed or after an  
14 investigation has been made concerning the alleged offense.  
15 Mention of, or promises concerning, diversion shall not be made  
16 by a law enforcement official or court intake worker in the pres-  
17 ence of the minor or the minor's parent, guardian, or custodian  
18 during any questioning of the minor. Information divulged by the  
19 minor during the conference or after the diversion is agreed to,  
20 but before a petition is filed with the court or has been autho-  
21 rized, shall not be used against the minor.

22 (3) If a conference held under this section results in  
23 diversion that imposes conditions on the minor and that will pre-  
24 vent the filing of a petition with the court or the authorization  
25 of a petition, the terms of the diversion agreement shall be set  
26 forth in writing, dated, and signed by the law enforcement

1 official or court intake worker, the minor, and the minor's  
2 parent, guardian, or custodian.

3       (4) If a conference is held under this section and an agree-  
4 ment under subsection (3) is not reached, a petition may be filed  
5 with the court as provided by law and a petition may be autho-  
6 rized as provided by law. If an agreement under subsection (3)  
7 is not reached and a petition is to be filed, the petition shall  
8 be filed with the court not later than 30 days after the  
9 conference.

10       (5) THE INTAKE WORKER AND THE LAW ENFORCEMENT OFFICER SHALL  
11 HOLD A CONFERENCE TO REVIEW THE MINOR'S DIVERSION 180 DAYS AFTER  
12 THE DIVERSION AGREEMENT IS ENTERED INTO AND SHALL DETERMINE AT  
13 THE DIVERSION REVIEW CONFERENCE WHETHER OR NOT THE MINOR HAS COM-  
14 PLIED WITH THE TERMS OF THE DIVERSION AGREEMENT AND THE REFERRAL  
15 PLAN. If IT IS DETERMINED THAT the minor ~~fails~~ HAS FAILED to  
16 comply with the terms of the diversion agreement and the referral  
17 plan, the law enforcement official or the court intake worker may  
18 revoke the diversion agreement. If the diversion agreement is  
19 revoked, a petition may be filed with the court as provided by  
20 law and a petition may be authorized as provided by law. A REVO-  
21 CATION OF A DIVERSION AGREEMENT SHALL NOT OCCUR LATER THAN 30  
22 DAYS AFTER THE DATE OF THE DIVERSION REVIEW CONFERENCE.