

SUBSTITUTE FOR
HOUSE BILL NO. 6405

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 1, 2, and 14 of chapter XIIIA (MCL 712A.1,
712A.2, and 712A.14), as amended by 2001 PA 211.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1
2
3
4
5
6
7
8

CHAPTER XIIIA

Sec. 1. (1) As used in this chapter:

(a) "Civil infraction" means that term as defined in section
113 of the revised judicature act of 1961, 1961 PA 236, MCL
600.113.

(b) "County juvenile agency" means that term as defined in
section 2 of the county juvenile agency act, 1998 PA 518, MCL
45.622.

1 (c) "Court" means the family division of circuit court.

2 (d) "Foreign protection order" means that term as defined in
3 section 2950h of the revised judicature act of 1961, 1961 PA 236,
4 MCL 600.2950h.

5 (e) "MCI" means the Michigan children's institute created and
6 established by 1935 PA 220, MCL 400.201 to 400.214.

7 (f) "Personal protection order" means a personal protection
8 order issued under section 2950 or 2950a of the revised judicature
9 act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, ~~and includes~~
10 **A STUDENT BODY PROTECTION ORDER ISSUED UNDER SECTION 2976 OF THE**
11 **REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2976, OR a**
12 valid foreign protection order.

13 (g) "Valid foreign protection order" means a foreign
14 protection order that satisfies the conditions for validity
15 provided in section 2950i of the revised judicature act of 1961,
16 1961 PA 236, MCL 600.2950i.

17 (2) Except as otherwise provided, proceedings under this
18 chapter are not criminal proceedings.

19 (3) This chapter shall be liberally construed so that each
20 juvenile coming within the court's jurisdiction receives the care,
21 guidance, and control, preferably in his or her own home, conducive
22 to the juvenile's welfare and the best interest of the state. If a
23 juvenile is removed from the control of his or her parents, the
24 juvenile shall be placed in care as nearly as possible equivalent
25 to the care that should have been given to the juvenile by his or
26 her parents.

27 Sec. 2. The court has the following authority and

1 jurisdiction:

2 (a) Exclusive original jurisdiction superior to and regardless
3 of the jurisdiction of another court in proceedings concerning a
4 juvenile under 17 years of age who is found within the county if 1
5 or more of the following applies:

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

17 (A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,
18 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328,
19 MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,
20 750.349, 750.520b, 750.529, 750.529a, and 750.531.

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

25 (i) A loaded or unloaded firearm, whether operable or
26 inoperable.

27 (ii) A knife, stabbing instrument, brass knuckles, blackjack,

1 club, or other object specifically designed or customarily carried
2 or possessed for use as a weapon.

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

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

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

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

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

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

21 (E) An attempt to commit a violation described in paragraphs
22 (A) to (D).

23 (F) Conspiracy to commit a violation described in paragraphs
24 (A) to (D).

25 (G) Solicitation to commit a violation described in paragraphs
26 (A) to (D).

27 (H) A lesser included offense of a violation described in

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

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

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

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

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

1 (b) Jurisdiction in proceedings concerning a juvenile under 18
2 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, neglects
5 or refuses to provide proper or necessary support, education,
6 medical, surgical, or other care necessary for his or her health or
7 morals, who is subject to a substantial risk of harm to his or her
8 mental well-being, who is abandoned by his or her parents,
9 guardian, or other custodian, or who is without proper custody or
10 guardianship. As used in this sub-subdivision:

11 (A) "Education" means learning based on an organized
12 educational program that is appropriate, given the age,
13 intelligence, ability, and psychological limitations of a juvenile,
14 in the subject areas of reading, spelling, mathematics, science,
15 history, 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 is
19 able to and does provide the juvenile with proper care and
20 maintenance.

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

25 (3) Whose parent has substantially failed, without good cause,
26 to comply with a limited guardianship placement plan described in
27 section 5205 of the estates and protected individuals code, 1998 PA

1 386, MCL 700.5205, regarding the juvenile.

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

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

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

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

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

27 (c) Jurisdiction over juveniles under 18 years of age,

1 jurisdiction of whom has been waived to the family division of
2 circuit court by a circuit court under a provision in a temporary
3 order for custody of juveniles based upon a complaint for divorce
4 or upon a motion related to a complaint for divorce by the
5 prosecuting attorney, in a divorce judgment dissolving a marriage
6 between the juvenile's parents, or by an amended judgment relative
7 to the juvenile's custody in a divorce.

8 (d) If the court finds on the record that voluntary services
9 have been exhausted or refused, concurrent jurisdiction in
10 proceedings concerning a juvenile between the ages of 17 and 18
11 found within the county who is 1 or more of the following:

12 (1) Repeatedly addicted to the use of drugs or the intemperate
13 use of alcoholic liquors.

14 (2) Repeatedly associating with criminal, dissolute, or
15 disorderly persons.

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

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

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

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

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

14 (e) Authority to establish or assist in developing a program
15 or programs within the county to prevent delinquency and provide
16 services to act upon reports submitted to the court related to the
17 behavior of a juvenile who does not require formal court
18 jurisdiction but otherwise falls within subdivision (a). These
19 services shall be used only if the juvenile and his or her parents,
20 guardian, or custodian voluntarily accepts them.

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

1 division of circuit court shall comply with that order.

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

9 (h) Jurisdiction over a proceeding under section 2950, ~~or~~
10 2950a, **OR 2976** of the revised judicature act of 1961, 1961 PA 236,
11 MCL 600.2950, ~~and~~ 600.2950a, **AND 600.2976**, in which a minor less
12 than 18 years of age is the respondent, or a proceeding to enforce
13 a valid foreign protection order issued against a respondent who is
14 a minor less than 18 years of age. A personal protection order
15 shall not be issued against a respondent who is a minor less than
16 10 years of age. Venue for an initial action under section 2950 or
17 2950a of the revised judicature act of 1961, 1961 PA 236, MCL
18 600.2950 and 600.2950a, is proper in the county of residence of
19 either the petitioner or respondent. If the respondent does not
20 live in this state, venue for the initial action is proper in the
21 petitioner's county of residence.

22 Sec. 14. (1) Any local police officer, sheriff or deputy
23 sheriff, state police officer, county agent, or probation officer
24 of any court of record may, without the order of the court,
25 immediately take into custody any child who is found violating any
26 law or ordinance, ~~or~~ whose surroundings are such as to endanger
27 his or her health, morals, or welfare, ~~or for~~ **AS TO** whom there is

1 reasonable cause to believe **THAT HE OR SHE** is violating or has
2 violated a personal protection order issued pursuant to section
3 2(h) by the court under section 2950, ~~or~~ 2950a, **OR 2976** of the
4 revised judicature act of 1961, 1961 PA 236, MCL 600.2950, ~~and~~
5 600.2950a, ~~or for~~ **AND 600.2976, OR AS TO** whom there is reasonable
6 cause to believe **THAT HE OR SHE** is violating or has violated a
7 valid foreign protection order. If such an officer or county agent
8 takes a child coming within the provisions of this chapter into
9 custody, he or she shall immediately attempt to notify the parent
10 or parents, guardian, or custodian. While awaiting the arrival of
11 the parent or parents, guardian, or custodian, a child under the
12 age of 17 years taken into custody under the provisions of this
13 chapter shall not be held in any detention facility unless the
14 child is completely isolated so as to prevent any verbal, visual,
15 or physical contact with any adult prisoner. Unless the child
16 requires immediate detention as provided for in this act, the
17 officer shall accept the written promise of the parent or parents,
18 guardian, or custodian, to bring the child to the court at a time
19 ~~fixed therein~~ **STATED IN THE WRITTEN PROMISE**. The child shall then
20 be released to the custody of the parent or parents, guardian, or
21 custodian.

22 (2) If a child is not released under subsection (1), the child
23 and his or her parents, guardian, or custodian, if they can be
24 located, shall immediately be brought before the court for a
25 preliminary hearing on the status of the child, and an order signed
26 by a judge of probate or a referee authorizing the filing of a
27 complaint shall be entered or the child shall be released to his or

1 her parent or parents, guardian, or custodian.

2 (3) If a complaint is authorized under subsection (2), the
3 order shall state where the child is to be placed, pending
4 investigation and hearing, which placement may be in any of the
5 following:

6 (a) ~~In the~~ **THE** home of the child's parent, guardian, or
7 custodian.

8 (b) If ~~a~~ **THE** child is within the court's jurisdiction under
9 section 2(a) of this chapter, ~~in~~ a suitable foster care home
10 subject to the court's supervision. ~~Except as otherwise provided~~
11 ~~in subsections (4) and (5), if~~ **IF** a child is within the court's
12 jurisdiction under section 2(b) of this chapter, the court shall
13 not place a child in a foster care home subject to the court's
14 supervision.

15 (c) ~~In a~~ **A** child care institution or child placing agency
16 licensed by the state department of social services to receive for
17 care children within the jurisdiction of the court.

18 (d) ~~In a~~ **A** suitable place of detention.

19 ~~—— (4) Except as otherwise provided in subsection (5), if a court~~
20 ~~is providing at the time of the enactment of this subsection foster~~
21 ~~care home services subject to the court's supervision to children~~
22 ~~within section 2(b) of this chapter, the court may continue to~~
23 ~~provide those services through December 31, 1989. Beginning January~~
24 ~~1, 1990, the court shall discontinue providing those services.~~

25 ~~—— (5) If a court located in a county with a population in excess~~
26 ~~of 650,000 is providing at the time of the enactment of this~~
27 ~~subsection foster care home services subject to the court's~~

1 ~~supervision to children within section 2(b) of this chapter, the~~
2 ~~court may continue to provide those services through December 31,~~
3 ~~1991. Beginning January 1, 1992, the court shall discontinue those~~
4 ~~services.~~

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted.

7 Enacting section 2. This amendatory act does not take effect
8 unless House Bill No. 6403 of the 93rd Legislature is enacted into
9 law.