

SENATE BILL No. 489

May 9, 2007, Introduced by Senators JACOBS, BASHAM, JELINEK and HUNTER and referred to the Committee on Education.

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 as amended by 2001 PA 211,
section 6 as amended by 2004 PA 221, section 6a as added by 1996 PA
252, and section 11 as amended by 1996 PA 409, 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 concerning a

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

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

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

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

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

(ii) A knife, stabbing instrument, brass knuckles, blackjack,
club, or other object specifically designed or customarily carried
or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury

1 when used as a weapon and that is used as a weapon or carried or
2 possessed for use as a weapon.

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

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

11 (i) A high-security or medium-security facility operated by the
12 ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** or a county
13 juvenile agency.

14 (ii) A high-security facility operated by a private agency
15 under contract with the ~~family independence agency~~ **DEPARTMENT OF**
16 **HUMAN SERVICES** or a county 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 paragraphs
24 (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 violation
27 described in paragraphs (A) to (G).

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

4 (2) The juvenile has deserted his or her home without
5 sufficient cause, and the court finds on the record that the
6 juvenile has been placed or refused alternative placement or the
7 juvenile and the juvenile's parent, guardian, or custodian have
8 exhausted 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 custodian,
11 and the court finds on the record by clear and convincing evidence
12 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 the
15 juvenile's educational needs, or repeatedly violates rules and
16 regulations of the school or other learning program, and the court
17 finds on the record that the juvenile, the juvenile's parent,
18 guardian, or custodian, and school officials or learning program
19 personnel have met on the juvenile's educational problems and
20 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 a
24 juvenile, in the subject areas of reading, spelling, mathematics,
25 science, history, civics, writing, and English grammar.

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

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

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

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

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

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

26 (2) Whose home or environment, by reason of neglect, cruelty,
27 drunkenness, criminality, or depravity on the part of a parent,

1 guardian, nonparent adult, or other custodian, is an unfit place
2 for the juvenile to live in.

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

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

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

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

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

25 If a petition is filed in the court alleging that a juvenile
26 is within the provisions of subdivision (b)(1), (2), (3), (4), or
27 (5) and the custody of that juvenile is subject to the prior or

1 continuing order of another court of record of this state, the
2 manner of notice to the other court of record and the authority of
3 the court to proceed is governed by rule of the supreme court.

4 (c) Jurisdiction over juveniles under 18 years of age,
5 jurisdiction of whom has been waived to the family division of
6 circuit court by a circuit court under a provision in a temporary
7 order for custody of juveniles based upon a complaint for divorce
8 or upon a motion related to a complaint for divorce by the
9 prosecuting attorney, in a divorce judgment dissolving a marriage
10 between the juvenile's parents, or by an amended judgment relative
11 to the juvenile's custody in a divorce.

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

16 (1) Repeatedly addicted to the use of drugs or the intemperate
17 use of alcoholic liquors.

18 (2) Repeatedly associating with criminal, dissolute, or
19 disorderly persons.

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

22 (4) Repeatedly associating with thieves, prostitutes, pimps,
23 or procurers.

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

27 If a juvenile is brought before the court in a county other

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

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

25 (f) If the court operates a detention home for juveniles
26 within the court's jurisdiction under subdivision (a)(1), authority
27 to place a juvenile within that home pending trial if the juvenile

1 is within the circuit court's jurisdiction under section 606 of the
2 revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if
3 the circuit court orders the family division of circuit court in
4 the same county to place the juvenile in that home. The family
5 division of circuit court shall comply with that order.

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

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

26 **(I) JURISDICTION OVER AN ADULT WHO VIOLATES SECTION 1599 OF**
27 **THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1599, AND WHO IS THE**

1 PARENT OR GUARDIAN OF A JUVENILE OVER WHOM THE COURT HAS
2 JURISDICTION UNDER SECTION 2(A) (5) OF THIS CHAPTER. A PROCEEDING
3 UNDER THIS SUBDIVISION IS A CRIMINAL PROCEEDING THAT SHALL BE
4 CONDUCTED IN THE SAME MANNER AND WITH ALL THE SAME PROCEDURAL
5 PROTECTIONS AND GUARANTEES AS A TRIAL FOR THAT VIOLATION IN A COURT
6 OF GENERAL CRIMINAL JURISDICTION.

7 Sec. 6. The court has jurisdiction over adults as provided in
8 this chapter and as provided in chapter 10A of the revised
9 judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082, and
10 may make orders affecting adults as in the opinion of the court are
11 necessary for the physical, mental, or moral well-being of a
12 particular juvenile or juveniles under its jurisdiction. ~~However~~
13 **EXCEPT AS PROVIDED IN THIS CHAPTER**, those orders shall be
14 incidental to the **COURT'S** jurisdiction ~~of the court~~ over the
15 juvenile or juveniles.

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

26 Sec. 11. (1) ~~Except as provided in subsection (2), if~~ **IF** a
27 person gives information to the court that a juvenile is within

1 section 2(a)(2) to ~~(6)~~ **(4)**, (b), (c), or (d) of this chapter, a
2 preliminary inquiry may be made to determine whether the interests
3 of the public or the juvenile require that further action be taken.
4 If the court determines that formal jurisdiction should be
5 acquired, the court shall authorize a petition to be filed.

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

13 **(3) ONLY THE SCHOOL DISTRICT SUPERINTENDENT OR INTERMEDIATE**
14 **SUPERINTENDENT OR HIS OR HER DESIGNEE OR THE PROSECUTING ATTORNEY**
15 **MAY FILE A PETITION REQUESTING THE COURT TO TAKE JURISDICTION OF A**
16 **JUVENILE ALLEGEDLY WITHIN SECTION 2(A)(5) OF THIS CHAPTER. IF A**
17 **PETITION IS FILED, THE COURT SHALL HOLD A HEARING WITHIN 10 DAYS.**
18 **IF THE COURT DETERMINES THAT THE ALLEGATIONS IN THE PETITION ARE**
19 **SUPPORTED, THE COURT SHALL AUTHORIZE A PETITION TO BE FILED AND**
20 **OBTAIN FORMAL JURISDICTION. THE COURT SHALL NOTIFY THE PROSECUTING**
21 **ATTORNEY UNLESS HE OR SHE FILED THE PETITION.**

22 (4) ~~(3)~~ The petition described in subsections (1), ~~and~~ (2),
23 **AND (3)** shall be verified and may be upon information and belief.
24 The petition shall set forth plainly the facts that bring the
25 juvenile within this chapter and shall contain all of the following
26 information:

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

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

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

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

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

8 (5) ~~(4)~~—If any of the facts required under subsection ~~(3)~~ **(4)**
9 are not known to the petitioner, the petition shall state that the
10 facts are not known. If the juvenile attains his or her seventeenth
11 birthday after the filing of the petition, the court's jurisdiction
12 shall continue beyond the juvenile's seventeenth birthday and the
13 court may hear and dispose of the petition under this chapter.

14 (6) ~~(5)~~—When a petition is authorized, the court shall examine
15 the court file to determine if a juvenile has had fingerprints
16 taken as required under section 3 of ~~Act No. 289 of the Public Acts~~
17 ~~of 1925, being section 28.243 of the Michigan Compiled Laws 1925 PA~~
18 **289, MCL 28.243**. If a juvenile has not had his or her fingerprints
19 taken, the court shall do either of the following:

20 (a) Order the juvenile to submit himself or herself to the
21 police agency that arrested or obtained the warrant for the
22 **JUVENILE'S** ~~arrest of the juvenile~~ so the juvenile's fingerprints
23 can be taken.

24 (b) Order the juvenile committed to the **SHERIFF'S** custody ~~of~~
25 ~~the sheriff for the taking of~~ the juvenile's fingerprints.

26 (7) ~~(6)~~—A petition or other court record may be amended at any
27 stage of the proceedings as the ends of justice require.

1 (8) ~~(7)~~ If the juvenile diversion act, ~~Act No. 13 of the~~
2 ~~Public Acts of 1988, being sections 722.821 to 722.831 of the~~
3 ~~Michigan Compiled Laws 1988 PA 13, MCL 722.821 TO 722.831,~~ is
4 complied with and the court determines that court services can be
5 used in the prevention of delinquency without formal jurisdiction,
6 the court may offer court services to a juvenile without a petition
7 being authorized as provided in section 2(e) of this chapter.

8 SEC. 11A. IF THE COURT ACQUIRES JURISDICTION OVER A JUVENILE
9 UNDER SECTION 2(A) (5) OF THIS CHAPTER, THE PROSECUTING ATTORNEY MAY
10 FILE A COMPLAINT ALLEGING A VIOLATION OF SECTION 1599 OF THE
11 REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1599, BY THE JUVENILE'S
12 PARENT OR GUARDIAN IN THE SAME MANNER AS FOR THE DISTRICT COURT.

13 SEC. 17E. (1) WITHIN 10 DAYS AFTER ACQUIRING JURISDICTION OVER
14 A JUVENILE UNDER SECTION 2(A) (5) OF THIS CHAPTER, THE COURT SHALL
15 HOLD A HEARING. THE JUVENILE, THE JUVENILE'S PARENT OR GUARDIAN,
16 THE SCHOOL DISTRICT SUPERINTENDENT OF SCHOOLS OR INTERMEDIATE
17 SUPERINTENDENT OR HIS OR HER DESIGNEE, AND ANY INTERESTED PARTY
18 SHALL HAVE THE OPPORTUNITY AT THE HEARING TO PROPOSE A RESOLUTION
19 TO THE JUVENILE'S ATTENDANCE PROBLEMS.

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

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

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

26 (i) SUSPEND THE JUVENILE'S OPERATOR'S OR CHAUFFEUR'S LICENSE
27 FOR A SPECIFIED PERIOD OF NOT MORE THAN 2 YEARS UNLESS THE COURT

1 SHORTENS OR ELIMINATES THE SUSPENSION PERIOD UNDER THIS SECTION. IF
2 THE JUVENILE'S LICENSE IS SUSPENDED WHEN THE COURT ENTERS THE
3 ORDER, THE SUSPENSION UNDER THIS SECTION SHALL BEGIN AT THE END OF
4 THAT SUSPENSION.

5 (ii) DENY THE JUVENILE AN OPERATOR'S OR CHAUFFEUR'S LICENSE FOR
6 A SPECIFIED PERIOD OF NOT MORE THAN 2 YEARS AFTER THE JUVENILE IS
7 OTHERWISE ELIGIBLE FOR A LICENSE UNLESS THE COURT REINSTATES THE
8 JUVENILE'S ELIGIBILITY UNDER THIS SECTION.

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

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

14 (4) THE COURT MAY SHORTEN THE LICENSE SUSPENSION OR DENIAL
15 PERIOD UNDER SUBSECTION (2) (B) OR END THE PERIOD IF THE JUVENILE
16 SATISFIES SCHOOL ATTENDANCE REQUIREMENTS SPECIFIED BY THE COURT IN
17 ITS ORDER AND THE COURT DETERMINES THAT SHORTENING OR ELIMINATING
18 THE PERIOD IS IN THE JUVENILE'S BEST INTERESTS. THE COURT SHALL
19 ORDER THE SECRETARY OF STATE TO SHORTEN OR END THE LICENSE
20 SUSPENSION OR DENIAL PERIOD.

21 (5) A DESIGNEE OF A SCHOOL DISTRICT SUPERINTENDENT OR
22 INTERMEDIATE SUPERINTENDENT DESCRIBED IN SUBSECTION (1) SHALL BE AN
23 ADMINISTRATOR OR TEACHER OF THE SCHOOL OR SCHOOL DISTRICT.

24 Enacting section 1. This amendatory act does not take effect
25 unless all of the following bills of the 94th Legislature are
26 enacted into law:

27 (a) Senate Bill No. 488.

1

2 (b) Senate Bill No. 490.

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