

SENATE BILL No. 1090

September 21, 2016, Introduced by Senator EMMONS and referred to the Committee on Families, Seniors and Human Services.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending section 1 of chapter XIIA (MCL 712A.1), as amended by 2014 PA 533.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER XIIA

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) "Competency evaluation" means a court-ordered examination of a juvenile directed to developing information relevant to a determination of his or her competency to proceed at a particular stage of a court proceeding involving a juvenile who is the subject of a delinquency petition.

1 (c) "Competency hearing" means a hearing to determine whether
2 a juvenile is competent to proceed.

3 (d) "County juvenile agency" means that term as defined in
4 section 2 of the county juvenile agency act, 1998 PA 518, MCL
5 45.622.

6 (e) "Court" means the family division of circuit court.

7 (f) "Department" means the department of **HEALTH AND** human
8 services. A reference in this chapter to the "department of social
9 welfare" or the "family independence agency" means the department
10 of **HEALTH AND** human services.

11 (g) "Foreign protection order" means that term as defined in
12 section 2950h of the revised judicature act of 1961, 1961 PA 236,
13 MCL 600.2950h.

14 (h) "Incompetent to proceed" means that a juvenile, based on
15 age-appropriate norms, lacks a reasonable degree of rational and
16 factual understanding of the proceeding or is unable to do 1 or
17 more of the following:

18 (i) Consult with and assist his or her attorney in preparing
19 his or her defense in a meaningful manner.

20 (ii) Sufficiently understand the charges against him or her.

21 (i) "Juvenile" means a person who is less than 17 years of age
22 who is the subject of a delinquency petition.

23 (j) "Least restrictive environment" means a supervised
24 community placement, preferably a placement with the juvenile's
25 parent, guardian, relative, or a facility or conditions of
26 treatment that is a residential or institutional placement only
27 utilized as a last resort based on the best interest of the

1 juvenile or for reasons of public safety.

2 (k) "Licensed child caring institution" means a child caring
3 institution as defined and licensed under 1973 PA 116, MCL 722.111
4 to 722.128.

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

7 (m) "Mental health code" means the mental health code, 1974 PA
8 258, MCL 330.1001 to 330.2106.

9 (n) "Personal protection order" means a personal protection
10 order issued under section 2950 or 2950a of the revised judicature
11 act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, and includes
12 a valid foreign protection order.

13 (o) "Qualified juvenile forensic mental health examiner" means
14 1 of the following who performs forensic mental health examinations
15 for the purposes of sections 1062 to 1074 of the mental health code
16 but does not exceed the scope of his or her practice as authorized
17 by state law:

18 (i) A psychiatrist or psychologist who possesses experience or
19 training in the following:

20 (A) Forensic evaluation procedures for juveniles.

21 (B) Evaluation, diagnosis, and treatment of children and
22 adolescents with emotional disturbance, mental illness, or
23 developmental disabilities.

24 (C) Clinical understanding of child and adolescent
25 development.

26 (D) Familiarity with competency standards in this state.

27 (ii) ~~Beginning September 28, 2014, a~~ **A** mental health

1 professional other than a psychiatrist or psychologist who has
2 completed a juvenile competency training program for forensic
3 mental health examiners that is endorsed by the department under
4 section 1072 of the mental health code and who possesses experience
5 or training in all of the following:

6 (A) Forensic evaluation procedures for juveniles.

7 (B) Evaluation, diagnosis, and treatment of children and
8 adolescents with emotional disturbance, mental illness, or
9 developmental disabilities.

10 (C) Clinical understanding of child and adolescent
11 development.

12 (D) Familiarity with competency standards in this state.

13 (p) "Qualified restoration provider" means an individual who
14 the court determines, as a result of the opinion provided by the
15 qualified forensic mental health examiner, has the skills and
16 training necessary to provide restoration services. The court shall
17 take measures to avoid any conflict of interest among agencies or
18 individuals who may provide evaluation and restoration.

19 **(Q) "REASONABLE AND PRUDENT PARENTING STANDARD" MEANS**
20 **DECISIONS CHARACTERIZED BY CAREFUL AND SENSIBLE PARENTAL DECISIONS**
21 **THAT MAINTAIN A CHILD'S HEALTH, SAFETY, AND BEST INTEREST WHILE**
22 **ENCOURAGING THE EMOTIONAL AND DEVELOPMENTAL GROWTH OF THE CHILD**
23 **WHEN DETERMINING WHETHER TO ALLOW A CHILD IN FOSTER CARE TO**
24 **PARTICIPATE IN EXTRACURRICULAR, ENRICHMENT, CULTURAL, AND SOCIAL**
25 **ACTIVITIES.**

26 **(R)** ~~(q)~~ "Restoration" means the process by which education or
27 treatment of a juvenile results in that juvenile becoming competent

1 to proceed.

2 **(S)** ~~(r)~~—"Serious misdemeanor" means that term as defined in
3 section 61 of the William Van Regenmorter crime victim's rights
4 act, 1985 PA 87, MCL 780.811.

5 **(T)** ~~(s)~~—"Valid foreign protection order" means a foreign
6 protection order that satisfies the conditions for validity
7 provided in section 2950i of the revised judicature act of 1961,
8 1961 PA 236, MCL 600.2950i.

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

11 (3) This chapter shall be liberally construed so that each
12 juvenile coming within the court's jurisdiction receives the care,
13 guidance, and control, preferably in his or her own home, conducive
14 to the juvenile's welfare and the best interest of the state. If a
15 juvenile is removed from the control of his or her parents, the
16 juvenile shall be placed in care as nearly as possible equivalent
17 to the care that should have been given to the juvenile by his or
18 her parents.

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.

21 Enacting section 2. This amendatory act does not take effect
22 unless Senate Bill No. 1091

23 of the 98th Legislature is enacted into law.