

SENATE BILL No. 106

February 7, 2017, Introduced by Senators EMMONS and SCHUITMAKER 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 2 of chapter XIIA (MCL 712A.2), as amended by
2014 PA 519.

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:

(1) Except as otherwise provided in this sub-subdivision, the

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

11 (A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,
12 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328,
13 MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,
14 750.349, 750.520b, 750.529, 750.529a, and 750.531.

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

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

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

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

27 (iv) An object or device that is used or fashioned in a manner

1 to lead a person to believe the object or device is an object or
2 device described in subparagraphs (i) to (iii).

3 (C) A violation of section 186a of the Michigan penal code,
4 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
5 from a juvenile facility, but only if the juvenile facility from
6 which the individual escaped or attempted to escape was 1 of the
7 following:

8 (i) A high-security or medium-security facility operated by
9 the department of human services or a county juvenile agency.

10 (ii) A high-security facility operated by a private agency
11 under contract with the department of human services or a county
12 juvenile agency.

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

15 (E) An attempt to commit a violation described in paragraphs
16 (A) to (D).

17 (F) Conspiracy to commit a violation described in paragraphs
18 (A) to (D).

19 (G) Solicitation to commit a violation described in paragraphs
20 (A) to (D).

21 (H) A lesser included offense of a violation described in
22 paragraphs (A) to (G) if the individual is charged with a violation
23 described in paragraphs (A) to (G).

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

27 (2) The juvenile has deserted his or her home without

1 sufficient cause, and the court finds on the record that the
2 juvenile has been placed or refused alternative placement or the
3 juvenile and the juvenile's parent, guardian, or custodian have
4 exhausted or refused family counseling.

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

9 (4) The juvenile willfully and repeatedly absents himself or
10 herself from school or other learning program intended to meet the
11 juvenile's educational needs, or repeatedly violates rules and
12 regulations of the school or other learning program, and the court
13 finds on the record that the juvenile, the juvenile's parent,
14 guardian, or custodian, and school officials or learning program
15 personnel have met on the juvenile's educational problems and
16 educational counseling and alternative agency help have been
17 sought. As used in this sub-subdivision only: ~~,"learning~~

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

23 (B) **"WILLFULLY" MEANS AN ACT DONE INTENTIONALLY, KNOWINGLY,**
24 **AND PURPOSELY, WITHOUT A JUSTIFIABLE EXCUSE.**

25 (5) **THE JUVENILE IS FOUND TO BE TRUANT. AS USED IN THIS SUB-**
26 **SUBDIVISION, "TRUANT" MEANS THAT TERM AS DEFINED IN SECTION 1561 OF**
27 **THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1561.**

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) If the juvenile is dependent and is in danger of
26 substantial physical or psychological harm. The juvenile may be
27 found to be dependent when any of the following occurs:

1 (A) The juvenile is homeless or not domiciled with a parent or
2 other legally responsible person.

3 (B) The juvenile has repeatedly run away from home and is
4 beyond the control of a parent or other legally responsible person.

5 (C) The juvenile is alleged to have committed a commercial
6 sexual activity as that term is defined in section 462a of the
7 Michigan penal code, 1931 PA 328, MCL 750.462a or a delinquent act
8 that is the result of force, fraud, coercion, or manipulation
9 exercised by a parent or other adult.

10 (D) The juvenile's custodial parent or legally responsible
11 person has died or has become permanently incapacitated and no
12 appropriate parent or legally responsible person is willing and
13 able to provide care for the juvenile.

14 (4) Whose parent has substantially failed, without good cause,
15 to comply with a limited guardianship placement plan described in
16 section 5205 of the estates and protected individuals code, 1998 PA
17 386, MCL 700.5205, regarding the juvenile.

18 (5) Whose parent has substantially failed, without good cause,
19 to comply with a court-structured plan described in section 5207 or
20 5209 of the estates and protected individuals code, 1998 PA 386,
21 MCL 700.5207 and 700.5209, regarding the juvenile.

22 (6) If the juvenile has a guardian under the estates and
23 protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206,
24 and the juvenile's parent meets both of the following criteria:

25 (A) The parent, having the ability to support or assist in
26 supporting the juvenile, has failed or neglected, without good
27 cause, to provide regular and substantial support for the juvenile

1 for 2 years or more before the filing of the petition or, if a
2 support order has been entered, has failed to substantially comply
3 with the order for 2 years or more before the filing of the
4 petition.

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

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

15 (c) Jurisdiction over juveniles under 18 years of age,
16 jurisdiction of whom has been waived to the family division of
17 circuit court by a circuit court under a provision in a temporary
18 order for custody of juveniles based upon a complaint for divorce
19 or upon a motion related to a complaint for divorce by the
20 prosecuting attorney, in a divorce judgment dissolving a marriage
21 between the juvenile's parents, or by an amended judgment relative
22 to the juvenile's custody in a divorce.

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

27 (1) Repeatedly addicted to the use of drugs or the intemperate

1 use of alcoholic liquors.

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

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

6 (4) Repeatedly associating with thieves, prostitutes, pimps,
7 or procurers.

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

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

1 shall try the case.

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

9 (f) If the court operates a detention home for juveniles
10 within the court's jurisdiction under subdivision (a)(1), authority
11 to place a juvenile within that home pending trial if the juvenile
12 is within the circuit court's jurisdiction under section 606 of the
13 revised judicature act of 1961, 1961 PA 236, MCL 600.606, and if
14 the circuit court orders the family division of circuit court in
15 the same county to place the juvenile in that home. The family
16 division of circuit court shall comply with that order.

17 (g) Authority to place a juvenile in a county jail under
18 section 27a of chapter IV of the code of criminal procedure, 1927
19 PA 175, MCL 764.27a, if the court designates the case under section
20 2d of this chapter as a case in which the juvenile is to be tried
21 in the same manner as an adult and the court determines there is
22 probable cause to believe that the offense was committed and
23 probable cause to believe the juvenile committed that offense.

24 (h) Jurisdiction over a proceeding under section 2950 or 2950a
25 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950
26 and 600.2950a, in which a minor less than 18 years of age is the
27 respondent, or a proceeding to enforce a valid foreign protection

1 order issued against a respondent who is a minor less than 18 years
2 of age. A personal protection order shall not be issued against a
3 respondent who is a minor less than 10 years of age. Venue for an
4 initial action under section 2950 or 2950a of the revised
5 judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, is
6 proper in the county of residence of either the petitioner or
7 respondent. If the respondent does not live in this state, venue
8 for the initial action is proper in the petitioner's county of
9 residence.

10 (i) In a proceeding under this chapter concerning a juvenile's
11 care and supervision, the court may issue orders affecting a party
12 as necessary. This subdivision does not apply after May 1, 2018. As
13 used in this subdivision, "party" means 1 of the following:

14 (i) In a delinquency proceeding, the petitioner and juvenile.

15 (ii) In a child protective proceeding, the petitioner,
16 department of human services, child, respondent, parent, guardian,
17 or legal custodian, and any licensed child caring institution or
18 child placing agency under contract with the department of human
19 services to provide for a juvenile's care and supervision.

20 Enacting section 1. This amendatory act does not take effect
21 unless Senate Bill No. 103

22 of the 99th Legislature is enacted into law.