

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 90**

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 1 and 3 of chapter XIIIA (MCL 712A.1 and
712A.3), section 1 as amended by 2016 PA 496 and section 3 as
amended by 1996 PA 409.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 CHAPTER XIIIA
- 2 Sec. 1. (1) As used in this chapter:
- 3 (a) "Civil infraction" means that term as defined in section
- 4 113 of the revised judicature act of 1961, 1961 PA 236, MCL
- 5 600.113.
- 6 (b) "Competency evaluation" means a court-ordered examination
- 7 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.

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

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

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

(f) "Department" means the department of health and human services. A reference in this chapter to the "department of social welfare" or the "family independence agency" means the department of health and human services.

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

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

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

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

(i) "Juvenile" means a person who is less than ~~17~~¹⁸ years of age who is the subject of a delinquency petition.

(j) "Least restrictive environment" means a supervised community placement, preferably a placement with the juvenile's parent, guardian, relative, or a facility or conditions of treatment that is a residential or institutional placement only



utilized as a last resort based on the best interest of the juvenile or for reasons of public safety.

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

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

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

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

(o) "Qualified juvenile forensic mental health examiner" means 1 of the following who performs forensic mental health examinations for the purposes of sections 1062 to 1074 of the mental health code, **MCL 330.2062 to 330.2074**, but does not exceed the scope of his or her practice as authorized by state law:

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

(A) Forensic evaluation procedures for juveniles.

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

(C) Clinical understanding of child and adolescent development.

(D) Familiarity with competency standards in this state.

(ii) A mental health professional other than a psychiatrist or psychologist who has completed a juvenile competency training



1 program for forensic mental health examiners that is endorsed by
2 the department under section 1072 of the mental health code, **MCL**
3 **330.2072**, and who possesses experience or training in all of the
4 following:

5 (A) Forensic evaluation procedures for juveniles.

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

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

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

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

18 (q) "Reasonable and prudent parenting standard" means
19 decisions characterized by careful and sensible parental decisions
20 that maintain a child's health, safety, and best interest while
21 encouraging the emotional and developmental growth of the child
22 when determining whether to allow a child in foster care to
23 participate in extracurricular, enrichment, cultural, and social
24 activities.

25 (r) "Restoration" means the process by which education or
26 treatment of a juvenile results in that juvenile becoming competent
27 to proceed.

28 (s) "Serious misdemeanor" means that term as defined in
29 section 61 of the William Van Regenmorter crime victim's rights



1 act, 1985 PA 87, MCL 780.811.

2 (t) "Valid foreign protection order" means a foreign
3 protection order that satisfies the conditions for validity
4 provided in section 2950i of the revised judicature act of 1961,
5 1961 PA 236, MCL 600.2950i.

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

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

16 Sec. 3. (1) If during the pendency of a criminal charge
17 against a person in any other court it is ascertained that the
18 person was under the age of ~~17~~**18** at the time of the commission of
19 the offense, the other court shall transfer the case without delay,
20 together with all the papers, documents, and testimony connected
21 with that case, to the family division of the circuit court of the
22 county in which the other court is situated or in which the person
23 resides.

24 (2) The court making the transfer shall order the child to be
25 taken promptly to the place of detention designated by the family
26 division of the circuit court or to that court itself or release
27 the juvenile in the custody of some suitable person to appear
28 before the court at a time designated. The court shall then hear
29 and dispose of the case in the same manner as if it had been



1 originally instituted in that court.

2 Enacting section 1. This amendatory act takes effect October

3 1, 2021.

