

# SENATE BILL NO. 1147

September 24, 2020, Introduced by Senators IRWIN, POLEHANKI, GEISS and BAYER and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1939 PA 288, entitled  
"Probate code of 1939,"  
by amending section 17 of chapter XIIA (MCL 712A.17), as amended by  
1998 PA 474.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 CHAPTER XIIA  
2 Sec. 17. (1) The court may conduct a hearing other than a  
3 criminal hearing in an informal manner. The court shall require  
4 stenographic notes or another transcript to be taken of the

1 hearing. The court shall adjourn a hearing or grant a continuance  
 2 regarding a case under section 2(b) of this chapter only for good  
 3 cause with factual findings on the record and not solely upon  
 4 stipulation of counsel or for the convenience of a party. In  
 5 addition to a factual finding of good cause, the court shall not  
 6 adjourn the hearing or grant a continuance unless 1 of the  
 7 following is also true:

8 (a) The motion for the adjournment or continuance is made in  
 9 writing not less than 14 days before the hearing.

10 (b) The court grants the adjournment or continuance upon its  
 11 own motion after taking into consideration the child's best  
 12 interests. An adjournment or continuance granted under this  
 13 subdivision ~~shall~~**must** not last more than 28 days unless the court  
 14 states on the record the specific reasons why a longer adjournment  
 15 or continuance is necessary.

16 (2) Except as otherwise provided in this subsection, in a  
 17 hearing other than a criminal trial under this chapter, a person  
 18 interested in the hearing may demand a jury of 6 individuals, or  
 19 the court, on its own motion, may order a jury of 6 individuals to  
 20 try the case. In a proceeding under section 2(h) of this chapter, a  
 21 jury ~~shall~~**must** not be demanded or ordered on a supplemental  
 22 petition alleging a violation of a personal protection order. In a  
 23 criminal trial, a jury may be demanded as provided by law. The jury  
 24 ~~shall~~**must** be summoned and impaneled in accordance with chapter 13  
 25 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1300 to  
 26 600.1376, and, in the case of a criminal trial, as provided in  
 27 chapter VIII of the code of criminal procedure, 1927 PA 175, MCL  
 28 768.1 to ~~768.36~~**768.37**.

29 (3) A parent, guardian, or other custodian of a juvenile held

under this chapter has the right to give bond or other security for the appearance of the juvenile at the hearing of the case.

(4) The prosecuting attorney shall appear for the people when requested by the court, and in a proceeding under section 2(a)(1) of this chapter, the prosecuting attorney shall appear if the proceeding requires a hearing and the taking of testimony.

(5) In a proceeding under section 2(b) of this chapter, upon request of the ~~family independence agency~~ **department** or an agent of the ~~family independence agency~~ **department** under contract with the ~~family independence agency~~ **department**, the prosecuting attorney shall serve as a legal consultant to the ~~family independence agency~~ **department** or its agent at all stages of the proceeding. If in a proceeding under section 2(b) of this chapter the prosecuting attorney does not appear on behalf of the ~~family independence agency~~ **department** or its agent, the ~~family independence agency~~ **department** may contract with an attorney of its choice for legal representation.

(6) A member of a local foster care review board established under 1984 PA 422, MCL 722.131 to 722.139a, ~~shall~~ **must** be admitted to a hearing under subsection (1).

~~(7) Upon motion of a party or a victim, the court may close the hearing of a case brought under this chapter to members of the general public during the testimony of a juvenile witness or the victim if the court finds that closing the hearing is necessary to protect the welfare of the juvenile witness or the victim. In determining whether closing the hearing is necessary to protect the welfare of the juvenile witness or the victim, the court shall consider the following:~~

~~(a) The age of the juvenile witness or the victim.~~

1       ~~(b) The nature of the proceeding.~~

2       ~~(c) The desire of the juvenile witness, of the witness's~~  
3 ~~family or guardian, or of the victim to have the testimony taken in~~  
4 ~~a room closed to the public.~~

5       (7) ~~(8) As used in subsection (7), "juvenile witness" does not~~  
6 ~~include a juvenile against whom a proceeding is brought under~~  
7 ~~section 2(a)(1) of this chapter.~~**Except as provided in this**  
8 **subsection, the court shall admit individuals with party status to**  
9 **and exclude the general public from the hearing of a case brought**  
10 **under this chapter. An individual without party status may petition**  
11 **the court in writing for admittance to the hearing. The court may**  
12 **admit an individual without party status to the hearing if the**  
13 **court finds that he or she has a proper interest in the case or in**  
14 **the work of the court. As used in this subsection, "party status"**  
15 **means an individual who is a party, party's counsel, party's parent**  
16 **or guardian, witness, or an individual who accompanies a party for**  
17 **his or her assistance.**