

Act No. 111
Public Acts of 2019
Approved by the Governor
October 31, 2019
Filed with the Secretary of State
October 31, 2019
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**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2019**

Introduced by Senators Hertel, Santana, Irwin, Wojno, Alexander, Chang, Hollier, Bullock, McMorrow, Moss, Polehanki, Bayer and Geiss

ENROLLED SENATE BILL No. 97

AN ACT to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” by amending sections 14 and 15 of chapter XIIA (MCL 712A.14 and 712A.15), section 14 as amended by 2012 PA 163 and section 15 as amended by 1998 PA 474.

The People of the State of Michigan enact:

CHAPTER XIIA

Sec. 14. (1) Any local police officer, sheriff or deputy sheriff, state police officer, county agent or probation officer of any court of record may, without the order of the court, immediately take into custody any child who is found violating any law or ordinance, or for whom there is reasonable cause to believe is violating or has violated a personal protection order issued under section 2(h) of this chapter by the court under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or for whom there is reasonable cause to believe is violating or has violated a valid foreign protection order. If the officer or county agent takes a child coming within the provisions of this chapter into custody, he or she shall immediately attempt to notify the parent or parents, guardian, or custodian. While awaiting the arrival of the parent or parents, guardian, or

custodian, a child under the age of 18 years taken into custody under the provisions of this chapter shall not be held in a jail or any other detention facility unless the child is completely isolated so as to prevent any verbal, visual, or physical contact with an adult prisoner. Unless the child requires immediate detention as provided for in this act, the officer shall accept the written promise of the parent or parents, guardian, or custodian, to bring the child to the court at a fixed time. The child shall then be released to the custody of the parent or parents, guardian, or custodian.

(2) If a child is not released under subsection (1), the child and his or her parent or parents, guardian, or custodian, if they can be located, shall immediately be brought before the court for a preliminary hearing on the status of the child, and an order signed by a judge or a referee authorizing the filing of a complaint shall be entered or the child shall be released to his or her parent or parents, guardian, or custodian.

(3) If a complaint is authorized under subsection (2), the order shall state where the child is to be placed, pending investigation and hearing, which placement may be in any of the following:

(a) In the home of the child's parent, guardian, or custodian.

(b) If a child is within the court's jurisdiction under section 2(a) of this chapter, in a suitable foster care home subject to the court's supervision. If a child is within the court's jurisdiction under section 2(b) of this chapter, the court shall not place a child in a foster care home subject to the court's supervision.

(c) In a child care institution or child placing agency licensed by the department to receive for care children within the jurisdiction of the court.

(d) In a suitable place of detention.

Sec. 15. (1) In the case of a child concerning whom a complaint has been made or a petition has been filed under this chapter, the court may order the child, pending the hearing, detained in a facility as the court designates. The court may release the child, pending the hearing, in the custody of a parent, guardian, or custodian, to be brought before the court at the time designated. As used in this subsection, "petition" includes all of the following:

(a) Petition.

(b) Supplemental petition.

(c) Petition for revocation of probation.

(d) Supplemental petition alleging a violation of a personal protection order.

(2) Custody, pending hearing, is limited to the following children:

(a) Those whose home conditions make immediate removal necessary.

(b) Those who have a record of unexcused failures to appear at juvenile court proceedings.

(c) Those who have run away from home.

(d) Those who have failed to remain in a detention or nonsecure facility or placement in violation of a court order.

(e) Those whose offenses are so serious that release would endanger public safety.

(f) Those who have allegedly violated a personal protection order and for whom it appears there is a substantial likelihood of retaliation or continued violation.

(3) A child taken into custody under section 2(a)(2) to (4) of this chapter or subsection (2)(c) shall not be detained in any secure facility designed to physically restrict the movements and activities of alleged or adjudicated juvenile offenders unless the court finds that the child willfully violated a court order and the court finds, after a hearing and on the record, that there is not a less restrictive alternative more appropriate to the needs of the child. This subsection does not apply to a child who is under the jurisdiction of the court under section 2(a)(1) of this chapter or a child who is not less than 18 years of age and who is under the jurisdiction of the court under a supplemental petition under section 2(h) of this chapter.

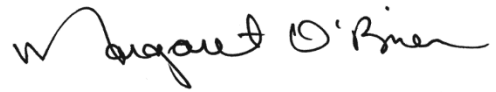
(4) A child taken into custody under section 2(b) of this chapter or subsection (2)(a) shall not be detained in any secure facility designed to physically restrict the movements and activities of alleged or adjudicated juvenile offenders or in a cell or other secure area of any secure facility designed to incarcerate adults.

(5) A child taken into custody under section 2(a)(2) to (4) of this chapter or subsection (2)(c) shall not be detained in a cell or other secure area of any secure facility designed to incarcerate adults unless either of the following applies:

(a) A child is under the jurisdiction of the court under section 2(a)(1) of this chapter for an offense which, if committed by an adult, would be a felony.

(b) A child is not less than 18 years of age and is under the jurisdiction of the court under a supplemental petition under section 2(h) of this chapter.

Enacting section 1. This amendatory act takes effect October 1, 2021.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor