



# SENATE BILL No. 683

September 27, 1995, Introduced by Senator MC MANUS and referred to the Committee on Judiciary.

A bill to amend sections 15 and 16 of chapter XIIA of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

section 15 as amended by Act No. 72 of the Public Acts of 1987 and section 16 as amended by Act No. 224 of the Public Acts of

1988, being sections 712A.15 and 712A.16 of the Michigan Compiled Laws.

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

1 Section 1. Sections 15 and 16 of chapter XIIA of Act  
2 No. 288 of the Public Acts of 1939, section 15 as amended by Act  
3 No. 72 of the Public Acts of 1987 and section 16 as amended by  
4 Act No. 224 of the Public Acts of 1988, being sections 712A.15  
5 and 712A.16 of the Michigan Compiled Laws, are amended to read as  
6 follows:

7 CHAPTER XIIA

8 Sec. 15. (1) In the case of a child concerning whom a com-  
9 plaint has been made or a petition or supplemental petition or  
10 petition for revocation of probation has been filed ~~pursuant to~~  
11 UNDER this chapter, the court may order the child, pending the  
12 hearing, detained in a facility as the court ~~shall designate~~  
13 DESIGNATES. The court may release the child, pending the hear-  
14 ing, in the custody of a parent, guardian, or custodian, to be  
15 brought before the court at the time designated.

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

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

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

22 (c) Those who have run away from home.

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

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

3 ~~(3) A child taken into custody pursuant to section 2(a)(2)~~  
4 ~~to (6) of this chapter or subsection (2)(c), who is not under the~~  
5 ~~jurisdiction of the court pursuant to section 2(a)(1) of this~~  
6 ~~chapter, shall not be detained in any secure facility designed to~~  
7 ~~physically restrict the movements and activities of alleged or~~  
8 ~~adjudicated juvenile offenders unless the court finds that the~~  
9 ~~child willfully violated a court order and the court finds, after~~  
10 ~~a hearing and on the record, that there is not a less restrictive~~  
11 ~~alternative more appropriate to the needs of the child.~~

12 (3) ~~(4)~~ A child taken into custody ~~pursuant to~~ UNDER  
13 section 2(b) of this chapter or subsection (2)(a) shall not be  
14 detained in any secure facility designed to physically restrict  
15 the movements and activities of alleged or adjudicated juvenile  
16 offenders or in a cell or other secure area of any secure facil-  
17 ity designed to incarcerate adults.

18 (4) ~~(5)~~ A child taken into custody ~~pursuant to~~ UNDER  
19 section 2(a)(2) to (6) of this chapter or subsection (2)(c) who  
20 is not under the jurisdiction of the court ~~pursuant to the pro-~~  
21 ~~visions of~~ UNDER section 2(a)(1) of this chapter for an offense  
22 which, if committed by an adult, would be a felony shall not be  
23 detained in a cell or other secure area of any secure facility  
24 designed to incarcerate adults.

25 Sec. 16. (1) If a child ~~under the age of~~ LESS THAN 17  
26 years OF AGE is taken into custody or detained, the child shall  
27 not be confined in any police station, prison, jail, lock-up, or

1 reformatory, or be transported with, or compelled or permitted to  
2 associate or mingle with, criminal or dissolute persons.

3 However, except as otherwise provided in section ~~15(3), (4), and~~  
4 ~~(5)~~ 15(3) AND (4) of this chapter, a child 15 years of age or  
5 older whose habits or conduct are considered a menace to other  
6 children, or who may not otherwise be safely detained, may, on  
7 order of the court, be placed in a jail or other place of deten-  
8 tion for adults, but in a room or ward separate from adults, and  
9 for ~~a period not to exceed~~ NOT MORE THAN 30 days, unless longer  
10 detention is necessary for ~~the service of~~ SERVING process.

11 (2) Provision may be made by the county board of commission-  
12 ers in each county or of counties contracting together for the  
13 diagnosis, treatment, care, training, and detention of children  
14 in a child care home to be conducted as an agency of the court or  
15 county if the home or facility meets licensing standards estab-  
16 lished by the state department of social services. The court or  
17 a court approved agency may arrange for ~~the boarding of~~ chil-  
18 dren TO BE BOARDED by any of the following:

19 (a) If a child is within the court's jurisdiction under sec-  
20 tion 2(a) of this chapter, in a suitable foster care home subject  
21 to the court's supervision. Except as otherwise provided in sub-  
22 sections (5) and (6), if a child is within the court's jurisdic-  
23 tion under section 2(b) of this chapter, the court shall not  
24 place a child in a foster care home subject to the court's  
25 supervision.

1 (b) In a child care institution or child placing agency  
2 licensed by the state department of social services to receive  
3 for care children within the jurisdiction of the court.

4 (c) If in a room or ward, separate and apart from adult  
5 criminals, in the county jail in cases of children over 17 years  
6 of age within the jurisdiction of the court.

7 (3) If a detention home is established as an agency of the  
8 court, the judge may appoint a superintendent or matron and other  
9 necessary employees for the home who shall receive compensation  
10 as shall be provided by the county board of commissioners of the  
11 county. This section does not alter or diminish the legal  
12 responsibility of the state department of social services to  
13 receive juveniles committed by the probate courts.

14 (4) If the court under subsection (2) arranges for the board  
15 of children temporarily detained in private homes or in a child  
16 care institution or child placing agency, a reasonable sum, to be  
17 fixed by the court, for the board of the children shall be paid  
18 by the county treasurer out of the general fund of the county.

19 (5) Except as otherwise provided in subsection (6), if a  
20 court is providing at the time of the enactment of this subsec-  
21 tion foster care home services subject to the court's supervision  
22 to children within section 2(b) of this chapter, the court may  
23 continue to provide those services through December 31, 1989.  
24 Beginning January 1, 1990, the court shall discontinue providing  
25 those services.

26 (6) If a court located in a county with a population ~~in~~  
27 ~~excess~~ of MORE THAN 650,000 is providing at the time ~~of the~~

1 ~~enactment of~~ this subsection IS ENACTED foster care home  
2 services subject to the court's supervision to children within  
3 section 2(b) of this chapter, the court may continue to provide  
4 those services through December 31, 1991. Beginning January 1,  
5 1992, the court shall discontinue those services.