

SENATE BILL No. 586

October 3, 2013, Introduced by Senators ROCCA, HANSEN, ANDERSON, GREGORY, WARREN, JANSEN, PROOS, ROBERTSON, NOFS, JONES, PAPPAGEORGE, SCHUITMAKER, HOPGOOD, ANANICH, MARLEAU, CASPERSON, MOOLENAAR, BRANDENBURG, MEEKHOF, CASWELL, BOOHER, COLBECK, HILDENBRAND, RICHARDVILLE, KAHN and EMMONS 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
2001 PA 211, and by adding section 11a to chapter XIIA.

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~~**OVER** 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 **AND**
SUBDIVISION (I), the juvenile has violated any municipal ordinance
or law of the state or of the United States. If the court enters

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

9 (A) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,
10 520b, 529, 529a, or 531 of the Michigan penal code, 1931 PA 328,
11 MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,
12 750.349, 750.520b, 750.529, 750.529a, and 750.531.

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

17 (i) A loaded or unloaded firearm, whether operable or
18 inoperable.

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

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

25 (iv) An object or device that is used or fashioned in a manner
26 to lead a person to believe the object or device is an object or
27 device described in subparagraphs (i) to (iii).

1 (C) A violation of section 186a of the Michigan penal code,
2 1931 PA 328, MCL 750.186a, regarding escape or attempted escape
3 from a juvenile facility, but only if the juvenile facility from
4 which the individual escaped or attempted to escape was 1 of the
5 following:

6 (i) A high-security or medium-security facility operated by the
7 family independence agency or a county juvenile agency.

8 (ii) A high-security facility operated by a private agency
9 under contract with the family independence agency or a county
10 juvenile agency.

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

13 (E) An attempt to commit a violation described in paragraphs
14 (A) to (D).

15 (F) Conspiracy to commit a violation described in paragraphs
16 (A) to (D).

17 (G) Solicitation to commit a violation described in paragraphs
18 (A) to (D).

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

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

25 (2) The juvenile has deserted his or her home without
26 sufficient cause, and the court finds on the record that the
27 juvenile has been placed or refused alternative placement or the

1 juvenile and the juvenile's parent, guardian, or custodian have
2 exhausted or refused family counseling.

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

7 (4) The juvenile willfully and repeatedly absents himself or
8 herself from school or other learning program intended to meet the
9 juvenile's educational needs, or repeatedly violates rules and
10 regulations of the school or other learning program, and the court
11 finds on the record that the juvenile, the juvenile's parent,
12 guardian, or custodian, and school officials or learning program
13 personnel have met on the juvenile's educational problems and
14 educational counseling and alternative agency help have been
15 sought. As used in this sub-subdivision only, "learning program"
16 means an organized educational program that is appropriate, given
17 the age, intelligence, ability, and psychological limitations of a
18 juvenile, in the subject areas of reading, spelling, mathematics,
19 science, history, civics, writing, and English grammar.

20 (b) Jurisdiction ~~in~~**OVER** proceedings concerning a juvenile
21 under 18 years of age found within the county:

22 (1) Whose parent or other person legally responsible for the
23 care and maintenance of the juvenile, when able to do so, neglects
24 or refuses to provide proper or necessary support, education,
25 medical, surgical, or other care necessary for his or her health or
26 morals, who is subject to a substantial risk of harm to his or her
27 mental well-being, who is abandoned by his or her parents,

1 guardian, or other custodian, or who is without proper custody or
2 guardianship. As used in this sub-subdivision:

3 (A) "Education" means learning based on an organized
4 educational program that is appropriate, given the age,
5 intelligence, ability, and psychological limitations of a juvenile,
6 in the subject areas of reading, spelling, mathematics, science,
7 history, civics, writing, and English grammar.

8 (B) "Without proper custody or guardianship" does not mean a
9 parent has placed the juvenile with another person who is legally
10 responsible for the care and maintenance of the juvenile and who is
11 able to and does provide the juvenile with proper care and
12 maintenance.

13 (2) Whose home or environment, by reason of neglect, cruelty,
14 drunkenness, criminality, or depravity on the part of a parent,
15 guardian, nonparent adult, or other custodian, is an unfit place
16 for the juvenile to live in.

17 (3) Whose parent has substantially failed, without good cause,
18 to comply with a limited guardianship placement plan described in
19 section 5205 of the estates and protected individuals code, 1998 PA
20 386, MCL 700.5205, regarding the juvenile.

21 (4) Whose parent has substantially failed, without good cause,
22 to comply with a court-structured plan described in section 5207 or
23 5209 of the estates and protected individuals code, 1998 PA 386,
24 MCL 700.5207 and 700.5209, regarding the juvenile.

25 (5) If the juvenile has a guardian under the estates and
26 protected individuals code, 1998 PA 386, MCL 700.1101 to ~~700.8102,~~
27 **700.8206**, and the juvenile's parent meets both of the following

1 criteria:

2 (A) The parent, having the ability to support or assist in
3 supporting the juvenile, has failed or neglected, without good
4 cause, to provide regular and substantial support for the juvenile
5 for 2 years or more before the filing of the petition or, if a
6 support order has been entered, has failed to substantially comply
7 with the order for 2 years or more before the filing of the
8 petition.

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

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

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

27 (d) If the court finds on the record that voluntary services

1 have been exhausted or refused, concurrent jurisdiction in
2 proceedings concerning a juvenile between the ages of 17 and 18
3 found within the county who is 1 or more of the following:

4 (1) Repeatedly addicted to the use of drugs or the intemperate
5 use of alcoholic liquors.

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

8 (3) ~~Found~~ **EXCEPT AS PROVIDED IN SUBDIVISION (I),** FOUND of his
9 or her own free will and knowledge in a house of prostitution,
10 assignation, or ill-fame.

11 (4) ~~Repeatedly~~ **EXCEPT AS PROVIDED IN SUBDIVISION (I),**
12 **REPEATEDLY** associating with thieves, prostitutes, pimps, or
13 procurers.

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

17 If a juvenile is brought before the court in a county other
18 than that in which the juvenile resides, before a hearing and with
19 the consent of the judge of the court in the county of residence,
20 the court may enter an order transferring jurisdiction of the
21 matter to the court of the county of residence. Consent to transfer
22 jurisdiction is not required if the county of residence is a county
23 juvenile agency and satisfactory proof of residence is furnished to
24 the court of the county of residence. The order does not constitute
25 a legal settlement in this state that is required for the purpose
26 of section 55 of the social welfare act, 1939 PA 280, MCL 400.55.
27 The order and a certified copy of the proceedings in the

1 transferring court shall be delivered to the court of the county of
2 residence. A case designated as a case in which the juvenile shall
3 be tried in the same manner as an adult under section 2d of this
4 chapter may be transferred for venue or for juvenile disposition,
5 but shall not be transferred on grounds of residency. If the case
6 is not transferred, the court having jurisdiction of the offense
7 shall try the case.

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

15 (f) If the court operates a detention home for juveniles **WHO**
16 **ARE** within the court's jurisdiction under subdivision (a)(1),
17 authority to place a juvenile within that home pending trial if the
18 juvenile is within the circuit court's jurisdiction under section
19 606 of the revised judicature act of 1961, 1961 PA 236, MCL
20 600.606, and if the circuit court orders the family division of
21 circuit court in the same county to place the juvenile in that
22 home. The family division of circuit court shall comply with that
23 order.

24 (g) Authority to place a juvenile in a county jail under
25 section 27a of chapter IV of the code of criminal procedure, 1927
26 PA 175, MCL 764.27a, if the court designates the case under section
27 2d of this chapter as a case in which the juvenile is to be tried

1 in the same manner as an adult and the court determines there is
2 probable cause to believe that the offense was committed and
3 probable cause to believe the juvenile committed that offense.

4 (h) Jurisdiction over a proceeding under section 2950 or 2950a
5 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950
6 and 600.2950a, in which a minor less than 18 years of age is the
7 respondent, or a proceeding to enforce a valid foreign protection
8 order issued against a respondent who is a minor less than 18 years
9 of age. A personal protection order shall not be issued against a
10 respondent who is a minor less than 10 years of age. Venue for an
11 initial action under section 2950 or 2950a of the revised
12 judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, is
13 proper in the county of residence of either the petitioner or
14 respondent. If the respondent does not live in this state, venue
15 for the initial action is proper in the petitioner's county of
16 residence.

17 (I) JURISDICTION OVER PROCEEDINGS CONCERNING A JUVENILE UNDER
18 18 YEARS OF AGE FOUND TO BE VIOLATING SECTION 448, 449, 450, OR 451
19 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.448, 750.449,
20 750.450, AND 750.451, OR A LOCAL ORDINANCE SUBSTANTIALLY
21 CORRESPONDING TO SECTION 448, 449, 450, OR 451 OF THE MICHIGAN
22 PENAL CODE, 1931 PA 328, MCL 750.448, 750.449, 750.450, AND
23 750.451. THIS SUBDIVISION APPLIES TO ANY CASE FILED ON OR AFTER THE
24 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION
25 AND TO CASES PENDING IN THE CIRCUIT COURT ON THAT EFFECTIVE DATE.
26 ANY CASE PENDING IN THE CIRCUIT COURT ON THE EFFECTIVE DATE OF THE
27 AMENDATORY ACT THAT ADDED THIS SUBDIVISION SHALL BE TRANSFERRED TO

1 THE PROBATE COURT FOR PROCEEDINGS UNDER THIS SUBDIVISION.

2 SEC. 11A. IF A JUVENILE IS TAKEN INTO CUSTODY FOR A VIOLATION
3 OF SECTION 448, 449, 450, OR 451 OF THE MICHIGAN PENAL CODE, 1931
4 PA 328, MCL 750.448, 750.449, 750.450, AND 750.451, OR A LOCAL
5 ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION 448, 449, 450, OR
6 451 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.448, 750.449,
7 750.450, AND 750.451, THE COURT SHALL PROMPTLY CONDUCT A HEARING TO
8 DETERMINE WHETHER THERE IS REASONABLE CAUSE TO BELIEVE THAT THE
9 JUVENILE COMMITTED THE VIOLATION WHILE BEING A VICTIM OF HUMAN
10 TRAFFICKING UNDER CHAPTER LXVIIA OF THE MICHIGAN PENAL CODE, 1931
11 PA 328, MCL 750.462A TO 750.462J. IF THE COURT DETERMINES THAT
12 THERE IS REASONABLE CAUSE TO BELIEVE THAT THE JUVENILE COMMITTED
13 THE VIOLATION WHILE BEING A VICTIM OF HUMAN TRAFFICKING UNDER
14 CHAPTER LXVIIA OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
15 750.462A TO 750.462J, THE COURT SHALL REFER THE JUVENILE TO THE
16 DEPARTMENT OF HUMAN SERVICES FOR CARE AS A VICTIM OF HUMAN
17 TRAFFICKING AND SHALL INFORM THE JUVENILE OF HIS OR HER RIGHT TO
18 MAKE A CLAIM AS A CRIME VICTIM UNDER 1989 PA 196, MCL 780.901 TO
19 780.911. NOTWITHSTANDING A REFERRAL TO THE DEPARTMENT OF HUMAN
20 SERVICES, THE COURT MAY CONTINUE TO EXERCISE JURISDICTION OVER THE
21 JUVENILE UNDER THIS CHAPTER.

22 Enacting section 1. This amendatory act does not take effect
23 unless all of the following bills of the 97th Legislature are
24 enacted into law:

25 (a) Senate Bill No. 585.

26
27 (b) Senate Bill No. 587.
28