

SENATE BILL NO. 423

June 28, 2023, Introduced by Senators VICTORY, CHANG, WOJNO, BAYER, SHINK, GEISS and SANTANA and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 15 and 16 of chapter XIIA (MCL 712A.15 and 712A.16), section 15 as amended by 2020 PA 389 and section 16 as amended by 2019 PA 102.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XIIA
2 Sec. 15. (1) In the case of a juvenile concerning whom a
3 complaint has been made or a petition has been filed under this

1 chapter, the court may order the juvenile, pending ~~the~~ hearing,
2 detained in a facility as the court designates. The court may
3 release the juvenile, pending ~~the~~ hearing, ~~in~~ **into** the custody of a
4 parent, guardian, or custodian, to be brought before the court at
5 the time designated. As used in this subsection, "petition"
6 includes all of the following:

7 (a) Petition.

8 (b) Supplemental petition.

9 (c) Petition for revocation of probation.

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

12 (e) A petition or supplemental petition alleging that a
13 juvenile violated a court order under section 2(a)(2) to (4) of
14 this chapter.

15 (2) Custody, pending hearing, is **subject to subsection (3) and**
16 limited to the following children:

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

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

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

23 (d) Those whose offenses are so serious that release would
24 endanger public safety.

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

28 (f) Those who have allegedly violated a court order under
29 section 2(a)(2) to (4) of this chapter.

1 (3) Before a juvenile may be detained in a secure facility
2 before trial, a person or agency designated by the court shall use
3 a detention screening tool on the juvenile. Before detaining a
4 juvenile, the court shall consult the results of the detention
5 screening tool and follow any rules regarding its use that are
6 promulgated by the supreme court. The court shall share the results
7 of the detention screening tool with all parties before a
8 juvenile's detention hearing. The supreme court administrative
9 office in collaboration with local courts shall determine the
10 appropriate detention screening tool. Any statement or other
11 information obtained as a result of participating in a screening
12 under this subsection is confidential and is exempt from disclosure
13 under the freedom of information act, 1976 PA 442, MCL 15.231 to
14 15.246, and must not be used in any future juvenile delinquency
15 proceeding.

16 (4) ~~(3)~~—If a juvenile is taken into custody for violating a
17 court order under section 2(a)(2) to (4) of this chapter and is
18 detained in a secure facility, the petitioner shall ensure that an
19 appropriately trained, licensed, or certified mental health or
20 substance abuse professional interviews the juvenile in person
21 within 24 hours to assess the immediate mental health and substance
22 abuse needs of the juvenile. The assessment may alternatively be
23 done upon filing the petition, ~~prior to any~~ **before an** order for
24 placement in a secure facility. Within 48 hours of the placement in
25 the secure facility, the petitioner shall submit the assessment to
26 the court and the court shall conduct a hearing to determine all of
27 the following:

28 (a) If there is reasonable cause to believe that the juvenile
29 violated the court order.

1 (b) The appropriate placement of the juvenile pending the
2 disposition of the alleged violation, including if the juvenile
3 should be placed in a secure facility.

4 (5) ~~(4)~~—A child taken into custody under section 2(b) of this
5 chapter or subsection (2) (a) must not be detained in ~~any~~**a** secure
6 facility or in a cell or other secure area of ~~any~~**a** secure facility
7 designed to incarcerate adults.

8 (6) ~~(5)~~—A juvenile taken into custody under section 2(a)(2) to
9 (4) of this chapter must not be detained in a cell or other secure
10 area of ~~any~~**a** secure facility designed to incarcerate adults unless
11 either of the following applies:

12 (a) The juvenile is under the jurisdiction of the court under
13 section 2(a)(1) of this chapter for an offense which, if committed
14 by an adult, would be a felony.

15 (b) Until September 30, 2021, the juvenile is not less than 17
16 years of age and is under the jurisdiction of the court under a
17 supplemental petition under section 2(h) of this chapter. Beginning
18 October 1, 2021, the juvenile is not less than 18 years of age and
19 is under the jurisdiction of the court under a supplemental
20 petition under section 2(h) of this chapter.

21 Sec. 16. (1) If a juvenile under the age of 18 years is taken
22 into custody or detained, the juvenile ~~shall~~**must** not be confined
23 in ~~any~~**a** police station, prison, jail, lock-up, or reformatory or
24 transported with, or compelled or permitted to associate or mingle
25 with, criminal or dissolute persons. Except as otherwise provided
26 in section ~~15(3), (4), and (5)~~**15** of this chapter, the court may
27 order a juvenile 15 years of age or older whose habits or conduct
28 are considered a menace to other juveniles, or who may not
29 otherwise be safely detained, placed in a jail or other place of

1 detention for adults, but in a room or ward separate from adults
2 and for not more than 30 days, unless longer detention is necessary
3 for the service of process.

4 (2) The county board of commissioners in each county or of
5 counties contracting together may provide for the diagnosis,
6 treatment, care, training, and detention of juveniles in a child
7 care home or facility conducted as an agency of the county if the
8 home or facility meets **the** licensing standards established under
9 1973 PA 116, MCL 722.111 to 722.128. The court or a court-approved
10 agency may arrange for the boarding of juveniles in any of the
11 following:

12 (a) If a juvenile is within the court's jurisdiction under
13 section 2(a) of this chapter, a suitable foster care home subject
14 to the court's supervision. If a juvenile is within the court's
15 jurisdiction under section 2(b) of this chapter, the court shall
16 not place a juvenile in a foster care home subject to the court's
17 supervision.

18 (b) A child caring institution or child placing agency
19 licensed by the department to receive for care juveniles within the
20 court's jurisdiction.

21 (c) If in a room or ward separate and apart from adult
22 criminals, the county jail for juveniles over 17 years of age
23 within the court's jurisdiction.

24 (3) If a detention home or facility is established as an
25 agency of the county, the judge may appoint a superintendent and
26 other necessary employees for the home or facility who shall
27 receive compensation as provided by the county board of
28 commissioners of the county. This section does not alter or
29 diminish the legal responsibility of the department or a county

1 juvenile agency to receive juveniles committed by the court.

2 (4) If the court under subsection (2) arranges for the board
3 of juveniles temporarily detained in private homes or in a child
4 caring institution or child placing agency, a reasonable sum fixed
5 by the court for ~~their~~**the juvenile's** board ~~shall~~**must** be paid by
6 the county treasurer as provided in section 25 of this chapter.

7 (5) A court shall not provide foster care home services
8 subject to the court's supervision to juveniles within section 2(b)
9 of this chapter.

10 (6) A juvenile detention home described in subsection (3)
11 ~~shall be~~**is** operated under the direction of the county board of
12 commissioners or, in a county that has an elected county executive,
13 under the county executive's direction. A different method for
14 directing the operation of a detention home may be agreed to in any
15 county by the chief judge of the circuit court in that county and
16 the county board of commissioners or, in a county that has an
17 elected county executive, the county executive.

18 Enacting section 1. This amendatory act does not take effect
19 unless Senate Bill No. 418 of the 102nd Legislature is enacted into
20 law.