

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

***** 712A.1.amended[2] THIS AMENDED SECTION IS EFFECTIVE APRIL 4, 2021 *****

712A.1.amended[2] Definitions; proceedings not as criminal proceedings; construction of chapter.

Sec. 1. (1) As used in this chapter:

(a) "Civil infraction" means that term as defined in section 113 of the revised judicature act of 1961, 1961 PA 236, MCL 600.113.

(b) "Competency evaluation" means a court-ordered examination of a juvenile directed to developing information relevant to a determination of his or her competency to proceed at a particular stage of a court proceeding involving a juvenile who is the subject of a delinquency petition.

(c) "Competency hearing" means a hearing to determine whether a juvenile is competent to proceed.

(d) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.

(e) "Court" means the family division of circuit court.

(f) "Department" means the department of health and human services. A reference in this chapter to the "department of social welfare" or the "family independence agency" means the department of health and human services.

(g) "Foreign protection order" means that term as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.

(h) "Incompetent to proceed" means that a juvenile, based on age-appropriate norms, lacks a reasonable degree of rational and factual understanding of the proceeding or is unable to do 1 or more of the following:

(i) Consult with and assist his or her attorney in preparing his or her defense in a meaningful manner.

(ii) Sufficiently understand the charges against him or her.

(i) Until September 30, 2021, "juvenile" means a person who is less than 17 years of age who is the subject of a delinquency petition. Beginning October 1, 2021, "juvenile" means a person who is less than 18 years of age who is the subject of a delinquency petition.

(j) "Least restrictive environment" means a supervised community placement, preferably a placement with the juvenile's parent, guardian, relative, or a facility or conditions of treatment that is a residential or institutional placement only utilized as a last resort based on the best interest of the juvenile or for reasons of public safety.

(k) "Licensed child caring institution" means a child caring institution as defined and licensed under 1973 PA 116, MCL 722.111 to 722.128.

(l) "MCI" means the Michigan children's institute created and established by 1935 PA 220, MCL 400.201 to 400.214.

(m) "Mental health code" means the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(n) "Personal protection order" means a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, and includes a valid foreign protection order.

(o) "Public agency" means the department, a local unit of government, the family division of the circuit court, the juvenile division of the probate court, or a county juvenile agency.

(p) "Qualified juvenile forensic mental health examiner" means 1 of the following who performs forensic mental health examinations for the purposes of sections 1062 to 1074 of the mental health code, MCL 330.2062 to 330.2074, but does not exceed the scope of his or her practice as authorized by state law:

(i) A psychiatrist or psychologist who possesses experience or training in the following:

(A) Forensic evaluation procedures for juveniles.

(B) Evaluation, diagnosis, and treatment of children and adolescents with emotional disturbance, mental illness, or developmental disabilities.

(C) Clinical understanding of child and adolescent development.

(D) Familiarity with competency standards in this state.

(ii) A mental health professional other than a psychiatrist or psychologist who has completed a juvenile competency training program for forensic mental health examiners that is endorsed by the department under section 1072 of the mental health code, MCL 330.2072, and who possesses experience or training in all of the following:

(A) Forensic evaluation procedures for juveniles.

(B) Evaluation, diagnosis, and treatment of children and adolescents with emotional disturbance, mental

illness, or developmental disabilities.

(C) Clinical understanding of child and adolescent development.

(D) Familiarity with competency standards in this state.

(q) "Qualified restoration provider" means an individual who the court determines, as a result of the opinion provided by the qualified forensic mental health examiner, has the skills and training necessary to provide restoration services. The court shall take measures to avoid any conflict of interest among agencies or individuals who may provide evaluation and restoration.

(r) "Reasonable and prudent parenting standard" means decisions characterized by careful and sensible parental decisions that maintain a child's health, safety, and best interest while encouraging the emotional and developmental growth of the child when determining whether to allow a child in foster care to participate in extracurricular, enrichment, cultural, and social activities.

(s) "Restoration" means the process by which education or treatment of a juvenile results in that juvenile becoming competent to proceed.

(t) "Secure facility" means any public or private licensed child caring institution identified by the department as designed to physically restrict the movements and activities of the alleged or adjudicated juvenile offender that has the primary purpose of serving juveniles who have been alleged or adjudicated delinquent, other than a juvenile alleged or adjudicated under section 2(a)(2) to (4) of this chapter.

(u) "Serious misdemeanor" means that term as defined in section 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.811.

(v) "Valid foreign protection order" means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

(2) Except as otherwise provided, proceedings under this chapter are not criminal proceedings.

(3) This chapter shall be liberally construed so that each juvenile coming within the court's jurisdiction receives the care, guidance, and control, preferably in his or her own home, conducive to the juvenile's welfare and the best interest of the state. If a juvenile is removed from the control of his or her parents, the juvenile shall be placed in care as nearly as possible equivalent to the care that should have been given to the juvenile by his or her parents.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944;—CL 1948, 712A.1;—Am. 1988, Act 224, Eff. Apr. 1, 1989;—Am. 1996, Act 250, Eff. Jan. 1, 1997;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 1998, Act 478, Eff. Jan. 12, 1999;—Am. 2000, Act 46, Imd. Eff. Mar. 27, 2000;—Am. 2001, Act 211, Eff. Apr. 1, 2002;—Am. 2012, Act 541, Eff. Mar. 28, 2013;—Am. 2014, Act 533, Imd. Eff. Jan. 14, 2015;—Am. 2016, Act 496, Eff. Apr. 6, 2017;—Am. 2019, Act 109, Eff. Oct. 1, 2021;—Am. 2020, Act 389, Eff. Apr. 4, 2021.

Former law: See sections 1 and 7 of Ch. XII of Act 288 of 1939, and CL 1929, § 12835.

Popular name: Probate Code

Popular name: Juvenile Code