

HOUSE BILL No. 5852

May 13, 1998, Introduced by Rep. Law and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9948) by adding chapter 10A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 10A

SEC. 1070. AS USED IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(A) "MINOR OFFENSE" MEANS A VIOLATION OF LAW WHICH, IF COMMITTED BY AN ADULT, WOULD CONSTITUTE A MISDEMEANOR OR VIOLATION OF A MUNICIPAL ORDINANCE WHERE THE MAXIMUM PENALTY AUTHORIZED DOES NOT EXCEED IMPRISONMENT FOR 6 MONTHS.

(B) "SUPERVISING COURT" MEANS THE FAMILY DIVISION OF CIRCUIT COURT.

(C) "TEEN" MEANS A PERSON WHO IS AT LEAST 12 YEARS OLD BUT LESS THAN 19 YEARS OLD, AND WHO IS ENROLLED IN SCHOOL.

1 (D) "TEEN COURT JUDGE" MEANS A VOLUNTEER ATTORNEY WHO IS
2 ADMITTED TO THE PRACTICE OF LAW IN THIS STATE AND IS APPROVED BY
3 AND SERVING AT THE PLEASURE OF THE CHIEF JUDGE OF THE SUPERVISING
4 COURT.

5 (E) "TEEN DEFENDANT" MEANS A TEEN ORDERED TO PARTICIPATE IN
6 A TEEN COURT PROGRAM UNDER THIS CHAPTER.

7 (F) "TEEN DEFENSE ATTORNEY" MEANS A TEEN WHO IS CHOSEN BY A
8 TEEN COURT JUDGE TO SPEAK ON BEHALF OF A TEEN DEFENDANT.

9 (G) "TEEN JURY" MEANS NOT LESS THAN 3 TEENS WHO HAVE BEEN
10 CHOSEN BY A TEEN COURT JUDGE TO DECIDE WHAT SENTENCE SHOULD BE
11 IMPOSED AGAINST A TEEN DEFENDANT.

12 (H) "TEEN PROSECUTOR" MEANS A TEEN WHO HAS BEEN CHOSEN BY A
13 TEEN COURT JUDGE TO ADVOCATE ON BEHALF OF A SCHOOL OR COMMUNITY
14 FOR ANY SENTENCE TO BE IMPOSED.

15 SEC. 1072. (1) THE FAMILY DIVISION OF CIRCUIT COURT IN ANY
16 CIRCUIT MAY ESTABLISH A TEEN COURT PROGRAM IN THAT CIRCUIT PURSU-
17 ANT TO THIS CHAPTER. IN A CIRCUIT WHERE A TEEN COURT PROGRAM IS
18 ESTABLISHED, A TEEN CHARGED WITH A MINOR OFFENSE MAY RECEIVE A
19 DEFERRED JUDGMENT, A CONDITION OF WHICH IS SUCCESSFUL PARTICIPA-
20 TION IN THE TEEN COURT PROGRAM.

21 (2) THE PROCEDURE FOR DETERMINING WHETHER A TEEN IS ELIGIBLE
22 FOR A DEFERRED JUDGMENT SHALL BE AS FOLLOWS:

23 (A) THE TEEN, IN THE PRESENCE OF AT LEAST 1 OF HIS OR HER
24 PARENTS OR LEGAL GUARDIAN, MUST ENTER A PLEA OF GUILTY TO THE
25 MINOR OFFENSE CHARGED.

26 (B) THE TEEN MUST REQUEST TO PARTICIPATE IN THE TEEN COURT
27 PROGRAM, AGREE TO THE DEFERRAL OF FURTHER PROCEEDINGS IN THE

1 SUPERVISING COURT FOR A PERIOD OF 6 MONTHS OR UNTIL THE TEEN HAS
2 SUCCESSFULLY COMPLETED THE TEEN COURT PROGRAM, AND PROVIDE THE
3 COURT WITH ADDRESSES FOR MAILING NOTICES TO BOTH THE TEEN AND HIS
4 OR HER PARENT OR LEGAL GUARDIAN.

5 (C) THE SUPERVISING COURT MUST FIND THAT THE TEEN WILL BENE-
6 FIT MORE FROM PARTICIPATION IN THE TEEN COURT PROGRAM THAN FROM
7 ANY OTHER SENTENCE OR DISPOSITION THAT MAY BE IMPOSED.

8 (D) THE SUPERVISING COURT MAY ACCEPT THE TEEN'S PLEA, ORDER
9 THAT THE TEEN PARTICIPATE IN THE TEEN COURT PROGRAM, AND DEFER
10 FURTHER PROCEEDINGS IN THE SUPERVISING COURT FOR UP TO 6 MONTHS.

11 (E) IN ADDITION TO ORDERING THE TEEN TO PARTICIPATE IN THE
12 TEEN COURT PROGRAM, THE SUPERVISING COURT MAY ENTER AN ORDER THAT
13 THE TEEN PAY ANY RESTITUTION OTHERWISE AUTHORIZED BY LAW.

14 (3) IF THE SUPERVISING COURT RECEIVES A REPORT FROM THE TEEN
15 COURT JUDGE THAT THE TEEN HAS NOT SUCCESSFULLY COMPLETED THE TEEN
16 COURT PROGRAM, OR IF WITHIN 6 MONTHS AFTER THE ENTRY OF THE ORDER
17 FOR DEFERRED JUDGMENT THE SUPERVISING COURT HAS NOT RECEIVED A
18 REPORT THAT THE TEEN HAS SUCCESSFULLY COMPLETED THE TEEN COURT
19 PROGRAM, THE COURT SHALL SCHEDULE A HEARING, SEND NOTICE TO THE
20 TEEN AND HIS OR HER PARENT OR LEGAL GUARDIAN AT THE ADDRESSES
21 GIVEN AT THE TIME OF THE ORDER FOR DEFERRED JUDGMENT OR ANY
22 CHANGED ADDRESS, AND AT THE HEARING IMPOSE ANY DISPOSITION AUTHO-
23 RIZED FOR THE OFFENSE CHARGED.

24 (4) IF THE SUPERVISING COURT RECEIVES A REPORT FROM THE TEEN
25 COURT JUDGE THAT THE TEEN HAS SUCCESSFULLY COMPLETED THE TEEN
26 COURT PROGRAM, THE COURT SHALL DISMISS ANY PETITION PENDING IN
27 THE MATTER AGAINST THE TEEN.

1 SEC. 1074. (1) SUBJECT TO ANY APPLICABLE RULES OF THE
2 SUPREME COURT, THE SUPERVISING COURT IS RESPONSIBLE FOR ESTAB-
3 LISHING PROCEDURES FOR ANY TEEN COURT PROGRAM UNDER ITS JURISDIC-
4 TION, INCLUDING AT LEAST ALL OF THE FOLLOWING:

5 (A) THE USE OF ITS COURTROOM AND OTHER FACILITIES DURING
6 TIMES WHEN THEY ARE NOT REQUIRED FOR OTHER COURT BUSINESS.

7 (B) THE APPROVAL OF TEEN COURT JUDGES.

8 (C) THE COLLECTION OF A FEE FROM ANY TEEN DEFENDANT.

9 (D) THE RANGE OF SENTENCING OPTIONS THAT MAY BE IMPOSED UPON
10 A TEEN DEFENDANT, WHICH SHALL NOT INCLUDE A TERM OF IMPRISONMENT
11 OR THE PAYMENT OF RESTITUTION, BUT WHICH MAY INCLUDE ANY OF THE
12 FOLLOWING:

13 (i) COMMUNITY SERVICE SUPERVISED BY THE SUPERVISING COURT.

14 (ii) PARTICIPATION IN LAW-RELATED EDUCATION CLASSES, COUN-
15 SELING, TREATMENT, OR OTHER PROGRAMS.

16 (iii) PARTICIPATION AS A JUROR OR OTHER TEEN COURT MEMBER IN
17 PROCEEDINGS INVOLVING TEEN DEFENDANTS.

18 (2) WHENEVER A TEEN, AS A CONDITION OF A DEFERRED JUDGMENT,
19 HAS BEEN ORDERED TO PARTICIPATE IN A TEEN COURT PROGRAM, THE TEEN
20 AND HIS OR HER PARENT OR LEGAL GUARDIAN SHALL BE ORDERED TO
21 APPEAR AT A TEEN COURT SENTENCING HEARING. THE TEEN COURT JUDGE
22 SHALL PRESIDE OVER THE SENTENCING HEARING. THE TEEN DEFENDANT
23 MAY REPRESENT HIMSELF OR HERSELF OR BE REPRESENTED BY A TEEN
24 DEFENSE ATTORNEY. THE FOLLOWING PROCEDURES SHALL BE FOLLOWED AT
25 THE TEEN COURT SENTENCING HEARING:

26 (A) THE TEEN COURT JUDGE SHALL SELECT A TEEN JURY.

1 (B) THE TEEN PROSECUTOR AND EITHER THE TEEN DEFENDANT OR
2 TEEN DEFENSE ATTORNEY MAY QUESTION THE JURY ON THEIR KNOWLEDGE OF
3 THE DEFENDANT OR THE FACTS OF THE OFFENSE FOR WHICH THE TEEN
4 DEFENDANT WAS CHARGED.

5 (C) THE TEEN COURT JUDGE MAY ORDER THAT A TEEN JUROR BE
6 REPLACED IF THE JUDGE FINDS THAT THE JUROR MAY BE BIASED.

7 (D) THE TEEN PROSECUTOR AND EITHER THE TEEN DEFENDANT OR
8 TEEN DEFENSE ATTORNEY MAY MAKE AN OPENING STATEMENT.

9 (E) THE TEEN DEFENDANT SHALL BE SUBJECT TO CROSS-EXAMINATION
10 BY THE TEEN PROSECUTOR CONCERNING THE CIRCUMSTANCES OR FACTS SUR-
11 ROUNDING THE OFFENSE OR THE CHARACTER OF THE TEEN DEFENDANT, AND
12 MAY EITHER MAKE A STATEMENT OR BE SUBJECT TO DIRECT EXAMINATION
13 BY THE TEEN DEFENSE ATTORNEY.

14 (F) EACH SIDE MAY OFFER WITNESSES AND DOCUMENTS CONCERNING
15 THE CIRCUMSTANCES OR FACTS SURROUNDING THE OFFENSE OR THE CHARAC-
16 TER OF THE TEEN DEFENDANT.

17 (G) THE TEEN PROSECUTOR AND EITHER THE TEEN DEFENDANT OR
18 TEEN DEFENSE ATTORNEY MAY MAKE A CLOSING STATEMENT.

19 (H) UNLESS OTHERWISE ORDERED BY THE TEEN COURT JUDGE, THE
20 TEEN JURY SHALL DELIBERATE IN PRIVATE AND SHALL UNANIMOUSLY AGREE
21 UPON THE SENTENCE TO BE IMPOSED AGAINST THE TEEN DEFENDANT, PUR-
22 SUANT TO GUIDELINES ADOPTED BY THE COURT.

23 (I) IF THE JURY IS UNABLE TO UNANIMOUSLY AGREE ON A SEN-
24 TENCE, THEN THE TEEN COURT JUDGE SHALL IMPOSE THE SENTENCE, PUR-
25 SUANT TO GUIDELINES ADOPTED BY THE COURT.

26 (3) THE TEEN COURT JUDGE SHALL ENTER A WRITTEN ORDER THAT
27 DOES ALL OF THE FOLLOWING:

1 (A) ORDERS THE TEEN DEFENDANT TO COMPLETE THE SENTENCE
2 IMPOSED BY THE TEEN JURY.

3 (B) ORDERS THE TEEN DEFENDANT TO SUBMIT A WRITTEN REPORT TO
4 THE TEEN COURT JUDGE WITHIN 3 MONTHS AFTER THE SENTENCING HEARING
5 SHOWING SATISFACTORY COMPLETION OF THE TERMS OF THE SENTENCE.

6 (C) NOTIFIES THE TEEN DEFENDANT THAT IF THE TEEN COURT JUDGE
7 DOES NOT RECEIVE THE WRITTEN REPORT WITHIN THE TIME REQUIRED, THE
8 TEEN COURT JUDGE SHALL FILE WITH THE SUPERVISING COURT A REPORT
9 STATING THAT THE TEEN DEFENDANT HAS NOT SATISFACTORILY COMPLETED
10 THE TEEN COURT PROGRAM.

11 (4) WITHIN 6 MONTHS AFTER THE ORDER FOR DEFERRED JUDGMENT,
12 THE TEEN COURT JUDGE SHALL FILE A WRITTEN REPORT WITH THE SUPER-
13 VISING COURT NOTIFYING THE COURT WHETHER THE TEEN DEFENDANT HAS
14 SATISFACTORILY COMPLETED THE TEEN COURT PROGRAM.

15 SEC. 1076. THIS CHAPTER DOES NOT IMPAIR THE AUTHORITY OF
16 COURTS TO ADOPT DIFFERENT OR ALTERNATIVE PROCEDURES FOR THE
17 ESTABLISHMENT AND OPERATION OF TEEN COURT PROGRAMS WITHIN THEIR
18 RESPECTIVE JURISDICTIONS.