

# HOUSE BILL No. 4845

May 30, 2001, Introduced by Reps. Hardman, Bernero, Bovin, Woodward, Hart, Jacobs, Schauer and Stewart and referred to the Committee on Education.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 2, 6, 6a, and 11 of chapter XIIIA (MCL 712A.2, 712A.6, 712A.6a, and 712A.11), section 2 as amended by 2000 PA 55, sections 6 and 11 as amended by 1996 PA 409, and section 6a as added by 1996 PA 252, and by adding sections 11a and 17e to chapter XIIIA.

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

CHAPTER XIIIA

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 proceedings concerning a juvenile under 17 years of age who is found within the county if 1 or more of the following ~~applies~~ APPLY:

1 (1) Except as otherwise provided in this sub-subdivision,  
2 the juvenile has violated any municipal ordinance or law of the  
3 state or of the United States. If the court enters into an  
4 agreement under section 2e of this chapter, the court has juris-  
5 diction over a juvenile who committed a civil infraction as pro-  
6 vided in that section. The court has jurisdiction over a juve-  
7 nile 14 years of age or older who is charged with a specified  
8 juvenile violation only if the prosecuting attorney files a peti-  
9 tion in the court instead of authorizing a complaint and  
10 warrant. As used in this sub-subdivision, "specified juvenile  
11 violation" means 1 or more of the following:

12 (A) A violation of section 72, 83, 86, 89, 91, 316, 317,  
13 349, 520b, 529, 529a, or 531 of the Michigan penal code, 1931  
14 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316,  
15 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531.

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

20 (i) A loaded or unloaded firearm, whether operable or  
21 inoperable.

22 (ii) A knife, stabbing instrument, brass knuckles, black-  
23 jack, club, or other object specifically designed or customarily  
24 carried or possessed for use as a weapon.

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

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

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

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

11 (ii) A high-security facility operated by a private agency  
12 under contract with the family independence agency or a county  
13 juvenile agency.

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

16 (E) An attempt to commit a violation described in paragraphs  
17 (A) to (D).

18 (F) Conspiracy to commit a violation described in paragraphs  
19 (A) to (D).

20 (G) Solicitation to commit a violation described in para-  
21 graphs (A) to (D).

22 (H) A lesser included offense of a violation described in  
23 paragraphs (A) to (G) if the individual is charged with a viola-  
24 tion described in paragraphs (A) to (G).

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

1 (2) The juvenile has deserted his or her home without  
2 sufficient cause, and the court finds on the record that the  
3 juvenile has been placed or refused alternative placement or the  
4 juvenile and the juvenile's parent, guardian, or custodian have  
5 exhausted or refused family counseling.

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

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

23 (5) THE JUVENILE IS A TRUANT AS DEFINED IN THE STATE  
24 APPROVED LOCAL TRUANCY POLICY REQUIRED UNDER SECTION 1590 OF THE  
25 REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1590, AND, IF APPLICA-  
26 BLE, A PARENT OR OTHER PERSON IN PARENTAL RELATIONSHIP FAILS TO  
27 RESPOND TO WRITTEN NOTICE REQUIRED BY THE STATE APPROVED LOCAL

1 TRUANCY POLICY OR THE PARENT OR OTHER PERSON IN PARENTAL  
2 RELATIONSHIP CONTINUES TO FAIL TO COMPLY WITH THE STATE APPROVED  
3 LOCAL TRUANCY POLICY.

4 (b) Jurisdiction in proceedings concerning a juvenile under  
5 18 years of age found within the county:

6 (1) Whose parent or other person legally responsible for the  
7 care and maintenance of the juvenile, when able to do so,  
8 neglects or refuses to provide proper or necessary support, edu-  
9 cation, medical, surgical, or other care necessary for his or her  
10 health or morals, who is subject to a substantial risk of harm to  
11 his or her mental well-being, who is abandoned by his or her par-  
12 ents, guardian, or other custodian, or who is without proper cus-  
13 tody or guardianship. As used in this sub-subdivision:

14 (A) "Education" means learning based on an organized educa-  
15 tional program that is appropriate, given the age, intelligence,  
16 ability, and psychological limitations of a juvenile, in the  
17 subject areas of reading, spelling, mathematics, science, histo-  
18 ry, civics, writing, and English grammar.

19 (B) "Without proper custody or guardianship" does not mean a  
20 parent has placed the juvenile with another person who is legally  
21 responsible for the care and maintenance of the juvenile and who  
22 is able to and does provide the juvenile with proper care and  
23 maintenance.

24 (2) Whose home or environment, by reason of neglect, cruel-  
25 ty, drunkenness, criminality, or depravity on the part of a  
26 parent, guardian, nonparent adult, or other custodian, is an  
27 unfit place for the juvenile to live in.

1 (3) Whose parent has substantially failed, without good  
2 cause, to comply with a limited guardianship placement plan  
3 described in section 5205 of the estates and protected individu-  
4 als code, 1998 PA 386, MCL 700.5205, regarding the juvenile.

5 (4) Whose parent has substantially failed, without good  
6 cause, to comply with a court-structured plan described in sec-  
7 tion 5207 or 5209 of the estates and protected individuals code,  
8 1998 PA 386, MCL 700.5207 and 700.5209, regarding the juvenile.

9 (5) If the juvenile has a guardian under the estates and  
10 protected individuals code, 1998 PA 386, MCL 700.1101 to  
11 700.8102, and the juvenile's parent meets both of the following  
12 criteria:

13 (A) The parent, having the ability to support or assist in  
14 supporting the juvenile, has failed or neglected, without good  
15 cause, to provide regular and substantial support for the juve-  
16 nile for 2 years or more before the filing of the petition or, if  
17 a support order has been entered, has failed to substantially  
18 comply with the order for 2 years or more before the filing of  
19 the petition.

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

24 If a petition is filed in the court alleging that a juvenile  
25 is within the provisions of subdivision (b)(1), (2), (3), (4), or  
26 (5) and the custody of that juvenile is subject to the prior or  
27 continuing order of another court of record of this state, the

1 manner of notice to the other court of record and the authority  
2 of the court to proceed is governed by rule of the supreme  
3 court.

4 (c) Jurisdiction over juveniles under 18 years of age,  
5 jurisdiction of whom has been waived to the family division of  
6 circuit court by a circuit court under a provision in a temporary  
7 order for custody of juveniles based upon a complaint for divorce  
8 or upon a motion related to a complaint for divorce by the prose-  
9 cuting attorney, in a divorce judgment dissolving a marriage  
10 between the juvenile's parents, or by an amended judgment rela-  
11 tive to the juvenile's custody in a divorce.

12 (d) If the court finds on the record that voluntary services  
13 have been exhausted or refused, concurrent jurisdiction in pro-  
14 ceedings concerning a juvenile between the ages of 17 and 18  
15 found within the county who is 1 or more of the following:

16 (1) Repeatedly addicted to the use of drugs or the intemper-  
17 ate use of alcoholic liquors.

18 (2) Repeatedly associating with criminal, dissolute, or dis-  
19 orderly persons.

20 (3) Found of his or her own free will and knowledge in a  
21 house of prostitution, assignation, or ill-fame.

22 (4) Repeatedly associating with thieves, prostitutes, pimps,  
23 or procurers.

24 (5) Willfully disobedient to the reasonable and lawful com-  
25 mands of his or her parents, guardian, or other custodian and in  
26 danger of becoming morally depraved.

1           If a juvenile is brought before the court in a county other  
2 than that in which the juvenile resides, before a hearing and  
3 with the consent of the judge of the court in the county of resi-  
4 dence, the court may enter an order transferring jurisdiction of  
5 the matter to the court of the county of residence. Consent to  
6 transfer jurisdiction is not required if the county of residence  
7 is a county juvenile agency and satisfactory proof of residence  
8 is furnished to the court of the county of residence. The order  
9 does not constitute a legal settlement in this state that is  
10 required for the purpose of section 55 of the social welfare act,  
11 1939 PA 280, MCL 400.55. The order and a certified copy of the  
12 proceedings in the transferring court shall be delivered to the  
13 court of the county of residence. A case designated as a case in  
14 which the juvenile shall be tried in the same manner as an adult  
15 under section 2d of this chapter may be transferred for venue or  
16 for juvenile disposition, but shall not be transferred on grounds  
17 of residency. If the case is not transferred, the court having  
18 jurisdiction of the offense shall try the case.

19           (e) Authority to establish or assist in developing a program  
20 or programs within the county to prevent delinquency and provide  
21 services to act upon reports submitted to the court related to  
22 the behavior of a juvenile who does not require formal court  
23 jurisdiction but otherwise falls within subdivision (a). These  
24 services shall be used only if the juvenile and his or her par-  
25 ents, guardian, or custodian voluntarily accepts them.

26           (f) If the court operates a detention home for juveniles  
27 within the court's jurisdiction under subdivision (a)(1),

1 authority to place a juvenile within that home pending trial if  
2 the juvenile is within the circuit court's jurisdiction under  
3 section 606 of the revised judicature act of 1961, 1961 PA 236,  
4 MCL 600.606, and if the circuit court orders the family division  
5 of circuit court in the same county to place the juvenile in that  
6 home. The family division of circuit court shall comply with  
7 that order.

8 (g) Authority to place a juvenile in a county jail under  
9 section 27a of chapter IV of the code of criminal procedure, 1927  
10 PA 175, MCL 764.27a, if the court designates the case under sec-  
11 tion 2d of this chapter as a case in which the juvenile is to be  
12 tried in the same manner as an adult and the court determines  
13 there is probable cause to believe that the offense was committed  
14 and probable cause to believe the juvenile committed that  
15 offense.

16 (h) Jurisdiction over a proceeding under section 2950 or  
17 2950a of the revised judicature act of 1961, 1961 PA 236,  
18 MCL 600.2950 and 600.2950a, in which a minor less than 18 years  
19 of age is the respondent. Venue for an initial action under sec-  
20 tion 2950 or 2950a of the revised judicature act of 1961, 1961  
21 PA 236, MCL 600.2950 and 600.2950a, is proper in the county of  
22 residence of either the petitioner or respondent. If the respon-  
23 dent does not live in this state, venue for the initial action is  
24 proper in the petitioner's county of residence.

25 (I) JURISDICTION OVER AN ADULT WHO VIOLATES SECTION 1599 OF  
26 THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1599, AND WHO IS  
27 THE PARENT OR GUARDIAN OF A JUVENILE OVER WHOM THE COURT HAS

1 JURISDICTION UNDER SECTION 2(A)(5) OF THIS CHAPTER. A PROCEEDING  
2 UNDER THIS SUBDIVISION IS A CRIMINAL PROCEEDING THAT SHALL BE  
3 CONDUCTED IN THE SAME MANNER AND WITH ALL THE SAME PROCEDURAL  
4 PROTECTIONS AND GUARANTEES AS A TRIAL FOR THAT VIOLATION IN A  
5 COURT OF GENERAL CRIMINAL JURISDICTION.

6 Sec. 6. The court has jurisdiction over adults as provided  
7 in this chapter and may make orders affecting adults as in the  
8 opinion of the court are necessary for the physical, mental, or  
9 moral well-being of a particular juvenile or juveniles under its  
10 jurisdiction. ~~However~~ EXCEPT AS OTHERWISE PROVIDED IN THIS  
11 CHAPTER, those orders shall be incidental to the COURT'S juris-  
12 diction ~~of the court~~ over the juvenile or juveniles.

13 Sec. 6a. The parent or guardian of a juvenile who is within  
14 the court's jurisdiction under section 2(a)(1), (4), OR (5) of  
15 this chapter shall attend each hearing held under this chapter  
16 unless the court excuses the parent or guardian from attendance  
17 for good cause. A parent or guardian who fails to attend the  
18 juvenile's hearing without good cause may be held in contempt and  
19 subject to fines. Failure of a parent or guardian to attend a  
20 hearing, however, is not grounds for an adjournment, continuance,  
21 or other delay of the proceeding and does not provide a basis for  
22 appellate or other relief.

23 Sec. 11. (1) ~~Except as provided in subsection (2), if~~ IF  
24 a person gives information to the court that a juvenile is within  
25 section 2(a)(2) to ~~(6)~~ (4), (b), (c), or (d) of this chapter, a  
26 preliminary inquiry may be made to determine whether the  
27 interests of the public or the juvenile require that further

1 action be taken. If the court determines that formal  
2 jurisdiction should be acquired, the court shall authorize a  
3 petition to be filed.

4 (2) Only the prosecuting attorney may file a petition  
5 requesting the court to take jurisdiction of a juvenile allegedly  
6 within section 2(a)(1) of this chapter. If the prosecuting  
7 attorney submits a petition requesting the court to take juris-  
8 diction of a juvenile allegedly within section 2(a)(1) of this  
9 chapter and the court determines that formal jurisdiction should  
10 be acquired, the court shall authorize a petition to be filed.

11 (3) ONLY THE SCHOOL DISTRICT SUPERINTENDENT OR INTERMEDIATE  
12 SUPERINTENDENT OR HIS OR HER DESIGNEE OR THE PROSECUTING ATTORNEY  
13 MAY FILE A PETITION REQUESTING THE COURT TO TAKE JURISDICTION OF  
14 A JUVENILE ALLEGEDLY WITHIN SECTION 2(A)(5) OF THIS CHAPTER. IF  
15 A PETITION IS FILED, THE COURT SHALL HOLD A HEARING WITHIN 10  
16 DAYS. IF THE COURT DETERMINES THAT THE ALLEGATIONS IN THE PETI-  
17 TION ARE SUPPORTED, THE COURT SHALL AUTHORIZE A PETITION TO BE  
18 FILED AND OBTAIN FORMAL JURISDICTION. THE COURT SHALL NOTIFY THE  
19 PROSECUTING ATTORNEY UNLESS HE OR SHE FILED THE PETITION.

20 (4) ~~(3)~~ The petition described in subsections (1), ~~and~~  
21 (2), AND (3) shall be verified and may be upon information and  
22 belief. The petition shall set forth plainly the facts that  
23 bring the juvenile within this chapter and shall contain all of  
24 the following information:

25 (a) The juvenile's name, birth date, and address.

26 (b) The name and address of the juvenile's parents.

1 (c) The name and address of the juvenile's legal guardian,  
2 if there is one.

3 (d) The name and address of each person having custody or  
4 control of the juvenile.

5 (e) The name and address of the juvenile's nearest known  
6 relative, if no parent or guardian can be found.

7 (5) ~~(4)~~ If any of the facts required under subsection  
8 ~~(3)~~ (4) are not known to the petitioner, the petition shall  
9 state that the facts are not known. If the juvenile attains his  
10 or her seventeenth birthday after the filing of the petition, the  
11 court's jurisdiction shall continue beyond the juvenile's seven-  
12 teenth birthday and the court may hear and dispose of the peti-  
13 tion under this chapter.

14 (6) ~~(5)~~ When a petition is authorized, the court shall  
15 examine the court file to determine if a juvenile has had finger-  
16 prints taken as required under section 3 of ~~Act No. 289 of the~~  
17 ~~Public Acts of 1925, being section 28.243 of the Michigan~~  
18 ~~Compiled Laws~~ 1925 PA 289, MCL 28.243. If a juvenile has not  
19 had his or her fingerprints taken, the court shall do either of  
20 the following:

21 (a) Order the juvenile to submit himself or herself to the  
22 police agency that arrested or obtained the warrant for the  
23 JUVENILE'S arrest ~~of the juvenile~~ so the juvenile's finger-  
24 prints can be taken.

25 (b) Order the juvenile committed to the SHERIFF'S custody  
26 ~~of the sheriff~~ for ~~the~~ taking ~~of~~ the juvenile's  
27 fingerprints.

1 (7) ~~(6)~~ A petition or other court record may be amended at  
2 any stage of the proceedings as the ends of justice require.

3 (8) ~~(7)~~ If the juvenile diversion act, ~~Act No. 13 of the~~  
4 ~~Public Acts of 1988, being sections 722.821 to 722.831 of the~~  
5 ~~Michigan Compiled Laws~~ 1988 PA 13, MCL 722.821 TO 722.831, is  
6 complied with and the court determines that court services can be  
7 used in the prevention of delinquency without formal jurisdic-  
8 tion, the court may offer court services to a juvenile without a  
9 petition being authorized as provided in section 2(e) of this  
10 chapter.

11 SEC. 11A. IF THE COURT ACQUIRES JURISDICTION OVER A JUVE-  
12 NILE UNDER SECTION 2(A)(5) OF THIS CHAPTER, THE PROSECUTING  
13 ATTORNEY MAY FILE A COMPLAINT ALLEGING A VIOLATION OF SECTION  
14 1599 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1599, BY  
15 THE JUVENILE'S PARENT OR GUARDIAN IN THE SAME MANNER AS FOR THE  
16 DISTRICT COURT.

17 SEC. 17E. (1) WITHIN 10 DAYS AFTER ACQUIRING JURISDICTION  
18 OVER A JUVENILE UNDER SECTION 2(A)(5) OF THIS CHAPTER, THE COURT  
19 SHALL HOLD A HEARING. THE JUVENILE, THE JUVENILE'S PARENT OR  
20 GUARDIAN, THE SCHOOL DISTRICT SUPERINTENDENT OF SCHOOLS OR INTER-  
21 MEDIATE SUPERINTENDENT OR HIS OR HER DESIGNEE, AND ANY INTERESTED  
22 PARTY SHALL HAVE THE OPPORTUNITY AT THE HEARING TO PROPOSE A RES-  
23 OLUTION TO THE JUVENILE'S ATTENDANCE PROBLEMS.

24 (2) THE COURT SHALL ENTER AN ORDER OF DISPOSITION WITHIN 5  
25 DAYS AFTER THE HEARING. THE ORDER OF DISPOSITION SHALL DO ALL OF  
26 THE FOLLOWING:

1 (A) ORDER THE JUVENILE TO ATTEND HIS OR HER SCHOOL OR AN  
2 ALTERNATIVE AS PROVIDED BY LAW.

3 (B) ORDER THE SECRETARY OF STATE TO DO 1 OF THE FOLLOWING:

4 (i) SUSPEND THE JUVENILE'S OPERATOR'S OR CHAUFFEUR'S LICENSE  
5 FOR A SPECIFIED PERIOD OF NOT MORE THAN 2 YEARS UNLESS THE COURT  
6 SHORTENS OR ELIMINATES THE SUSPENSION PERIOD UNDER THIS SECTION.  
7 IF THE JUVENILE'S LICENSE IS SUSPENDED WHEN THE COURT ENTERS THE  
8 ORDER, THE SUSPENSION UNDER THIS SECTION SHALL BEGIN AT THE END  
9 OF THAT SUSPENSION.

10 (ii) DENY THE JUVENILE AN OPERATOR'S OR CHAUFFEUR'S LICENSE  
11 FOR A SPECIFIED PERIOD OF NOT MORE THAN 2 YEARS AFTER THE JUVE-  
12 NILE IS OTHERWISE ELIGIBLE FOR A LICENSE UNLESS THE COURT REIN-  
13 STATES THE JUVENILE'S ELIGIBILITY UNDER THIS SECTION.

14 (C) REQUIRE ANY OTHER ACTIONS BY THE JUVENILE, THE  
15 JUVENILE'S PARENT OR GUARDIAN, OR SCHOOL AUTHORITIES NECESSARY TO  
16 RESOLVE THE JUVENILE'S ATTENDANCE PROBLEM.

17 (3) IN ADDITION, THE ORDER OF DISPOSITION MAY CONTAIN ANY  
18 PROVISION AUTHORIZED UNDER SECTION 18 OF THIS CHAPTER.

19 (4) THE COURT MAY SHORTEN THE LICENSE SUSPENSION OR DENIAL  
20 PERIOD UNDER SUBSECTION (2)(B) OR END THE PERIOD IF THE JUVENILE  
21 SATISFIES SCHOOL ATTENDANCE REQUIREMENTS SPECIFIED BY THE COURT  
22 IN ITS ORDER AND THE COURT DETERMINES THAT SHORTENING OR ELIMI-  
23 NATING THE PERIOD IS IN THE JUVENILE'S BEST INTERESTS. THE COURT  
24 SHALL ORDER THE SECRETARY OF STATE TO SHORTEN OR END THE LICENSE  
25 SUSPENSION OR DENIAL PERIOD.

1 (5) A DESIGNEE OF A SCHOOL DISTRICT SUPERINTENDENT OR  
2 INTERMEDIATE SUPERINTENDENT DESCRIBED IN SUBSECTION (1) SHALL BE  
3 AN ADMINISTRATOR OR TEACHER OF THE SCHOOL OR SCHOOL DISTRICT.

4 Enacting section 1. This amendatory act does not take  
5 effect unless all of the following bills of the 91st Legislature  
6 are enacted into law:

7 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 4844 (request  
8 no. 00772'01 \*\*).

9 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 4842 (request  
10 no. 00772'01 b \*\*).

11 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
12 no. H02107'01 \*\*).