

**SUBSTITUTE FOR
HOUSE BILL NO. 4625**

A bill to amend 1988 PA 13, entitled
"Juvenile diversion act,"
by amending sections 2, 3, 6, and 9 (MCL 722.822, 722.823, 722.826,
and 722.829), section 2 as amended by 2019 PA 101 and section 6 as
amended by 1996 PA 137.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:
2 ~~(a) "Assaultive crime" means an offense that, if committed by~~
3 ~~an adult, would constitute an offense against a person described in~~
4 ~~section 82, 83, 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350,~~
5 ~~397, 520b, 520c, 520d, 520e, 520g, 529, 529a, or 530 of the~~
6 ~~Michigan penal code, 1931 PA 328, MCL 750.82, 750.83, 750.84,~~
7 ~~750.86, 750.87, 750.88, 750.89, 750.316, 750.317, 750.321, 750.349,~~

1 ~~750.349a, 750.350, 750.397, 750.520b, 750.520c, 750.520d, 750.520e,~~
 2 ~~750.520g, 750.529, 750.529a, and 750.530.~~

3 (a) ~~(b)~~—"Court" means the family division of circuit court.

4 (b) ~~(c)~~—"Divert" or "diversion" means the placement that
 5 occurs when a ~~formally recorded apprehension is made by a law~~
 6 enforcement agency **makes a formally recorded investigation or**
 7 **apprehension** for an act by a minor that if a petition were filed
 8 with the court would bring that minor within section 2(a) of
 9 chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,
 10 and instead of petitioning the court or authorizing a petition,
 11 either of the following occurs:

12 (i) The minor is released into the custody of ~~his or her~~ **the**
 13 **minor's** parent, guardian, or custodian and the investigation is
 14 discontinued.

15 (ii) The minor and the minor's parent, guardian, or custodian
 16 agree to work with a person or public or private organization or
 17 agency that will assist the minor and the minor's family in
 18 resolving the problem that initiated the investigation.

19 (c) ~~(d)~~—"Law enforcement agency" means a police department of
 20 a city, village, or township, a sheriff's department, the
 21 department of state police, or any other governmental law
 22 enforcement agency in this state.

23 (d) ~~(e)~~—"Minor" means an individual **who is** less than 18 years
 24 of age.

25 (e) **"Specified juvenile violation" means any of the following:**

26 (i) **A specified juvenile violation as that term is defined in**
 27 **section 2 of chapter XIIA of the probate code of 1939, 1939 PA 288,**
 28 **MCL 712A.2.**

29 (ii) **A violation of section 82(2), 321, 397, or 520c of the**

1 Michigan penal code, 1931 PA 328, MCL 750.82, 750.321, 750.397, and
2 750.520c.

3 Sec. 3. (1) If in the course of investigating an alleged
4 offense by a minor a petition has not been filed with the court, or
5 if a petition has not been authorized, a law enforcement official
6 or court intake worker may do 1 of the following:

7 (a) Release the minor into the custody of ~~his or her~~ **the**
8 **minor's** parent, guardian, or custodian and discontinue the
9 investigation.

10 (b) ~~Divert~~ **Subject to subsections (4) and (5), divert** the
11 matter by making an agreement pursuant to ~~under~~ section 5 with the
12 minor and the minor's parent, guardian, or custodian to refer the
13 minor to a person or public or private organization or agency that
14 will assist the minor and the minor's family in resolving the
15 problem that initiated the investigation. **Restitution must not be**
16 **considered when deciding if the minor may be diverted under this**
17 **subdivision.**

18 (c) File a petition with the court or authorize a petition
19 that has been filed.

20 (2) A minor may be diverted only as provided in subsection
21 (1) (a) or (b) and subsection (3).

22 (3) A minor accused or charged with ~~an assaultive offense~~
23 ~~shall~~ **a specified juvenile violation must** not be diverted.

24 (4) **Except as otherwise provided in this subsection, before a**
25 **diversion decision is made for a minor, a risk screening tool and a**
26 **mental health screening tool may be conducted on the minor. A risk**
27 **screening tool and a mental health screening tool may not be**
28 **conducted on a minor who meets any of the following criteria:**

29 (a) **Is accused or charged with a specified juvenile violation.**

1 (b) Is currently under supervision in the juvenile justice
2 system by the court or the department of health and human services.

3 (5) A minor must not be diverted under subsection (1) (b)
4 unless both of the following requirements are met:

5 (a) The law enforcement official or court intake worker
6 receives the results of a risk screening tool and a mental health
7 screening tool for the minor conducted by a designated individual
8 or agency that is trained in those screening tools.

9 (b) The law enforcement official or court intake worker uses
10 the results of the risk screening tool and the mental health
11 screening tool, and the best interests of public safety and the
12 minor, to inform the decision to divert the minor.

13 (6) A risk screening tool and a mental health screening tool
14 described in subsections (4) and (5) must meet both of the
15 following requirements:

16 (a) Be research based and nationally validated for use with
17 minors.

18 (b) Comply with the guidelines created under subsection (7).

19 (7) The state court administrative office, under the
20 supervision and direction of the supreme court, shall create
21 guidelines on the use of risk screening tools and mental health
22 screening tools described in subsections (4) and (5).

23 Sec. 6. (1) When a decision is made to divert a minor, the law
24 enforcement official or court intake worker shall file with the
25 court in the county in which the minor resides or is found all of
26 the following information:

27 (a) The minor's name, address, and date of birth.

28 (b) The act or offense for which the minor was apprehended.

29 (c) The date and place of the act or offense for which the

1 minor was apprehended.

2 (d) The diversion decision made, whether referred or released.

3 (e) The nature of the minor's compliance with the diversion
4 agreement.

5 **(f) If the diversion is under section 3(1)(b), the results of**
6 **the minor's risk screening tool and mental health screening tool.**

7 (2) If a diversion agreement is revoked ~~pursuant to~~ **under**
8 section 5(5), the law enforcement official or court intake worker
9 shall file **the fact of and reasons for the revocation** with the
10 court in which the information described in subsection (1) is
11 filed. ~~the fact of and reasons for the revocation.~~

12 Sec. 9. (1) A record kept under this act ~~shall~~ **must** not be
13 used by any person, including a court official or law enforcement
14 official, for any purpose except in making a decision on whether to
15 divert a minor.

16 (2) A person ~~who~~ **that** violates ~~this section~~ **subsection (1)** is
17 guilty of a misdemeanor, ~~—~~ punishable by imprisonment for not more
18 than 180 days, ~~or~~ a fine of not more than \$1,000.00, or both.

19 **(3) A risk screening tool and a mental health screening tool**
20 **conducted as part of a proceeding under this act and any**
21 **information obtained from a minor in the course of those screenings**
22 **or provided by the minor in order to participate in a diversion**
23 **program, including, but not limited to, any admission, confession,**
24 **or incriminating evidence, are not admissible into evidence in any**
25 **adjudicatory hearing in which the minor is accused and are not**
26 **subject to subpoena or any other court process for use in any other**
27 **proceeding or for any other purpose.**

28 Enacting section 1. This amendatory act takes effect October
29 1, 2024.

1 Enacting section 2. This amendatory act does not take effect
2 unless Senate Bill No. 418 of the 102nd Legislature is enacted into
3 law.