

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 97**

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 14 and 15 of chapter XIIA (MCL 712A.14 and
712A.15), section 14 as amended by 2012 PA 163 and section 15 as
amended by 1998 PA 474.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XIIA
2 Sec. 14. (1) Any local police officer, sheriff or deputy
3 sheriff, state police officer, county agent or probation officer of
4 any court of record may, without the order of the court,
5 immediately take into custody any child who is found violating any
6 law or ordinance, or for whom there is reasonable cause to believe
7 is violating or has violated a personal protection order issued



1 under section 2(h) of this chapter by the court under section 2950
2 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL
3 600.2950 and 600.2950a, or for whom there is reasonable cause to
4 believe is violating or has violated a valid foreign protection
5 order. If the officer or county agent takes a child coming within
6 the provisions of this chapter into custody, he or she shall
7 immediately attempt to notify the parent or parents, guardian, or
8 custodian. While awaiting the arrival of the parent or parents,
9 guardian, or custodian, a child under the age of ~~17~~**18** years taken
10 into custody under the provisions of this chapter shall not be held
11 in **a jail or any other** detention facility unless the child is
12 completely isolated so as to prevent any verbal, visual, or
13 physical contact with ~~any~~**an** adult prisoner. Unless the child
14 requires immediate detention as provided for in this act, the
15 officer shall accept the written promise of the parent or parents,
16 guardian, or custodian, to bring the child to the court at a fixed
17 time. The child shall then be released to the custody of the parent
18 or parents, guardian, or custodian.

19 (2) If a child is not released under subsection (1), the child
20 and his or her **parent or** parents, guardian, or custodian, if they
21 can be located, shall immediately be brought before the court for a
22 preliminary hearing on the status of the child, and an order signed
23 by a judge or a referee authorizing the filing of a complaint shall
24 be entered or the child shall be released to his or her parent or
25 parents, guardian, or custodian.

26 (3) If a complaint is authorized under subsection (2), the
27 order shall state where the child is to be placed, pending
28 investigation and hearing, which placement may be in any of the
29 following:



1 (a) In the home of the child's parent, guardian, or custodian.

2 (b) If a child is within the court's jurisdiction under
 3 section 2(a) of this chapter, in a suitable foster care home
 4 subject to the court's supervision. ~~Except as otherwise provided in~~
 5 ~~subsections (4) and (5), if~~ **If** a child is within the court's
 6 jurisdiction under section 2(b) of this chapter, the court shall
 7 not place a child in a foster care home subject to the court's
 8 supervision.

9 (c) In a child care institution or child placing agency
 10 licensed by the department ~~of human services~~ to receive for care
 11 children within the jurisdiction of the court.

12 (d) In a suitable place of detention.

13 ~~(4) Except as otherwise provided in subsection (5), if a court~~
 14 ~~is providing at the time of the enactment of this subsection foster~~
 15 ~~care home services subject to the court's supervision to children~~
 16 ~~within section 2(b) of this chapter, the court may continue to~~
 17 ~~provide those services through December 31, 1989. Beginning January~~
 18 ~~1, 1990, the court shall discontinue providing those services.~~

19 ~~(5) If a court located in a county with a population in excess~~
 20 ~~of 650,000 is providing at the time of the enactment of this~~
 21 ~~subsection foster care home services subject to the court's~~
 22 ~~supervision to children within section 2(b) of this chapter, the~~
 23 ~~court may continue to provide those services through December 31,~~
 24 ~~1991. Beginning January 1, 1992, the court shall discontinue those~~
 25 ~~services.~~

26 Sec. 15. (1) In the case of a child concerning whom a
 27 complaint has been made or a petition has been filed ~~pursuant to~~
 28 **under** this chapter, the court may order the child, pending the
 29 hearing, detained in a facility as the court ~~shall designate.~~



1 **designates.** The court may release the child, pending the hearing,
2 in the custody of a parent, guardian, or custodian, to be brought
3 before the court at the time designated. As used in this
4 subsection, "petition" includes all of the following:

5 (a) Petition.

6 (b) Supplemental petition.

7 (c) Petition for revocation of probation.

8 (d) Supplemental petition alleging a violation of a personal
9 protection order.

10 (2) Custody, pending hearing, is limited to the following
11 children:

12 (a) Those whose home conditions make immediate removal
13 necessary.

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

16 (c) Those who have run away from home.

17 (d) Those who have failed to remain in a detention or
18 nonsecure facility or placement in violation of a court order.

19 (e) Those whose offenses are so serious that release would
20 endanger public safety.

21 (f) Those who have allegedly violated a personal protection
22 order and for whom it appears there is a substantial likelihood of
23 retaliation or continued violation.

24 (3) A child taken into custody ~~pursuant to~~**under** section
25 2(a)(2) to (4) of this chapter or subsection (2)(c) shall not be
26 detained in any secure facility designed to physically restrict the
27 movements and activities of alleged or adjudicated juvenile
28 offenders unless the court finds that the child willfully violated
29 a court order and the court finds, after a hearing and on the



1 record, that there is not a less restrictive alternative more
 2 appropriate to the needs of the child. This subsection does not
 3 apply to a child who is under the jurisdiction of the court
 4 ~~pursuant to~~**under** section 2(a)(1) of this chapter or a child who is
 5 not less than ~~17~~**18** years of age and who is under the jurisdiction
 6 of the court ~~pursuant to~~**under** a supplemental petition under
 7 section 2(h) of this chapter.

8 (4) A child taken into custody ~~pursuant to~~**under** section 2(b)
 9 of this chapter or subsection (2)(a) shall not be detained in any
 10 secure facility designed to physically restrict the movements and
 11 activities of alleged or adjudicated juvenile offenders or in a
 12 cell or other secure area of any secure facility designed to
 13 incarcerate adults.

14 (5) A child taken into custody ~~pursuant to~~**under** section
 15 2(a)(2) to (4) of this chapter or subsection (2)(c) shall not be
 16 detained in a cell or other secure area of any secure facility
 17 designed to incarcerate adults unless either of the following
 18 applies:

19 (a) A child is under the jurisdiction of the court ~~pursuant to~~
 20 **under** section 2(a)(1) of this chapter for an offense which, if
 21 committed by an adult, would be a felony.

22 (b) A child is not less than ~~17~~**18** years of age and is under
 23 the jurisdiction of the court ~~pursuant to~~**under** a supplemental
 24 petition under section 2(h) of this chapter.

25 Enacting section 1. This amendatory act takes effect October
 26 1, 2021.

