

# HOUSE BILL NO. 4988

June 10, 2021, Introduced by Reps. Kahle, Lightner, Steckloff, Sneller, Breen, Thanedar, Aiyash, Bolden, Manoogian, Calley, Anthony, Ellison, Sowerby, Pohutsky, Rogers, Tyrone Carter, Puri, Brabec, Brixie, Hope, Tate, Brenda Carter, Kuppa, Hood and Whitsett and referred to the Committee on Judiciary.

A bill to amend 1988 PA 13, entitled  
"Juvenile diversion act,"  
by amending section 5 (MCL 722.825), as amended by 1996 PA 137.

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

1           Sec. 5. (1) If a decision is made to divert a minor with a  
2 referral under section 3(1)(b), a conference with the minor and the  
3 minor's parent, guardian, or custodian ~~shall~~**must** be held to  
4 consider alternatives to the filing of a petition with the court or  
5 to the authorization of a petition. The law enforcement official or

1 intake worker shall notify the minor and the minor's parent,  
2 guardian, or custodian of the proposed conference and shall inform  
3 the minor, and the minor's parent, guardian, or custodian of all of  
4 the following:

5 (a) That participation in the conference or resulting referral  
6 plan is voluntary.

7 (b) That an attorney may accompany the minor and the minor's  
8 parent, guardian, or custodian at the conference.

9 (c) The alternative referral programs available and the  
10 criteria utilized to determine whether to file a petition with the  
11 court or to dispose of the petition with a referral.

12 (d) That if diversion is agreed to and the minor complies with  
13 the terms of the diversion agreement and the referral plan, a  
14 petition cannot be filed with the court, or if a petition has been  
15 filed, the petition cannot be authorized.

16 (2) The conference to consider alternatives to the filing of a  
17 petition with the court or to consider alternatives to the  
18 authorization of a petition ~~shall~~**must** not be held until after the  
19 questioning, if any, of the minor has been completed or after an  
20 investigation has been made concerning the alleged offense. Mention  
21 of, or promises concerning, diversion ~~shall~~**must** not be made by a  
22 law enforcement official or court intake worker in the presence of  
23 the minor or the minor's parent, guardian, or custodian during any  
24 questioning of the minor. Information divulged by the minor during  
25 the conference or after the diversion is agreed to, but before a  
26 petition is filed with the court or has been authorized, ~~shall~~**must**  
27 not be used against the minor.

28 (3) If a conference held under this section results in  
29 diversion that imposes conditions on the minor and that will

1 prevent the filing of a petition with the court or the  
2 authorization of a petition, the terms of the diversion agreement  
3 ~~shall~~**must** be set forth in writing, dated, and signed by the law  
4 enforcement official or court intake worker, the minor, and the  
5 minor's parent, guardian, or custodian. **The diversion agreement**  
6 **must not include a term requiring the reimbursement of costs**  
7 **related to diversion services.**

8 (4) If a conference is held under this section and an  
9 agreement under subsection (3) is not reached, a petition may be  
10 filed with the court as provided by law and a petition may be  
11 authorized as provided by law. If an agreement under subsection (3)  
12 is not reached and a petition is to be filed, the petition ~~shall~~  
13 **must** be filed with the court not later than 30 days after the  
14 conference.

15 (5) If the minor fails to comply with the terms of the  
16 diversion agreement and the referral plan, the law enforcement  
17 official or the court intake worker may revoke the diversion  
18 agreement. If the diversion agreement is revoked, a petition may be  
19 filed with the court as provided by law and a petition may be  
20 authorized as provided by law.

21 Enacting section 1. This amendatory act takes effect July 1,  
22 2022.