THE CODE OF CRIMINAL PROCEDURE
Act 175 of 1927

AN ACT to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 445, Imd. Eff. Jan. 10, 1995.

The People of the State of Michigan enact:

TITLE AND CONSTRUCTION

760.1 Code of criminal procedure; short title.

Sec. 1. This act shall be known and may be cited as “The Code of Criminal Procedure”.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1929, Act 47, Eff. Aug. 28, 1929;—CL 1929, 17116;—CL 1948, 760.1.

760.2 Construction of act.

Sec. 2. This act is hereby declared to be remedial in character and as such shall be liberally construed to effectuate the intents and purposes thereof.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17117;—CL 1948, 760.2.

CHAPTER I
DEFINITIONS

761.1 Definitions.

Sec. 1. As used in this act:

(a) "Person", "accused", or a similar word means an individual or, unless a contrary intention appears, a public or private corporation, partnership, or unincorporated or voluntary association.

(b) "Act" or "doing of an act" includes "omission to act".

(c) "Property" includes any matter or thing upon or in respect to which an offense may be committed.

(d) "Indictment" means 1 or more of the following:

(*i*) An indictment.

(*ii*) An information.

(*iii*) A presentment.

(*iv*) A complaint.

(*v*) A warrant.

(*vi*) A formal written accusation.

(*vii*) Unless a contrary intention appears, a count contained in any document described in subparagraphs (*i*) through (*vi*).

(e) "Writing", "written", or a similar term refers to words printed, painted, engraved, lithographed, photographed, copied, traced, or otherwise made visible to the eye.

(f) "Magistrate" means a judge of the district court or a judge of a municipal court. Magistrate does not include a district court magistrate, except that a district court magistrate may exercise the powers, jurisdiction,

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and duties of a magistrate if specifically provided in this act, the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947, or any other statute. This definition does not limit the power of a justice of the supreme court, a circuit judge, or a judge of a court of record having jurisdiction of criminal cases under this act, or deprive him or her of the power to exercise the authority of a magistrate.

(g) "Felony" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by death or by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(h) "Misdemeanor" means a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine.

(j) "Ordinance violation" means either of the following:

(*i*) A violation of an ordinance or charter of a city, village, township, or county that is punishable by imprisonment or a fine that is not a civil fine.

(*ii*) A violation of an ordinance, rule, or regulation of any other governmental entity authorized by law to enact ordinances, rules, or regulations that is punishable by imprisonment or a fine that is not a civil fine.

(k) "Minor offense" means a misdemeanor or ordinance violation for which the maximum permissible imprisonment does not exceed 92 days and the maximum permissible fine does not exceed $1,000.00.

(*l*) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision or governmental entity that enacted the ordinance, charter, rule, or regulation upon which the ordinance violation is based.

(m) "Judicial district" means the following:

(*i*) With regard to the circuit court, the county.

(*ii*) With regard to municipal courts, the city in which the municipal court functions or the village served by a municipal court under section 9928 of the revised judicature act of 1961, 1961 PA 236, MCL 600.9928.

(*iii*) With regard to the district court, the county, district, or political subdivision in which venue is proper for criminal actions.

(n) "Complaint" means a written accusation, under oath or upon affirmation, that a felony, misdemeanor, or ordinance violation has been committed and that the person named or described in the accusation is guilty of the offense.

(o) "Clerk" means the clerk or a deputy clerk of the court.

(p) "Federal law enforcement officer" means an officer or agent employed by a law enforcement agency of the United States government whose primary responsibility is enforcing laws of the United States.

(q) "Jail", "prison", or a similar word includes a juvenile facility in which a juvenile has been placed pending trial under section 27a of chapter IV.

(r) "Juvenile" means a person within the jurisdiction of the circuit court under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606.

(s) "Juvenile facility" means a county facility, institution operated as an agency of the county or family division of circuit court, or an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, to which a juvenile has been committed under section 27a of chapter IV.

(t) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.

(u) "Taken", "brought", or "before" a magistrate or judge for purposes of criminal arraignment or the setting of bail means either of the following:

(*i*) Physical presence before a judge or district court magistrate.

(*ii*) Presence before a judge or district court magistrate by use of 2-way interactive video technology.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17118;—CL 1948, 761.1;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1987, Act 256, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 49, Imd. Eff. Mar. 11, 1988;—Am. 1988, Act 67, Eff. Oct. 1, 1988;—Am. 1994, Act 229, Imd. Eff. June 30, 1994;—Am. 1996, Act 418, Eff. Jan. 1, 1998;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999;—Am. 1999, Act 76, Eff. Oct. 1, 1999;—Am. 2007, Act 20, Imd. Eff. June 19, 2007.

Compiler's note: Section 3 of Act 67 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was amended by Act 173 of 1988 to read as follows: “This amendatory act shall take effect October 1, 1988.”

MCL 761.1 does not contain subdivision (i) of section 1. Evidently, this subdivision was inadvertently omitted.

Former law: See sections 18, 20, and 21 of Ch. 161 of R.S. 1846, being CL 1857, §§ 5954, 5956, and 5957; CL 1871, §§ 7820, 7822, and 7823; How., §§ 9430, 9432, and 9433; CL 1897, §§ 11791, 11793, and 11794; CL 1915, §§ 15618, 15620, and 15621.

761.2 “Major controlled substance offense” defined.

Sec. 2. As used in this act, “major controlled substance offense” means either or both of the following:

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(a) A violation of section 7401(2)(a) of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7401 of the Michigan Compiled Laws.

(b) A violation of section 7403(2)(a)(*i*) to (*iv*) of Act No. 368 of the Public Acts of 1978, being section 333.7403 of the Michigan Compiled Laws.

(c) Conspiracy to commit an offense listed in subdivision (a) or (b).

History: Add. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1988, Act 90, Imd. Eff. Mar. 30, 1988.

CHAPTER II
COURTS

762.1 Jurisdiction; existing courts and persons.

Sec. 1. The various courts and persons of this state now having jurisdiction and powers over criminal causes, shall have such jurisdiction and powers as are now conferred upon them by law, except as such jurisdiction and powers may be hereinafter repealed, enlarged or modified.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17119;—CL 1948, 762.1.

762.1a Justices and judges as conservators of the peace.

Sec. 1a. Justices of the supreme court, judges of the court of appeals, judges of the circuit court, judges of the recorder's court of the city of Detroit, judges of the traffic and ordinance division of the recorder's court of the city of Detroit, judges of a common pleas court, judges of the district court, and judges of municipal courts are conservators of the peace within their respective jurisdictions.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

762.2 In-state prosecution for criminal offense; circumstances.

Sec. 2. (1) A person may be prosecuted for a criminal offense he or she commits while he or she is physically located within this state or outside of this state if any of the following circumstances exist:

(a) He or she commits a criminal offense wholly or partly within this state.

(b) His or her conduct constitutes an attempt to commit a criminal offense within this state.

(c) His or her conduct constitutes a conspiracy to commit a criminal offense within this state and an act in furtherance of the conspiracy is committed within this state by the offender, or at his or her instigation, or by another member of the conspiracy.

(d) A victim of the offense or an employee or agent of a governmental unit posing as a victim resides in this state or is located in this state at the time the criminal offense is committed.

(e) The criminal offense produces substantial and detrimental effects within this state.

(2) A criminal offense is considered under subsection (1) to be committed partly within this state if any of the following apply:

(a) An act constituting an element of the criminal offense is committed within this state.

(b) The result or consequences of an act constituting an element of the criminal offense occur within this state.

(c) The criminal offense produces consequences that have a materially harmful impact upon the system of government or the community welfare of this state, or results in persons within this state being defrauded or otherwise harmed.

History: Add. 2002, Act 129, Eff. Apr. 22, 2002.

Compiler's note: Former MCL 762.2, which pertained to jurisdiction of justice of peace, was repealed by Act 506 of 1980, Imd. Eff. Jan. 22, 1981.

762.3 Jurisdiction; offenses near county lines.

Sec. 3. (1) Any offense committed on the boundary line of 2 counties, or within 1 mile of the dividing line between them, may be alleged in the indictment to have been committed, and may be prosecuted and punished in either county.

(2) If it appears to the attorney general that a felony has been committed within the state and that it is impossible to determine within which county it occurred, the offense may be alleged in the indictment to have been committed and may be prosecuted and punished in such county as the attorney general designates. The state shall bear all expenses of such prosecution. The responsibility and the authority with reference to all steps in the prosecution of such case shall be the same, as between the prosecuting attorney of the county so designated and the attorney general, as though it were an established fact that the alleged criminal acts, if committed at all, were committed within that county.

(3) With regard to state offenses cognizable by the examining magistrate and to examinations conducted

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for offenses not cognizable by the examining magistrate, the following special provisions apply:

(a) If an offense is committed on the boundary of 2 or more counties, districts or political subdivisions or within 1 mile thereof, venue is proper in any of the counties, districts or political subdivisions concerned.

(b) If an offense is committed in or upon any railroad train, automobile, aircraft, vessel or other conveyance in transit, and it cannot readily be determined in which county, district or political subdivision the offense was committed, venue is proper in any county, district or political subdivision through or over which the conveyance passed in the course of its journey.

(c) Except as otherwise provided in subdivision (b), if it appears to the attorney general that the alleged state offense has been committed within the state and that it is impossible to determine within which county, district or political subdivision it occurred, the violation may be alleged to have been committed and may be prosecuted and punished or the examination conducted in such county, district or political subdivision as the attorney general designates. The responsibility and the authority with reference to all steps in the prosecution of such case shall be the same, as between the prosecuting attorney of the county so designated and the attorney general, as though it were an established fact that the alleged criminal acts, if committed at all, were committed within that county, district or political subdivision.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17121;—Am. 1935, Act 151, Imd. Eff. June 4, 1935;—CL 1948, 762.3;—Am. 1970, Act 213, Imd. Eff. Oct. 4, 1970.

Former law: See section 6 of Ch. 161 of R.S. 1846, being CL 1857, § 5942; CL 1871, § 7804; How., § 9418; CL 1897, § 11779; CL 1915, § 15606; and Act 399 of 1921.

762.4 Jurisdiction; court of record; offense near boundary line.

Sec. 4. Whenever any court of record having criminal jurisdiction, the boundaries of whose jurisdiction as fixed by statute are not coincident with the boundary lines of a county or counties, shall take jurisdiction or have pending before it any trial or cause arising out of the commission of an offense at, on or near to the boundary line of the jurisdiction of said court, the jurisdiction of said court shall not be questioned, after the swearing of the jury, unless the evidence shall show the offense to have been committed more than 100 rods outside of the boundary of the jurisdiction of said court as fixed by statute.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17122;—CL 1948, 762.4.

Former law: See Act 399 of 1921.

762.5 Jurisdiction; fatal force and death in different counties.

Sec. 5. If any mortal wound shall be given or other violence or injury shall be inflicted, or any poison shall be administered in 1 county by means whereof death shall ensue in another county, the offense may be prosecuted and punished in either county.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17123;—CL 1948, 762.5.

Former law: See section 7 of Ch. 161 of R.S. 1846, being CL 1857, § 5943; CL 1871, § 7805; How., § 9419; CL 1897, § 11780; and CL 1915, § 15607.

762.6 Jurisdiction; fatal force inflicted on high seas or navigable rivers.

Sec. 6. If any such mortal wound shall be given, or other violence or injury shall be inflicted or poison administered on the high seas, or in any other navigable waters, or on land, either within or without the limits of this state, by means whereof death shall ensue in any county thereof, such offense may be prosecuted and punished in the county where such death shall have ensued.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17124;—CL 1948, 762.6.

Former law: See section 8 of Ch. 161 of R.S. 1846, being CL 1857, § 5944; CL 1871, § 7806; How., § 9420; CL 1897, § 11780; and CL 1915, § 15608.

762.7 Jurisdiction; change of venue, procedure; saving clause.

Sec. 7. Each court of record having jurisdiction of criminal cases upon good cause shown by either party may change the venue in any cause pending therein, and direct the issue to be tried in the circuit court of another county, and make all necessary rules and orders for the certifying and removing such cause, and all matters relating thereto, to the court in which such issue shall be ordered to be tried, and the court to which such cause shall be so removed shall proceed to hear, try and determine the same, and execution may thereupon be had in the same manner as if the same had been prosecuted in the court having original jurisdiction of such cause, except that in all causes when the defendant shall be convicted and be sentenced to imprisonment in the county jail or to pay a fine, or to both such imprisonment and fine, the court awarding such sentence shall have authority to direct and shall direct that the defendant be imprisoned in the county jail of the county in which such prosecution commenced; and that such fine, when paid, shall be paid over to the

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county treasurer of the county in which such prosecution commenced, in the same manner as is now provided by law for paying over fines to county treasurers; and in every case where a change of venue is ordered, all expenses of such trial shall be a charge upon the county in which the prosecution originated; and when there shall be a disagreement of the jury on the trial of any criminal cause in the circuit court to which such cause was ordered for trial, the circuit judge before whom the same was tried, if he shall deem that the public good requires the same, may, upon cause shown by either party, order and direct the issue to be tried in the circuit court of another county in the state; and the court to which such cause shall be removed shall proceed to hear, try and determine the same in the same manner and with like effect as was pursued by the circuit court making such order: Provided, That in any and all suits, proceedings, causes or actions now pending in any of the circuit courts of this state, whether the court has general or special jurisdiction, a change of venue may be had in the manner provided and in accordance with section 10 of Act No. 157 of the Public Acts of 1851, as amended by Act No. 309 of the Public Acts of 1905 and the provisions of said act shall be continued in full force and effect for such purpose: Provided further, That in all suits, proceedings, causes or actions in which a change of venue has been granted, the court to which such suit, proceeding, cause or action has been transferred, shall retain jurisdiction.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17125;—CL 1948, 762.7.

Former law: See section 10 of Act 157 of 1851, being CL 1857, § 3420; CL 1871, § 4946; How., § 6468; CL 1897, § 309; CL 1915, § 14563; Act 12 of 1871; Act 88 of 1879; Act 309 of 1905; Act 161 of 1907; and Act 67 of 1909.

762.8 Jurisdiction; felony consisting of 2 or more acts.

Sec. 8. Whenever a felony consists or is the culmination of 2 or more acts done in the perpetration of that felony, the felony may be prosecuted in any county where any of those acts were committed or in any county that the defendant intended the felony or acts done in perpetration of the felony to have an effect.

History: Add. 1929, Act 24, Imd. Eff. Apr. 2, 1929;—CL 1929, 17126;—CL 1948, 762.8;—Am. 2013, Act 128, Imd. Eff. Oct. 9, 2013.

762.9 Jurisdiction; felony on moving vessel or vehicle.

Sec. 9. Whenever a felony has been committed on a railroad train, automobile, aircraft, vessel or other moving vehicle, said offense may be prosecuted in any county, city or jurisdiction in which such conveyance was during the journey in the course of which said offense was committed.

History: Add. 1929, Act 24, Imd. Eff. Apr. 2, 1929;—CL 1929, 17127;—CL 1948, 762.9.

762.10 Jurisdiction; embezzlement.

Sec. 10. In all prosecutions for the crime of embezzlement said offense may be prosecuted either in the jurisdiction in which the property is received by the person charged or the jurisdiction in which it was the duty of such person to deliver, re-deliver or return said property.

History: Add. 1929, Act 24, Imd. Eff. Apr. 2, 1929;—CL 1929, 17128;—CL 1948, 762.10.

762.10a Violation of MCL 750.219a and 750.540g; jurisdiction.

Sec. 10a. A violation of section 219a or 540g of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.219a and 750.540g of the Michigan Compiled Laws, may be prosecuted in the jurisdiction in which the telecommunication or telecommunications service originated or terminated or in the jurisdiction to which the bill for the telecommunications service was or would have been sent.

History: Add. 1996, Act 331, Eff. Apr. 1, 1997.

762.10b Violation of MCL 752.791 to 752.797; jurisdiction.

Sec. 10b. If a person violates Act No. 53 of the Public Acts of 1979, being sections 752.791 to 752.797 of the Michigan Compiled Laws, by accessing or causing access to be made to a computer, computer program, computer system, or computer network in 1 jurisdiction from another jurisdiction, the offense may be prosecuted in either jurisdiction.

History: Add. 1996, Act 332, Eff. Apr. 1, 1997.

762.10c Identity theft; prosecution; jurisdiction.

Sec. 10c. (1) Except as otherwise provided in subsection (3), conduct prohibited by law, or former law, and listed in subsection (2) may be prosecuted in 1 of the following jurisdictions:

(a) The jurisdiction in which the offense occurred.

(b) The jurisdiction in which the information used to commit the violation was illegally used.

(c) The jurisdiction in which the victim resides.

(2) Jurisdiction described under subsection (1) applies to conduct prohibited under 1 or more of the

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following laws and to conduct that is done in furtherance of or arising from the same transaction as conduct prohibited under 1 or more of the following laws:

(a) The identity theft protection act, 2004 PA 452, MCL 445.61 to 445.79c.

(b) Former section 285 of the Michigan penal code, 1931 PA 328.

(c) Section 5 of 1972 PA 222, MCL 28.295.

(d) Section 310(7) or 903 of the Michigan vehicle code, 1949 PA 300, MCL 257.310 and 257.903.

(e) Section 157n, 157p, 157q, 157r, 157v, 157w, 218, 219a, 219e, 248, 248a, 249, 362, 363, or 539k of the Michigan penal code, 1931 PA 328, MCL 750.157n, 750.157p, 750.157q, 750.157r, 750.157v, 750.157w, 750.218, 750.219a, 750.219e, 750.248, 750.248a, 750.249, 750.362, 750.363, and 750.539k.

(3) If a person is charged with more than 1 violation of the identity theft protection act, 2004 PA 452, MCL 445.61 to 445.79c, or section 539k of the Michigan penal code, 1931 PA 321, MCL 750.539k, and those violations may be prosecuted in more than 1 jurisdiction, any of those jurisdictions is a proper jurisdiction for all of the violations.

History: Add. 2004, Act 453, Eff. Mar. 1, 2005;—Am. 2010, Act 316, Eff. Apr. 1, 2011;—Am. 2013, Act 215, Eff. Apr. 1, 2014.

762.11 Criminal offense by individual between ages 17 and 24; assignment to status of youthful trainee; consent of prosecuting attorney; exceptions; employment or school attendance; electronic monitoring; definitions.

Sec. 11. (1) Except as provided in subsections (2) and (3), if an individual pleads guilty to a criminal offense, committed on or after the individual's seventeenth birthday but before his or her twenty-fourth birthday, the court of record having jurisdiction of the criminal offense may, without entering a judgment of conviction and with the consent of that individual, consider and assign that individual to the status of youthful trainee. If the offense was committed on or after the individual's twenty-first birthday but before his or her twenty-fourth birthday, the individual shall not be assigned to youthful trainee status without the consent of the prosecuting attorney.

(2) Subsection (1) does not apply to any of the following:

(a) A felony for which the maximum penalty is imprisonment for life.

(b) A major controlled substance offense.

(c) A traffic offense.

(d) A violation, attempted violation, or conspiracy to violate section 520b, 520c, 520d, or 520e of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, and 750.520e, other than section 520d(1)(a) or 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d and 750.520e.

(e) A violation, attempted violation, or conspiracy to violate section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g, with the intent to commit a violation of section 520b, 520c, 520d, or 520e of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, and 750.520e, other than section 520d(1)(a) or 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d and 750.520e.

(3) The court shall not assign an individual to the status of youthful trainee if any of the following apply:

(a) The individual was previously convicted of or adjudicated for a listed offense for which registration is required under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736.

(b) If the individual is charged with a listed offense for which registration is required under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the individual fails to carry the burden of proving by clear and convincing evidence that he or she is not likely to engage in further listed offenses.

(c) The court determines that the offense involved any of the following:

(*i*) A factor set forth in section 520b(1)(a) to (h) of the Michigan penal code, 1931 PA 328, MCL 750.520b.

(*ii*) A factor set forth in section 520c(1)(a) to (*l*) of the Michigan penal code, 1931 PA 328, MCL 750.520c.

(*iii*) A factor set forth in section 520d(1)(b) to (e) of the Michigan penal code, 1931 PA 328, MCL 750.520d.

(*iv*) A factor set forth in section 520e(1)(b) to (f) of the Michigan penal code, 1931 PA 328, MCL 750.520e.

(4) If the court assigns an individual to the status of youthful trainee under this section, the court may require the individual to maintain employment or to attend a high school, high school equivalency program, community college, college, university, or trade school. If the individual is not employed or attending a high school, community college, college, university, or trade school, the individual may be required to actively seek employment or entry into a high school, high school equivalency program, community college, college, university, or trade school.

(5) If the offense for which the individual is assigned to the status of youthful trainee status was committed on or after the individual's twenty-first birthday, the individual may, in addition to the other requirements of

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this section, be subject to electronic monitoring during his or her probationary term as provided under section 3 of chapter XI.

(6) As used in this section:

(a) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) "Traffic offense" means a violation of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of a local ordinance substantially corresponding to that act, that involves the operation of a vehicle and, at the time of the violation, is a felony or a misdemeanor.

History: Add. 1966, Act 301, Eff. Jan. 1, 1967;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1988, Act 4, Imd. Eff. Feb. 5, 1988;—Am. 1993, Act 293, Eff. Jan. 1, 1994;—Am. 2004, Act 239, Eff. Oct. 1, 2004;—Am. 2015, Act 31, Eff. Aug. 18, 2015.

762.12 Termination or revocation as youthful trainee; effect.

Sec. 12. (1) Subject to subsection (2), the court of record having jurisdiction over the criminal offense referred to in section 11 of this chapter may, at any time, terminate its consideration of the individual as a youthful trainee or, once having assigned the individual to the status of a youthful trainee, may at its discretion revoke that status any time before the individual's final release.

(2) If the court assigns an individual to youthful trainee status, the court shall revoke that status if the individual pleads guilty to or is convicted of any of the following during the period of assignment:

(a) A felony for which the maximum penalty is imprisonment for life.

(b) A major controlled substance offense.

(c) A violation, attempted violation, or conspiracy to violate section 82, 84, 88, 110a, 224f, 226, 227, 227a, 227b, 520b, 520c, 520d, 520e, 529a, or 530 of the Michigan penal code, 1931 PA 328, MCL 750.82, 750.84, 750.88, 750.110a, 750.224f, 750.226, 750.227, 750.227a, 750.227b, 750.520b, 750.520c, 750.520d, 750.520e, 750.529a, and 750.530, other than section 520d(1)(a) or 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d and 750.520e.

(d) A violation, attempted violation, or conspiracy to violate section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g, with the intent to commit a violation of section 520b, 520c, 520d, or 520e of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, and 750.520e, other than section 520d(1)(a) or 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d and 750.520e.

(e) A firearm offense. As used in this subdivision, "firearm offense" means a crime involving a firearm as that term is defined in section 1 of 1927 PA 372, MCL 28.421, whether or not the possession, use, transportation, or concealment of a firearm is an element of the crime.

(3) If an individual who is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, willfully violates that act, the court shall revoke the individual's status as a youthful trainee. Upon termination of consideration or revocation of status as a youthful trainee, the court may enter an adjudication of guilt and proceed as provided by law. If the status of youthful trainee is revoked, an adjudication of guilt is entered, and a sentence is imposed, the court in imposing sentence shall specifically grant credit against the sentence for time served as a youthful trainee in an institutional facility of the department of corrections or in a county jail.

History: Add. 1966, Act 301, Eff. Jan. 1, 1967;—Am. 1993, Act 293, Eff. Jan. 1, 1994;—Am. 1994, Act 286, Eff. Oct. 1, 1995;—Am. 2015, Act 32, Eff. Aug. 18, 2015.

762.13 Assignment as youthful trainee; duties of court.

Sec. 13. (1) If an individual is assigned to the status of a youthful trainee and the underlying charge is an offense punishable by imprisonment for a term of more than 1 year, the court shall do 1 of the following:

(a) Except as provided in subsection (2), commit the individual to the department of corrections for custodial supervision and training for not more than 2 years. If the individual is less than 21 years of age, he or she shall be committed to an institutional facility designated by the department for that purpose.

(b) Place the individual on probation for not more than 3 years subject to probation conditions as provided in section 3 of chapter XI. The terms and conditions of probation may include participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1084.

(c) Commit the individual to the county jail for not more than 1 year.

(d) Except as provided in subsection (2), commit the individual to the department of corrections under subdivision (a) or to the county jail under subdivision (c), and then place the individual on probation for not more than 1 year subject to probation conditions as provided in section 3 of chapter XI.

(2) An individual assigned to the status of youthful trainee shall not be committed to the department of corrections for custodial supervision and training under subsection (1)(a) or (d) if the underlying charge is for

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a violation of any of the following:

(a) Article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545.

(b) Section 110, 110a(4), 157n to 157v, 157w(1)(c), 227, 356, 357, 413, 530, or 535(3) or (7) of the Michigan penal code, 1931 PA 328, MCL 750.110, 750.110a, 750.157n to 750.157v, 750.157w, 750.227, 750.356, 750.357, 750.413, 750.530, and 750.535.

(3) If an individual is assigned to the status of youthful trainee and the underlying charge is for an offense punishable by imprisonment for 1 year or less, the court shall place the individual on probation for not more than 2 years, subject to probation conditions as provided in section 3 of chapter XI.

(4) An individual placed on probation under this section shall be under the supervision of a probation officer. Upon commitment to and receipt by the department of corrections, a youthful trainee shall be subject to the direction of the department of corrections. If an individual is placed on probation following a commitment to the department of corrections under subsection (1)(d), a youthful trainee shall be reassigned to the supervision of a probation officer.

(5) If an individual is committed to the county jail under subsection (1)(c) or (d) or as a probation condition, the court may authorize work release or release for educational purposes.

(6) The court shall include in each order of probation for an individual placed on probation under this section that the department of corrections shall collect a probation supervision fee of not more than $135.00 multiplied by the number of months of probation ordered, but not more than 36 months. The fee is payable when the probation order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that probationer. In determining the amount of the fee, the court shall consider the probationer's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

Projected Monthly Income	Amount of Fee
$ 0-249.99	$ 0.00
$ 250.00-499.99	$10.00
$ 500.00-749.99	$25.00
$ 750.00-999.99	$40.00
$1,000.00 or more	5% of projected monthly income, but not more than $135.00

The court may order a higher amount than indicated by the table, up to the maximum of $135.00 multiplied by the number of months of probation ordered but not more than 36 months, if the court determines that the probationer has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person shall not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

History: Add. 1966, Act 301, Eff. Jan. 1, 1967;—Am. 1993, Act 185, Eff. Oct. 1, 1993;—Am. 1993, Act 293, Eff. Jan. 1, 1994;—Am. 1994, Act 286, Eff. Oct. 1, 1995;—Am. 2002, Act 483, Eff. Oct. 1, 2002;—Am. 2004, Act 226, Eff. Jan. 1, 2005;—Am. 2004, Act 239, Eff. Oct. 1, 2004;—Am. 2015, Act 33, Eff. Aug. 18, 2015.

Compiler's note: Enacting section 2 of Act 33 of 2015 provides:

"Enacting section 2. This amendatory act applies to cases in which an individual is assigned to youthful trainee status on or after the effective date of this amendatory act."

762.14 Discharge of individual and dismissal of proceedings upon final release; assignment as youthful trainee not conviction; compliance with sex offenders registration; proceedings closed to public inspection; inspection by courts, state departments, and law enforcement personnel.

Sec. 14. (1) If consideration of an individual as a youthful trainee is not terminated and the status of youthful trainee is not revoked as provided in section 12 of this chapter, upon final release of the individual from the status as youthful trainee, the court shall discharge the individual and dismiss the proceedings.

(2) An assignment of an individual to the status of youthful trainee as provided in this chapter is not a conviction for a crime and, except as provided in subsection (3), the individual assigned to the status of youthful trainee shall not suffer a civil disability or loss of right or privilege following his or her release from that status because of his or her assignment as a youthful trainee.

(3) An individual assigned to youthful trainee status before October 1, 2004 for a listed offense enumerated in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, is required to comply with the

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requirements of that act.

(4) Unless the court enters a judgment of conviction against the individual for the criminal offense under section 12 of this chapter, all proceedings regarding the disposition of the criminal charge and the individual's assignment as youthful trainee shall be closed to public inspection, but shall be open to the courts of this state, the department of corrections, the family independence agency, law enforcement personnel and, beginning January 1, 2005, prosecuting attorneys for use only in the performance of their duties.

History: Add. 1966, Act 301, Eff. Jan. 1, 1967;—Am. 1993, Act 293, Eff. Jan. 1, 1994;—Am. 1994, Act 286, Eff. Oct. 1, 1995;—Am. 2004, Act 226, Eff. Jan. 1, 2005;—Am. 2004, Act 239, Eff. Oct. 1, 2004.

762.15 Applicability to individuals over fourteen.

Sec. 15. This chapter also applies to an individual over 14 years of age whose jurisdiction has been waived under section 27 of chapter IV.

History: Add. 1966, Act 301, Eff. Jan. 1, 1967;—Am. 1993, Act 293, Eff. Jan. 1, 1994;—Am. 1996, Act 255, Eff. Jan. 1, 1997.

762.16 Holmes youthful trainee act; short title.

Sec. 16. Sections 11 to 15 shall be known as the "Holmes youthful trainee act."

History: Add. 1966, Act 301, Eff. Jan. 1, 1967.

CHAPTER III
RIGHTS OF PERSONS ACCUSED

763.1 Rights of accused; hearing by counsel, defense, confronting witnesses.

Sec. 1. On the trial of every indictment or other criminal accusation, the party accused shall be allowed to be heard by counsel and may defend himself, and he shall have a right to produce witnesses and proofs in his favor, and meet the witnesses who are produced against him face to face.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17129;—CL 1948, 763.1.

Former law: See section 1 of Ch. 150 of R.S. 1846, being CL 1857, § 5704; CL 1871, § 7503; How., § 9068; CL 1897, § 11796; CL 1915, § 15623.

763.2 Conviction; bases.

Sec. 2. No person charged with an offense shall be convicted thereof unless by confession of his guilt in open court or by admitting the truth of the charge against him or after trial by the court or by the verdict of a jury accepted and recorded by the court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17130;—CL 1948, 763.2.

Former law: See sections 2 and 4 of Ch. 151 of R.S. 1846, being CL 1857, §§ 5705 and 5707; CL 1871, §§ 7504 and 7506; How., §§ 9069 and 9071; CL 1897, §§ 11797 and 11799; and CL 1915, §§ 15624 and 15626.

763.3 Waiver of trial by jury in criminal cases.

Sec. 3. (1) In all criminal cases arising in the courts of this state the defendant may, with the consent of the prosecutor and approval by the court, waive a determination of the facts by a jury and elect to be tried before the court without a jury. Except in cases of minor offenses, the waiver and election by a defendant shall be in writing signed by the defendant and filed in the case and made a part of the record. The waiver and election shall be entitled in the court and case, and in substance as follows: "I, ..., defendant in the above case, hereby voluntarily waive and relinquish my right to a trial by jury and elect to be tried by a judge of the court in which the case may be pending. I fully understand that under the laws of this state I have a constitutional right to a trial by jury."

_____
Signature of defendant.

(2) Except in cases of minor offenses, the waiver of trial by jury shall be made in open court after the defendant has been arraigned and has had opportunity to consult with legal counsel.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17131;—CL 1948, 763.3;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1988, Act 89, Eff. June 1, 1988.

763.4 Waiver of trial by jury; jurisdiction of judge, procedure.

Sec. 4. In any case where a defendant waives his right to a trial by jury and elects to be tried by the judge of such court as provided in section 3 of this chapter any judge of the court in which said cause is pending shall have jurisdiction to proceed with the trial of said cause, and shall proceed to hear, try and determine such cause in accordance with the rules and in like manner as if such cause were being tried before a jury.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17132;—CL 1948, 763.4.

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763.5 Acquittal on facts and merits as bar to subsequent prosecution.

Sec. 5. No person shall be held to answer on a second charge or indictment for any offense for which he has been acquitted upon the facts and merits of the former trial but such acquittal may be pleaded or given in evidence by him in bar of any subsequent prosecution for the same offense.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17133;—CL 1948, 763.5.

Former law: See section 3 of Ch. 151 of R.S. 1846, being CL 1857, § 5706; CL 1871, § 7505; How., § 9070; CL 1897, § 11798; and CL 1915, § 15625.

763.6 Acquittal on variance, insufficiency or irregularity of indictment as bar to subsequent prosecution.

Sec. 6. If any person who is indicted or informed against for any offense shall on his trial be acquitted upon the grounds of a variance between the indictment or information and the proof or upon any insufficiency or irregularity in the form or substance of the indictment, he may be arraigned again on a new indictment for the same offense, notwithstanding such former acquittal.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17134;—CL 1948, 763.6.

763.7 Definitions.

Sec. 7. As used in this section and sections 8 to 10 of this chapter:

(a) "Custodial detention" means an individual's being in a place of detention because a law enforcement official has told the individual that he or she is under arrest or because the individual, under the totality of the circumstances, reasonably could believe that he or she is under a law enforcement official's control and is not free to leave.

(b) "Interrogation" means questioning in a criminal investigation that may elicit a self-incriminating response from an individual and includes a law enforcement official's words or actions that the law enforcement official should know are reasonably likely to elicit a self-incriminating response from the individual.

(c) "Law enforcement official" means any of the following:

(*i*) A police officer of this state or a political subdivision of this state as defined in section 2 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.602.

(*ii*) A county sheriff or his or her deputy.

(*iii*) A prosecuting attorney.

(*iv*) A public safety officer of a college or university.

(*v*) A conservation officer of the department of natural resources and environment.

(*vi*) An individual acting under the direction of a law enforcement official described in subparagraphs (*i*) to (*v*).

(d) "Major felony" means a felony punishable by imprisonment for life, for life or any term of years, or for a statutory maximum of 20 years or more, or a violation of section 520d of the Michigan penal code, 1931 PA 328, MCL 750.520d.

(e) "Major felony recording" means the interrogation recording required under section 8 of this chapter or a duplicate of that recording.

(f) "Place of detention" means a police station, correctional facility, or prisoner holding facility or another governmental facility where an individual may be held in connection with a criminal charge that has been or may be filed against the individual.

History: Add. 2012, Act 479, Eff. Mar. 28, 2013.

763.8 Audiovisual recording of interrogation.

Sec. 8. (1) This section applies if the law enforcement agency has audiovisual recording equipment that is operational or accessible as provided in section 11(3) or (4) or upon the expiration of the relevant time periods set forth in section 11(3) or (4), whichever occurs first.

(2) A law enforcement official interrogating an individual in custodial detention regarding the individual's involvement in the commission of a major felony shall make a time-stamped, audiovisual recording of the entire interrogation. A major felony recording shall include the law enforcement official's notification to the individual of the individual's Miranda rights.

(3) An individual who believes the individual's interrogation is being recorded may object to having the interrogation recorded. The individual's objection shall be documented either by the individual's objection stated on the recording or the individual's signature on a document stating the objection. If the individual refuses to document the objection either by recording or signature, a law enforcement official shall document

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the objection by a recording or signed document. A major felony recording may be made without the consent or knowledge of, or despite the objection of, the individual being interrogated.

(4) A major felony recording shall be produced using equipment and procedures that are designed to prevent alteration of the recording's audio or visual record.

(5) Pursuant to any request of discovery, the prosecutor shall provide a copy of the recorded statement to the defense counsel of record or to the defendant if he or she is not represented by defense counsel. The court shall not require the police or the prosecutor to prepare or pay for a transcript of a recorded statement. A court or the defense may have a transcript prepared at its own expense.

(6) Prior to conviction or acquittal, a statement recorded under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 2012, Act 479, Eff. Mar. 28, 2013.

763.9 Failure to record or preserve recorded statement.

Sec. 9. Any failure to record a statement as required under section 8 of this chapter or to preserve a recorded statement does not prevent any law enforcement official present during the taking of the statement from testifying in court as to the circumstances and content of the individual's statement if the court determines that the statement is otherwise admissible. However, unless the individual objected to having the interrogation recorded and that objection was properly documented under section 8(3), the jury shall be instructed that it is the law of this state to record statements of an individual in custodial detention who is under interrogation for a major felony and that the jury may consider the absence of a recording in evaluating the evidence relating to the individual's statement.

History: Add. 2012, Act 479, Eff. Mar. 28, 2013.

763.10 Requirement as directive and not right conferred on individual.

Sec. 10. A failure to comply with sections 8 and 9 of this chapter does not create a civil cause of action against a department or individual. The requirement in section 8 of this chapter to produce a major felony recording is a directive to departments and law enforcement officials and not a right conferred on an individual who is interrogated.

History: Add. 2012, Act 479, Eff. Mar. 28, 2013.

****** 763.11 THIS SECTION IS AMENDED EFFECTIVE JANUARY 2, 2017: See 763.11.amended ******

763.11 Duties of commission on law enforcement standards; appropriation of funds; implementation of MCL 763.7 to 763.10.

Sec. 11. (1) The commission on law enforcement standards created under section 3 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.603, shall set quality standards for the audiovisual recording of statements under section 8 of this chapter and standards for geographic accessibility of equipment in the state. The commission shall also conduct an assessment of the initial cost necessary for law enforcement agencies to purchase audiovisual recording equipment. The first assessment shall be conducted within 120 days after the effective date of the amendatory act that added this section. The commission on law enforcement standards shall conduct subsequent assessments regarding the necessary costs of purchasing, upgrading, or replacing the equipment every 2 years.

(2) The commission on law enforcement standards shall recommend to the legislature each year an annual appropriation amount to be determined by the commission's assessment performed under this section. The legislature shall annually appropriate funds to the commission on law enforcement standards for distribution to law enforcement agencies throughout the state to allow the agencies to purchase audiovisual recording equipment for purposes of this chapter. Any funds appropriated for this purpose shall be in addition to the appropriations provided to the commission on law enforcement standards and the department of state police in the immediately preceding fiscal year and shall not be appropriated from the Michigan justice training fund created in section 5 of 1982 PA 302, MCL 18.425, or the department of state police budget.

(3) Except as otherwise provided in subsection (4), law enforcement agencies shall implement sections 7 to 10 of this chapter and this section within 120 days after receiving funds under this section from the commission on law enforcement standards or acquiring access to audiovisual recording equipment as directed by the standards set forth by that commission.

(4) Notwithstanding subsection (3), a law enforcement agency shall comply with the provisions of the amendatory act that added this subsection within 60 days after the date the commission adopts the standards for audiovisual recording equipment required by this section if the law enforcement agency has audiovisual recording equipment that complies with those standards on that date, or within 60 days after the date the law

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enforcement agency subsequently obtains audiovisual recording equipment that complies with the adopted standards.

History: Add. 2012, Act 479, Eff. Mar. 28, 2013.

****** 763.11.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 2, 2017 ******

763.11.amended Duties of Michigan commission on law enforcement standards; appropriation of funds; implementation of MCL 763.7 to 763.10; compliance.

Sec. 11. (1) The Michigan commission on law enforcement standards created under section 3 of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.603, shall set quality standards for the audiovisual recording of statements under section 8 of this chapter and standards for geographic accessibility of equipment in the state. The commission shall also conduct an assessment of the initial cost necessary for law enforcement agencies to purchase audiovisual recording equipment. The first assessment shall be conducted By July 26, 2012. The Michigan commission on law enforcement standards shall conduct subsequent assessments regarding the necessary costs of purchasing, upgrading, or replacing the equipment every 2 years.

(2) The Michigan commission on law enforcement standards shall recommend to the legislature each year an annual appropriation amount to be determined by the commission's assessment performed under this section. The legislature shall annually appropriate funds to the Michigan commission on law enforcement standards for distribution to law enforcement agencies throughout the state to allow the agencies to purchase audiovisual recording equipment for purposes of this chapter. Any funds appropriated for this purpose shall be in addition to the appropriations provided to the Michigan commission on law enforcement standards and the department of state police in the immediately preceding fiscal year and shall not be appropriated from the Michigan justice training fund created in 1982 PA 302, MCL 18.421 to 18.430, or the department of state police budget.

(3) Except as otherwise provided in subsection (4), law enforcement agencies shall implement sections 7 to 10 of this chapter and this section within 120 days after receiving funds under this section from the Michigan commission on law enforcement standards or acquiring access to audiovisual recording equipment as directed by the standards set forth by that commission.

(4) Notwithstanding subsection (3), a law enforcement agency shall comply with the provisions of the amendatory act that added this subsection within 60 days after the date the commission adopts the standards for audiovisual recording equipment required by this section if the law enforcement agency has audiovisual recording equipment that complies with those standards on that date, or within 60 days after the date the law enforcement agency subsequently obtains audiovisual recording equipment that complies with the adopted standards.

History: Add. 2012, Act 479, Eff. Mar. 28, 2013;—Am. 2016, Act 293, Eff. Jan. 2, 2017.

CHAPTER IV
ARREST

764.1 Issuance of processes; authorization for issuance of warrant; exception; making complaint for arrest warrant by electronic or electromagnetic means; proof of signing; location.

Sec. 1. (1) For the apprehension of persons charged with a felony, misdemeanor, or ordinance violation, a judge or district court magistrate may issue processes to implement this chapter, except that a judge or district court magistrate shall not issue a warrant for other than a minor offense unless an authorization in writing allowing the issuance of the warrant is filed with the judge or district court magistrate and, except as otherwise provided in this act, the authorization is signed by the prosecuting attorney, or unless security for costs is filed with the judge or district court magistrate.

(2) A judge or district court magistrate shall not issue a warrant for a minor offense unless an authorization in writing allowing the issuance of the warrant is filed with the judge or district court magistrate and signed by the prosecuting attorney, or unless security for costs is filed with the judge or district court magistrate, except if the warrant is requested by any of the following officials for the following offenses:

(a) Agents of the state transportation department, a county road commission, or the public service commission for violations of the motor carrier act, 1933 PA 254, MCL 475.1 to 479.43, or the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25, the enforcement of which has been delegated to them.

(b) The director of the department of natural resources, or a special assistant or conservation officer

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appointed by the director of the department of natural resources and declared by statute to be a peace officer, for a violation of a law that provides for the protection of wild game or fish.

(3) A complaint for an arrest warrant may be made and an arrest warrant may be issued by any electronic or electromagnetic means of communication from any location in this state, if all of the following occur:

(a) The prosecuting attorney authorizes the issuance of the warrant. Authorization may consist of an electronically or electromagnetically transmitted facsimile of the signed authorization.

(b) The judge or district court magistrate orally administers the oath or affirmation, in person or by any electronic or electromagnetic means of communication, to an applicant for an arrest warrant who submits a complaint under this subsection.

(c) The applicant signs the complaint. Proof that the applicant has signed the complaint may consist of an electronically or electromagnetically transmitted facsimile of the signed complaint.

(4) The person or department receiving an electronically or electromagnetically issued arrest warrant shall receive proof that the issuing judge or district court magistrate has signed the warrant before the warrant is executed. Proof that the issuing judge or district court magistrate has signed the warrant may consist of an electronically or electromagnetically transmitted facsimile of the signed warrant.

(5) A judge or district court magistrate may sign an electronically or electromagnetically issued arrest warrant when he or she is at any location in this state.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1929, Act 290, Eff. Aug. 28, 1929;—CL 1929, 17135;—Am. 1931, Act 173, Imd. Eff. May 27, 1931;—CL 1948, 764.1;—Am. 1978, Act 616, Eff. Aug. 1, 1979;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1990, Act 41, Imd. Eff. Mar. 29, 1990;—Am. 2004, Act 318, Imd. Eff. Aug. 27, 2004;—Am. 2014, Act 389, Imd. Eff. Dec. 22, 2014.

Former law: See section 1 of Ch. 163 of R.S. 1846, being CL 1857, § 5977; CL 1871, § 7843; How., § 9454; CL 1897, § 11838; CL 1915, § 15665; Act 4 of 1858; and section 1 of Act 108 of 1883, being How., § 7135a; CL 1897, § 1061; and CL 1915, § 15811.

764.1a Complaint; allegations; swearing before magistrate or clerk; finding of reasonable cause; testimony; supplemental affidavits; basis of factual obligations; complaint alleging violation of MCL 750.81 or 750.81a or corresponding ordinance; compliance with MCL 764.1; refusal to accept complaint prohibited; definitions.

Sec. 1a. (1) A magistrate shall issue a warrant upon presentation of a proper complaint alleging the commission of an offense and a finding of reasonable cause to believe that the individual accused in the complaint committed that offense. The complaint shall be sworn to before a magistrate or clerk.

(2) The finding of reasonable cause by the magistrate may be based upon 1 or more of the following:

(a) Factual allegations of the complainant contained in the complaint.

(b) The complainant's sworn testimony.

(c) The complainant's affidavit.

(d) Any supplemental sworn testimony or affidavits of other individuals presented by the complainant or required by the magistrate.

(3) The magistrate may require sworn testimony of the complainant or other individuals. Supplemental affidavits may be sworn to before an individual authorized by law to administer oaths. The factual allegations contained in the complaint, testimony, or affidavits may be based upon personal knowledge, information and belief, or both.

(4) The magistrate shall not refuse to accept a complaint alleging a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a violation of a local ordinance substantially corresponding to section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81, by the spouse of the victim, a former spouse of the victim, an individual with whom the victim has had a child in common, an individual with whom the victim has or has had a dating relationship, or an individual residing or having resided in the same household as the victim on grounds that the complaint is signed upon information and belief by an individual other than the victim.

(5) The magistrate shall not refuse to accept a complaint alleging that a crime was committed in which the victim is a vulnerable adult on the grounds that the complaint is signed upon information and belief by an individual other than the victim.

(6) A warrant may be issued under this section only upon compliance with the requirements of section 1 of this chapter.

(7) As used in this section:

(a) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(b) "Vulnerable adult" means that term as defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m.

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History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 70, Eff. July 1, 1994;—Am. 2005, Act 106, Imd. Eff. Sept. 14, 2005;—Am. 2012, Act 177, Imd. Eff. June 19, 2012.

764.1b Warrant; recitation of accusation; directions to peace officer.

Sec. 1b. A warrant issued pursuant to section 1a shall recite the substance of the accusation contained in the complaint. Except as permitted in section 1c of this chapter, the warrant shall be directed to a peace officer; shall command the peace officer immediately to arrest the person accused and to take that person, without unnecessary delay, before a magistrate of the judicial district in which the offense is charged to have been committed, to be dealt with according to law; and shall direct that the warrant, with a proper return noted on the warrant, be delivered to the magistrate before whom the arrested person is to be taken. The warrant may also require the peace officer to summon the witnesses named in the warrant.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

764.1c Issuing warrant or endorsing complaint if accused in custody upon arrest without warrant; finding of reasonable cause; endorsement as complaint and warrant.

Sec. 1c. (1) If the accused is in custody upon an arrest without a warrant, a magistrate, upon finding reasonable cause as provided in section 1a of this chapter, shall do either of the following:

(a) Issue a warrant as provided in section 1b of this chapter.

(b) Endorse upon the complaint a finding of reasonable cause and a direction to take the accused before a magistrate of the judicial district in which the offense is charged to have been committed.

(2) As endorsed pursuant to subsection (1)(b), the complaint shall constitute both a complaint and warrant.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

764.1d Complaint; recitation of accusation; factual allegations.

Sec. 1d. A complaint shall recite the substance of the accusation against the accused. The complaint may contain factual allegations establishing reasonable cause.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

764.1e Complaint signed by peace officer; statement; making materially false statement in complaint as perjury; penalty; contempt of court.

Sec. 1e. (1) For purposes of sections 1a to 1d of this chapter, a complaint signed by a peace officer shall be treated as made under oath if the offense alleged in the complaint is a misdemeanor or ordinance violation for which the maximum permissible penalty does not exceed 93 days in jail or a fine, or both, that was committed in the signing officer's presence or that was committed under circumstances permitting the officer's issuance of a citation under section 625a or 728(8) of the Michigan vehicle code, 1949 PA 300, MCL 257.625a and 257.728, and if the complaint contains the following statement immediately above the date and signature of the officer:

"I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

(2) A peace officer who, knowing the statement is false, makes a materially false statement in a complaint signed under subsection (1) is guilty of perjury, a felony punishable by imprisonment for not more than 15 years, and in addition, is in contempt of court.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1999, Act 76, Eff. Oct. 1, 1999.

764.1f Juvenile; filing complaint and warrant with magistrate; "specified juvenile violation" defined.

Sec. 1f. (1) If the prosecuting attorney has reason to believe that a juvenile 14 years of age or older but less than 17 years of age has committed a specified juvenile violation, the prosecuting attorney may authorize the filing of a complaint and warrant on the charge with a magistrate concerning the juvenile.

(2) As used in this section, "specified juvenile violation" means any of the following:

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

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

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

(*ii*) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

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

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

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

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

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

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

(e) An attempt to commit a violation described in subdivisions (a) to (d).

(f) Conspiracy to commit a violation described in subdivisions (a) to (d).

(g) Solicitation to commit a violation described in subdivisions (a) to (d).

(h) Any lesser included offense of a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

(i) Any other violation arising out of the same transaction as a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

History: Add. 1988, Act 67, Eff. Oct. 1, 1988;—Am. 1994, Act 195, Eff. Oct. 1, 1994;—Am. 1996, Act 255, Eff. Jan. 1, 1997;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 3 of Act 67 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was amended by Act 173 of 1988 to read as follows: “This amendatory act shall take effect October 1, 1988.”

764.1g Arrest warrant; determination that person is parolee; use of LEIN; notice.

Sec. 1g. (1) Before a warrant is issued for the arrest of a person who is not in custody, the law enforcement agency investigating the crime shall use the law enforcement information network to determine whether the person is a parolee under the jurisdiction of the department of corrections. If the person is determined to be a parolee under the jurisdiction of the department of corrections, and the magistrate issues a warrant for the arrest of that person, the investigating law enforcement agency or, if the court is entering arrest warrants into the law enforcement information network and the investigating law enforcement agency informs the court that the person is a parolee, the court shall promptly give to the department of corrections, by telephonic or electronic means, notice of all of the following:

(a) The identity of the person named in the warrant.

(b) The fact that information in databases managed by the department of corrections and accessible by the law enforcement information network provides reason to believe the person named in the warrant is a parolee under the jurisdiction of the department of corrections.

(c) The charge or charges stated in the warrant.

(2) If the court has assumed the responsibility for entering arrest warrants into the law enforcement information network and delays issuance or entry of a warrant pending a court appearance by the person named in the warrant, the law enforcement agency submitting the sworn complaint to the court shall promptly give to the department of corrections, by telephonic or electronic means, notice of the following:

(a) The identity of the person named in the sworn complaint.

(b) The fact that a prosecuting attorney has authorized issuance of a warrant.

(c) The fact that information in databases managed by the department of corrections and accessible by the law enforcement information network provides reason to believe the person named in the sworn complaint is a parolee under the jurisdiction of the department of corrections.

(d) The charge or charges stated in the sworn complaint.

(e) Whether, pending a court appearance by the person named in the sworn complaint, the court has either issued the arrest warrant but delayed entry of the warrant into the law enforcement information network or has delayed issuance of the warrant.

(3) The requirement to give notice to the department of corrections under subsection (1) or (2) is complied with if the notice is transmitted to any of the following:

(a) To the department by a central toll-free telephone number that is designated by the department for that purpose and that is in operation 24 hours a day and is posted in the department's database of information concerning the status of parolees.

(b) To a parole agent serving the county where the warrant is issued or is being sought.

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(c) To the supervisor of the parole office serving the county where the warrant is issued or is being sought.

History: Add. 2006, Act 668, Imd. Eff. Jan. 10, 2007.

764.2 Warrant; pursuit and apprehension of party in other county; aid.

Sec. 2. If any person against whom a warrant shall be issued for an alleged offense committed within any county, shall, either before or after the issuing of such warrant, escape from or be out of the county, the sheriff or other officer to whom such warrant may be directed, may pursue and apprehend the party charged, in any county of this state, and for that purpose may command aid and may exercise the same authority as in his own county.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17136;—CL 1948, 764.2.

Former law: See section 4 of Ch. 163 of R.S. 1846, being CL 1857, § 5980; CL 1871, § 7846; How., § 9457; CL 1897, § 11841; and CL 1915, § 15668.

****** 764.2a THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 20, 2017: See 764.2a.amended ******

764.2a Peace officer; exercise of authority in other county, city, village, township, or university; violation involving water vessel.

Sec. 2a. (1) A peace officer of a county, city, village, township, or university of this state may exercise the authority and powers of a peace officer outside the geographical boundaries of the officer's county, city, village, township, or university under any of the following circumstances:

(a) If the officer is enforcing the laws of this state in conjunction with the Michigan state police.

(b) If the officer is enforcing the laws of this state in conjunction with a peace officer of any other county, city, village, township, or university in which the officer may be.

(c) If the officer has witnessed an individual violate any of the following within the geographical boundaries of the officer's county, city, village, township, or university and immediately pursues the individual outside of the geographical boundaries of the officer's county, city, village, township, or university:

(*i*) A state law or administrative rule.

(*ii*) A local ordinance.

(*iii*) A state law, administrative rule, or local ordinance, the violation of which is a civil infraction, municipal civil infraction, or state civil infraction.

(2) The officer pursuing an individual under subsection (1)(c) may stop and detain the person outside the geographical boundaries of the officer's county, city, village, township, or university for the purpose of enforcing that law, administrative rule, or ordinance or enforcing any other law, administrative rule, or ordinance before, during, or immediately after the detaining of the individual. If the violation or pursuit involves a vessel moving on the waters of this state, the officer pursuing the individual may direct the operator of the vessel to bring the vessel to a stop or maneuver it in a manner that permits the officer to come beside the vessel.

History: Add. 1939, Act 100, Imd. Eff. May 16, 1939;—CL 1948, 764.2a;—Am. 1975, Act 159, Imd. Eff. July 14, 1975;—Am. 2002, Act 483, Eff. Oct. 1, 2002.

****** 764.2a.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 20, 2017 ******

764.2a.amended Peace officer; exercise of authority in other county, city, village, township, public airport authority, or university; violation involving water vessel; "public airport authority" defined.

Sec. 2a. (1) A peace officer of a county, city, village, township, public airport authority, or university of this state may exercise the authority and powers of a peace officer outside the geographical boundaries of the officer's county, city, village, township, public airport authority, or university under any of the following circumstances:

(a) If the officer is enforcing the laws of this state in conjunction with the Michigan state police.

(b) If the officer is enforcing the laws of this state in conjunction with a peace officer of any other county, city, village, township, public airport authority, or university in which the officer may be.

(c) If the officer has witnessed an individual violate any of the following within the geographical boundaries of the officer's county, city, village, township, public airport authority, or university and immediately pursues the individual outside of the geographical boundaries of the officer's county, city, village, township, public airport authority, or university:

(*i*) A state law or administrative rule.

(*ii*) A local ordinance.

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(*iii*) A state law, administrative rule, or local ordinance, the violation of which is a civil infraction, municipal civil infraction, or state civil infraction.

(d) If a public airport authority officer has witnessed an individual violate any of the following while the individual is outside the geographical boundaries of the public airport authority but the violation committed by the individual occurs within the airspace above the public airport authority and immediately pursues the individual:

(*i*) A state law or administrative rule.

(*ii*) A local ordinance.

(*iii*) A state law, administrative rule, or local ordinance, the violation of which is a civil infraction, municipal civil infraction, or state civil infraction.

(2) The officer pursuing an individual under subsection (1)(c) or (d) may stop and detain the person outside the geographical boundaries of the officer's county, city, village, township, public airport authority, or university for the purpose of enforcing that law, administrative rule, or ordinance or enforcing any other law, administrative rule, or ordinance before, during, or immediately after the detaining of the individual. If the violation or pursuit involves a vessel moving on the waters of this state, the officer pursuing the individual may direct the operator of the vessel to bring the vessel to a stop or maneuver it in a manner that permits the officer to come beside the vessel.

(3) As used in this section, "public airport authority" means an authority created under section 110 or a regional authority created under section 139 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.110 and 259.139, that is a political subdivision and instrumentality of the local government that owns the airport and is considered a public agency of the local government for purposes of state and federal law.

History: Add. 1939, Act 100, Imd. Eff. May 16, 1939;—CL 1948, 764.2a;—Am. 1975, Act 159, Imd. Eff. July 14, 1975;—Am. 2002, Act 483, Eff. Oct. 1, 2002;—Am. 2016, Act 326, Eff. Feb. 20, 2017.

764.2b Authority and immunity of law enforcement officer of another state; definitions.

Sec. 2b. (1) A law enforcement officer of an adjacent state has the same authority and immunity as a law enforcement officer of this state as provided by law if all of the following conditions are met:

(a) The law enforcement officer is authorized to arrest a person, with or without a warrant, for a violation of a penal statute or law in the adjacent state.

(b) The law enforcement officer is on duty as a law enforcement officer in the adjacent state.

(c) The law enforcement officer notifies a law enforcement officer or agency of this state that he or she is in this state and 1 or more of the following apply:

(*i*) The law enforcement officer is engaged in pursuing, arresting, or attempting to arrest an individual for a violation of a law in the adjacent state.

(*ii*) The law enforcement officer is in this state at the request of a law enforcement officer of this state.

(*iii*) The law enforcement officer is working in conjunction with a law enforcement officer of this state.

(*iv*) The law enforcement officer is responding to an emergency.

(2) As used in this section:

(a) “Adjacent state” means Indiana, Ohio, Minnesota, or Wisconsin.

(b) “Emergency” means a sudden or unexpected circumstance that requires immediate action to protect the health, safety, welfare, or property of an individual from actual or threatened harm or from an unlawful act.

(c) “Law enforcement officer of this state” means a law enforcement officer as defined in section 2 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.602.

History: Add. 2000, Act 311, Imd. Eff. Oct. 17, 2000.

764.3 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to return of arrest warrant.

764.4 Taking person arrested pursuant to warrant before magistrate of judicial circuit in which arrest made; conditions.

Sec. 4. If a person is arrested pursuant to a warrant which charges an offense other than an offense for which bail may be denied, if the arrest is made in a county other than that in which the offense is charged to have been committed, and if the person arrested requests that he or she be brought before a magistrate of the judicial district in which the arrest was made, the person arrested shall be taken before a magistrate of that judicial district and shall be dealt with as provided in sections 5, 6, and 7 of this chapter.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17138;—CL 1948, 764.4;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 5 of Ch. 163 of R.S. 1846, being CL 1857, § 5981; CL 1871, § 7847; How., § 9458; CL 1897, § 11842; and

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CL 1915, § 15669.

764.5 Taking recognizance for arrested person's appearance before magistrate of judicial circuit in which offense charged to have been committed.

Sec. 5. The magistrate may take from the person arrested, a recognizance with sufficient sureties, for the person's appearance within 10 days before a magistrate of the judicial district in which the offense is charged to have been committed.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1929, Act 24, Imd. Eff. Apr. 2, 1929;—CL 1929, 17139;—CL 1948, 764.5;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 6 of Ch. 163 of R.S. 1846, being CL 1857, § 5982; CL 1871, § 7848; How., § 9459; CL 1897, § 11843; CL 1915, § 15670; and Act 302 of 1925.

764.6 Recognizance; certification; delivery.

Sec. 6. The magistrate shall certify on the recognizance the fact of having let the defendant post bail and shall deliver the recognizance taken to the person who made the arrest, who shall cause the recognizance to be delivered without unnecessary delay to a magistrate or clerk of the court in the judicial district before which the accused is recognized to appear.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17140;—CL 1948, 764.6;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 7 of Ch. 163 of R.S. 1846, being CL 1857, § 5983; CL 1871, § 7849; How., § 9460; CL 1897, § 11844; and CL 1915, § 15671.

764.7 Taking arrested person before magistrate of judicial circuit in which offense charged to have been committed in absence of bail.

Sec. 7. If the magistrate refuses to allow the arrested person to post bail, or if sufficient bail is not offered, the official having charge of the arrested person shall take the arrested person before a magistrate of the judicial district in which the offense is charged to have been committed.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17141;—CL 1948, 764.7;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 8 of Ch. 163 of 1846, being CL 1857, § 5984; CL 1871, § 7850; How., § 9461; CL 1897, § 11845; and CL 1915, § 15672.

764.8 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to offense not cognizable by justice of peace.

764.9 Repealed. 1988, Act 113, Imd. Eff. May 2, 1988.

Compiler's note: The repealed section pertained to arrested person's right to be brought before magistrate where offense cognizable by justice of the peace.

764.9a Minor offense; written order for summons; contents; service.

Sec. 9a. (1) As an alternative to filing an order allowing a warrant as provided in section 1 if the arrest is to be for a minor offense, the prosecuting attorney may issue a written order for a summons addressed to a defendant, directing the defendant to appear before a magistrate of the judicial district in which the offense is charged to have been committed, at a designated future time for proceedings as set forth in this act.

(2) A summons shall designate the name of the issuing court, the offense charged in the underlying complaint, and the name of the defendant to whom it is addressed, and shall be subscribed by the issuing magistrate.

(3) A summons may be served in the same manner as a warrant.

History: Add. 1968, Act 147, Eff. Nov. 15, 1968;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

764.9b Repealed. 1999, Act 76, Eff. Oct. 1, 1999.

Compiler's note: The repealed section pertained to arrest without warrant for minor offense.

764.9c Arrest without warrant for misdemeanor or ordinance violation; issuance and service of appearance ticket by police officer or specially authorized public servant; exceptions.

Sec. 9c. (1) Except as provided in subsection (3), if a police officer has arrested a person without a warrant for a misdemeanor or ordinance violation for which the maximum permissible penalty does not exceed 93 days in jail or a fine, or both, instead of taking the person before a magistrate and promptly filing a complaint as provided in section 13 of this chapter, the officer may issue to and serve upon the person an appearance ticket as defined in section 9f of this chapter and release the person from custody.

(2) A public servant other than a police officer, who is specially authorized by law or ordinance to issue and serve appearance tickets with respect to a particular class of offenses of less than felony grade, may issue

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and serve upon a person an appearance ticket if the public servant has reasonable cause to believe that the person has committed an offense.

(3) An appearance ticket shall not be issued to any of the following:

(a) A person arrested for a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a local ordinance substantially corresponding to section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81, if the victim of the assault is the offender's spouse, former spouse, an individual who has had a child in common with the offender, an individual who has or has had a dating relationship with the offender, or an individual residing or having resided in the same household as the offender. As used in this subdivision, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(b) A person subject to detainment for violating a personal protection order.

(c) A person subject to a mandatory period of confinement, condition of bond, or other condition of release until he or she has served that period of confinement or meets that requirement of bond or other condition of release.

History: Add. 1968, Act 147, Eff. Nov. 15, 1968;—Am. 1970, Act 147, Imd. Eff. Sept. 1, 1970;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1984, Act 366, Eff. Mar. 29, 1985;—Am. 1999, Act 76, Eff. Oct. 1, 1999;—Am. 2001, Act 208, Eff. Apr. 1, 2002.

764.9d Complaint; filing; contents; dismissal.

Sec. 9d. (1) Except as otherwise provided by sections 9f and 9g, a police officer or other public servant who has issued and served an appearance ticket, at or before the time the appearance ticket is returnable, shall file or cause to be filed in the local criminal court in which it is returnable a complaint charging the person named in the appearance ticket with the offense specified therein.

(2) If the complaint is not sufficient on its face, and if the court is satisfied that a complaint sufficient on its face cannot be drawn and filed on the basis of the available facts or evidence, it shall dismiss the complaint.

History: Add. 1968, Act 147, Eff. Nov. 15, 1968;—Am. 1970, Act 147, Imd. Eff. Sept. 1, 1970.

764.9e Failure to appear; arrest.

Sec. 9e. If after the service of an appearance ticket and the filing of a complaint for the offense designated therein the defendant does not appear in the designated local criminal court at the time the appearance ticket is returnable, the court may issue a summons or a warrant of arrest based upon the complaint filed.

History: Add. 1968, Act 147, Eff. Nov. 15, 1968.

764.9f Appearance ticket; definition; consecutive numbering; form; contents; modification.

Sec. 9f. (1) As used in sections 9c to 9g, "appearance ticket" means a complaint or written notice issued and subscribed by a police officer or other public servant authorized by law or ordinance to issue it directing a designated person to appear in a designated local criminal court at a designated future time in connection with his or her alleged commission of a designated violation or violations of state law or local ordinance for which the maximum permissible penalty does not exceed 93 days in jail or a fine, or both. The appearance tickets shall be numbered consecutively, be in a form required by the attorney general, the state court administrator, and the director of the department of state police, and consist of the following parts:

(a) The original which shall be a complaint or notice to appear by the officer and filed with the court.

(b) The first copy which shall be the abstract of court record.

(c) The second copy which shall be retained by the local enforcement agency.

(d) The third copy which shall be delivered to the alleged violator.

(2) With the prior approval of the state officials listed in subsection (1), an appearance ticket may be appropriately modified as to content or number of copies to accommodate law enforcement and local court procedures and practices.

History: 1988, Act 49, Imd. Eff. Mar. 11, 1988;—Am. 1996, Act 81, Imd. Eff. Feb. 27, 1996;—Am. 1998, Act 264, Eff. Mar. 23, 1999;—Am. 1999, Act 76, Eff. Oct. 1, 1999.

764.9g Magistrates jurisdiction; pleas, complaint.

Sec. 9g. (1) When under the provisions of sections 9b or 9c an officer issues an appearance ticket, an examining magistrate may accept a plea of guilty or not guilty upon the appearance ticket, without the necessity of a sworn complaint. If the offender pleads not guilty, no further proceedings may be had until a sworn complaint is filed with the magistrate. A warrant for arrest shall not issue for an offense charged in the appearance ticket until a sworn complaint is filed with the magistrate.

(2) A district court magistrate may accept a plea of guilty upon an appearance ticket, without the necessity

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of a sworn complaint, for those offenses within his jurisdiction as prescribed by section 8511 of Act No. 236 of the Public Acts of 1961, as amended, being section 600.8511 of the Compiled Laws of 1948.

History: Add. 1970, Act 147, Imd. Eff. Sept. 1, 1970.

764.10-764.12 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to recognizance for appearance, certification to bail, and insufficient bail.

764.13 Arrest without warrant; taking arrested person before magistrate of judicial district in which offense charged to have been committed; complaint.

Sec. 13. A peace officer who has arrested a person for an offense without a warrant shall without unnecessary delay take the person arrested before a magistrate of the judicial district in which the offense is charged to have been committed, and shall present to the magistrate a complaint stating the charge against the person arrested.

History: Add. 1964, Act 58, Eff. Aug. 28, 1964;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: Former MCL 764.13, pertaining to the taking of persons arrested without warrants before a magistrate without unnecessary delay, was repealed by Act 44 of 1961.

764.14 Arrest by private person; disposition of arrested person; complaint.

Sec. 14. A private person who has made an arrest shall without unnecessary delay deliver the person arrested to a peace officer, who shall without unnecessary delay take that person before a magistrate of the judicial district in which the offense is charged to have been committed. The peace officer or private person shall present to the magistrate a complaint stating the charge against the person arrested.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17148;—CL 1948, 764.14;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

764.15 Arrest by officer without warrant; situations; circumstances.

Sec. 15. (1) A peace officer, without a warrant, may arrest a person in any of the following situations:

(a) A felony, misdemeanor, or ordinance violation is committed in the peace officer's presence.

(b) The person has committed a felony although not in the peace officer's presence.

(c) A felony in fact has been committed and the peace officer has reasonable cause to believe the person committed it.

(d) The peace officer has reasonable cause to believe a misdemeanor punishable by imprisonment for more than 92 days or a felony has been committed and reasonable cause to believe the person committed it.

(e) The peace officer has received positive information by written, telegraphic, teletypic, telephonic, radio, electronic, or other authoritative source that another peace officer or a court holds a warrant for the person's arrest.

(f) The peace officer has received positive information broadcast from a recognized police or other governmental radio station, or teletype, that affords the peace officer reasonable cause to believe a misdemeanor punishable by imprisonment for more than 92 days or a felony has been committed and reasonable cause to believe the person committed it.

(g) The peace officer has reasonable cause to believe the person is an escaped convict, has violated a condition of parole from a prison, has violated a condition of a pardon granted by the executive, or has violated 1 or more conditions of a conditional release order or probation order imposed by a court of this state, another state, Indian tribe, or United States territory.

(h) The peace officer has reasonable cause to believe the person was, at the time of an accident in this state, the operator of a vehicle involved in the accident and was operating the vehicle in violation of section 625(1), (3), (6), or (7) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625(1), (3), (6), or (7) or section 625m of that act.

(i) The person is found in the driver's seat of a vehicle parked or stopped on a highway or street within this state if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation of section 625(1), (3), (6), or (7) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or a local ordinance substantially corresponding to section 625(1), (3), (6), or (7) or section 625m of that act.

(j) The peace officer has reasonable cause to believe the person was, at the time of an accident, the operator of a snowmobile involved in the accident and was operating the snowmobile in violation of section 82127(1) or (3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127, or a local ordinance substantially corresponding to section 82127(1) or (3) of that act.

(k) The peace officer has reasonable cause to believe the person was, at the time of an accident, the operator of an ORV involved in the accident and was operating the ORV in violation of section 81134(1) or

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(2) or 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.81135, or a local ordinance substantially corresponding to section 81134(1) or (2) or 81135 of that act.

(*l*) The peace officer has reasonable cause to believe the person was, at the time of an accident, the operator of a vessel involved in the accident and was operating the vessel in violation of section 80176(1) or (3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, or a local ordinance substantially corresponding to section 80176(1) or (3) of that act.

(m) The peace officer has reasonable cause to believe a violation of section 356c or 356d of the Michigan penal code, 1931 PA 328, MCL 750.356c and 750.356d, has taken place or is taking place and reasonable cause to believe the person committed or is committing the violation, regardless of whether the violation was committed in the peace officer's presence.

(n) The peace officer has reasonable cause to believe a misdemeanor has taken place or is taking place on school property and reasonable cause to believe the person committed or is committing the violation, regardless of whether the violation was committed in the peace officer's presence. As used in this subdivision, "school property" means that term as defined in section 7410 of the public health code, 1978 PA 368, MCL 333.7410.

(2) An officer in the United States customs service or the immigration and naturalization service, without a warrant, may arrest a person if all of the following circumstances exist:

(a) The officer is on duty.

(b) One or more of the following situations exist:

(*i*) The person commits an assault or an assault and battery punishable under section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, on the officer.

(*ii*) The person commits an assault or an assault and battery punishable under section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, on any other person in the officer's presence or commits any felony.

(*iii*) The officer has reasonable cause to believe a felony has been committed and reasonable cause to believe the person committed it, and the reasonable cause is not founded on a customs search.

(*iv*) The officer has received positive information by written, telegraphic, teletypic, telephonic, radio, electronic, or other authoritative source that a peace officer or a court holds a warrant for the person's arrest.

(c) The officer has received training in the laws of this state equivalent to the training provided for an officer of a local police agency under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17149;—Am. 1935, Act 84, Imd. Eff. May 27, 1935;—CL 1948, 764.15;—Am. 1978, Act 23, Imd. Eff. Feb. 21, 1978;—Am. 1978, Act 384, Eff. Aug. 1, 1978;—Am. 1980, Act 400, Eff. Mar. 31, 1981;—Am. 1982, Act 311, Eff. Mar. 30, 1983;—Am. 1988, Act 19, Eff. June 1, 1988;—Am. 1996, Act 81, Imd. Eff. Feb. 27, 1996;—Am. 1996, Act 490, Eff. Apr. 1, 1997;—Am. 1999, Act 269, Eff. July 1, 2000;—Am. 2000, Act 208, Eff. Aug. 21, 2000;—Am. 2001, Act 212, Eff. Apr. 1, 2002.

764.15a Arrest without warrant for assault of individual having child in common, household resident, dating relationship, or spouse or former spouse.

Sec. 15a. A peace officer may arrest an individual for violating section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a local ordinance substantially corresponding to section 81 of that act regardless of whether the peace officer has a warrant or whether the violation was committed in his or her presence if the peace officer has or receives positive information that another peace officer has reasonable cause to believe both of the following:

(a) The violation occurred or is occurring.

(b) The individual has had a child in common with the victim, resides or has resided in the same household as the victim, has or has had a dating relationship with the victim, or is a spouse or former spouse of the victim. As used in this subdivision, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

History: Add. 1978, Act 316, Imd. Eff. July 10, 1978;—Am. 1980, Act 471, Eff. Mar. 31, 1981;—Am. 1994, Act 66, Eff. July 1, 1994;—Am. 1996, Act 138, Imd. Eff. Mar. 21, 1996;—Am. 1999, Act 269, Eff. July 1, 2000;—Am. 2001, Act 208, Eff. Apr. 1, 2002.

764.15b Arrest without warrant for violation of personal protection order; answering to charge of contempt; hearing; bond; show cause order; jurisdiction to conduct contempt proceedings; prosecution of criminal contempt; prohibited actions by court; definitions.

Sec. 15b. (1) A peace officer, without a warrant, may arrest and take into custody an individual when the peace officer has or receives positive information that another peace officer has reasonable cause to believe

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all of the following apply:

(a) A personal protection order has been issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or is a valid foreign protection order.

(b) The individual named in the personal protection order is violating or has violated the order. An individual is violating or has violated the order if that individual commits 1 or more of the following acts the order specifically restrains or enjoins the individual from committing:

(*i*) Assaulting, attacking, beating, molesting, or wounding a named individual.

(*ii*) Removing minor children from an individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.

(*iii*) Entering onto premises.

(*iv*) Engaging in conduct prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

(*v*) Threatening to kill or physically injure a named individual.

(*vi*) Purchasing or possessing a firearm.

(*vii*) Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.

(*viii*) Interfering with petitioner at petitioner's place of employment or education or engaging in conduct that impairs petitioner's employment or educational relationship or environment.

(*ix*) Any other act or conduct specified by the court in the personal protection order.

(c) If the personal protection order was issued under section 2950 or 2950a, the personal protection order states on its face that a violation of its terms subjects the individual to immediate arrest and either of the following:

(*i*) If the individual restrained or enjoined is 17 years of age or older, to criminal contempt of court and, if found guilty of criminal contempt, to imprisonment for not more than 93 days and to a fine of not more than $500.00.

(*ii*) If the individual restrained or enjoined is less than 17 years of age, to the dispositional alternatives listed in section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.

(2) An individual arrested under this section shall be brought before the family division of the circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violating the personal protection order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the personal protection order. The hearing shall be held within 72 hours after arrest, unless extended by the court on the motion of the arrested individual or the prosecuting attorney.

(b) Set a reasonable bond pending a hearing of the alleged violation of the personal protection order.

(c) Notify the prosecuting attorney of the criminal contempt proceeding.

(d) Notify the party who procured the personal protection order and his or her attorney of record, if any, and direct the party to appear at the hearing and give evidence on the charge of contempt.

(3) In circuits in which the circuit court judge may not be present or available within 24 hours after arrest, an individual arrested under this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall set bond and order the defendant to appear before the family division of circuit court in the county for a hearing on the charge. If the district court will not be open within 24 hours after arrest, a judge or district court magistrate shall set bond and order the defendant to appear before the circuit court in the county for a hearing on the charge.

(4) If a criminal contempt proceeding for violation of a personal protection order is not initiated by an arrest under this section but is initiated as a result of a show cause order or other process or proceedings, the court shall do all of the following:

(a) Notify the party who procured the personal protection order and his or her attorney of record, if any, and direct the party to appear at the hearing and give evidence on the contempt charge.

(b) Notify the prosecuting attorney of the criminal contempt proceeding.

(5) The family division of circuit court in each county of this state has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order described in this section issued by the circuit court in any county of this state or upon a violation of a valid foreign protection order. The court of arraignment shall notify the court that issued the personal protection order or foreign protection order that the issuing court may request that the defendant be returned to that court for violating the personal protection order or foreign protection order. If the court that issued the personal protection order or foreign protection order requests that the defendant be returned to that court to stand trial, the county of the requesting court shall bear the cost of transporting the defendant to that county.

(6) The family division of circuit court has jurisdiction to conduct contempt proceedings based upon a

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violation of a personal protection order issued pursuant to section 2(h) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, by the family division of circuit court in any county of this state or a valid foreign protection order issued against a respondent who is less than 18 years of age at the time of the alleged violation of the foreign protection order in this state. The family division of circuit court that conducts the preliminary inquiry shall notify the court that issued the personal protection order or foreign protection order that the issuing court may request that the respondent be returned to that county for violating the personal protection order or foreign protection order. If the court that issued the personal protection order or foreign protection order requests that the respondent be returned to that court to stand trial, the county of the requesting court shall bear the cost of transporting the respondent to that county.

(7) The prosecuting attorney shall prosecute a criminal contempt proceeding initiated by the court under subsection (2) or initiated by a show cause order under subsection (4), unless the party who procured the personal protection order retains his or her own attorney for the criminal contempt proceeding or the prosecuting attorney determines that the personal protection order was not violated or that it would not be in the interest of justice to prosecute the criminal contempt violation. If the prosecuting attorney prosecutes the criminal contempt proceeding, the court shall grant an adjournment for not less than 14 days or a lesser period requested if the prosecuting attorney moves for adjournment. If the prosecuting attorney prosecutes the criminal contempt proceeding, the court may dismiss the proceeding upon motion of the prosecuting attorney for good cause shown.

(8) A court shall not rescind a personal protection order, dismiss a contempt proceeding based on a personal protection order, or impose any other sanction for a failure to comply with a time limit prescribed in this section.

(9) As used in this section:

(a) "Foreign protection order" means that term as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.

(b) "Personal protection order" means a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, and, unless the context indicates otherwise, includes a valid foreign protection order.

(c) "Valid foreign protection order" means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

History: Add. 1980, Act 471, Eff. Mar. 31, 1981;—Am. 1983, Act 230, Imd. Eff. Nov. 28, 1983;—Am. 1992, Act 251, Eff. Jan. 1, 1993;—Am. 1994, Act 59, Eff. July 1, 1994;—Am. 1994, Act 62, Eff. July 1, 1994;—Am. 1994, Act 418, Eff. Apr. 1, 1995;—Am. 1996, Act 15, Eff. June 1, 1996;—Am. 1998, Act 475, Eff. Mar. 1, 1999;—Am. 1999, Act 269, Eff. July 1, 2000;—Am. 2001, Act 209, Eff. Apr. 1, 2002.

764.15c Investigation or intervention in domestic violence dispute; providing victim with notice of rights; report; retention and filing of report; development of standard domestic violence incident report form; definitions.

Sec. 15c. (1) After investigating or intervening in a domestic violence incident, a peace officer shall provide the victim with a copy of the notice in this section. The notice shall be written and shall include all of the following:

(a) The name and telephone number of the responding police agency.

(b) The name and badge number of the responding peace officer.

(c) Substantially the following statement:

"You may obtain a copy of the police incident report for your case by contacting this law enforcement agency at the telephone number provided.

The domestic violence shelter program and other resources in your area are (include local information).

Information about emergency shelter, counseling services, and the legal rights of domestic violence victims is available from these resources.

Your legal rights include the right to go to court and file a petition requesting a personal protection order to protect you or other members of your household from domestic abuse which could include restraining or enjoining the abuser from doing the following:

(a) Entering onto premises.

(b) Assaulting, attacking, beating, molesting, or wounding you.

(c) Threatening to kill or physically injure you or another person.

(d) Removing minor children from you, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.

(e) Engaging in stalking behavior.

(f) Purchasing or possessing a firearm.

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(g) Interfering with your efforts to remove your children or personal property from premises that are solely owned or leased by the abuser.

(h) Interfering with you at your place of employment or education or engaging in conduct that impairs your employment relationship or your employment or educational environment.

(i) Engaging in any other specific act or conduct that imposes upon or interferes with your personal liberty or that causes a reasonable apprehension of violence.

(j) Having access to information in records concerning any minor child you have with the abuser that would inform the abuser about your address or telephone number, the child's address or telephone number, or your employment address.

Your legal rights also include the right to go to court and file a motion for an order to show cause and a hearing if the abuser is violating or has violated a personal protection order and has not been arrested.”.

(2) The peace officer shall prepare a domestic violence report after investigating or intervening in a domestic violence incident. Effective October 1, 2002, a peace officer shall use the standard domestic violence incident report form developed under subsection (4) or a form substantially similar to that standard form to report a domestic violence incident. The report shall contain, but is not limited to containing, all of the following:

(a) The address, date, and time of the incident being investigated.

(b) The victim's name, address, home and work telephone numbers, race, sex, and date of birth.

(c) The suspect's name, address, home and work telephone numbers, race, sex, date of birth, and information describing the suspect and whether an injunction or restraining order covering the suspect exists.

(d) The name, address, home and work telephone numbers, race, sex, and date of birth of any witness, including a child of the victim or suspect, and the relationship of the witness to the suspect or victim.

(e) The following information about the incident being investigated:

(*i*) The name of the person who called the law enforcement agency.

(*ii*) The relationship of the victim and suspect.

(*iii*) Whether alcohol or controlled substance use was involved in the incident, and by whom it was used.

(*iv*) A brief narrative describing the incident and the circumstances that led to it.

(*v*) Whether and how many times the suspect physically assaulted the victim and a description of any weapon or object used.

(*vi*) A description of all injuries sustained by the victim and an explanation of how the injuries were sustained.

(*vii*) If the victim sought medical attention, information concerning where and how the victim was transported, whether the victim was admitted to a hospital or clinic for treatment, and the name and telephone number of the attending physician.

(*viii*) A description of any property damage reported by the victim or evident at the scene.

(f) A description of any previous domestic violence incidents between the victim and the suspect.

(g) The date and time of the report and the name, badge number, and signature of the peace officer completing the report.

(3) The law enforcement agency shall retain the completed domestic violence report in its files. The law enforcement agency shall also file a copy of the completed domestic violence report with the prosecuting attorney within 48 hours after the domestic violence incident is reported to the law enforcement agency.

(4) By June 1, 2002, the department of state police shall develop a standard domestic violence incident report form.

(5) As used in this section:

(a) “Dating relationship” means that term as defined in section 2950 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950.

(b) “Domestic violence incident” means an incident reported to a law enforcement agency involving allegations of 1 or both of the following:

(*i*) A violation of a personal protection order issued under section 2950 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950, or a violation of a valid foreign protection order.

(*ii*) A crime committed by an individual against his or her spouse or former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual who resides or has resided in the same household.

(c) “Foreign protection order” means that term as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.

(d) “Valid foreign protection order” means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

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History: Add. 1985, Act 222, Eff. Mar. 31, 1986;—Am. 1994, Act 60, Eff. July 1, 1994;—Am. 1994, Act 63, Eff. July 1, 1994;—Am. 1994, Act 418, Eff. Apr. 1, 1995;—Am. 1996, Act 15, Eff. June 1, 1996;—Am. 1998, Act 475, Eff. Mar. 1, 1999;—Am. 1999, Act 269, Eff. July 1, 2000;—Am. 2001, Act 207, Eff. Apr. 1, 2002;—Am. 2001, Act 210, Eff. Apr. 1, 2002.

764.15d Federal law enforcement officer; powers.

Sec. 15d. (1) A federal law enforcement officer may enforce state law to the same extent as a state or local officer only if all of the following conditions are met:

(a) The officer is authorized under federal law to arrest a person, with or without a warrant, for a violation of a federal statute.

(b) The officer is authorized by federal law to carry a firearm in the performance of his or her duties.

(c) One or more of the following apply:

(*i*) The officer possesses a state warrant for the arrest of the person for the commission of a felony.

(*ii*) The officer has received positive information from an authoritative source, in writing or by telegraph, telephone, teletype, radio, computer, or other means, that another federal law enforcement officer or a peace officer possesses a state warrant for the arrest of the person for the commission of a felony.

(*iii*) The officer is participating in a joint investigation conducted by a federal agency and a state or local law enforcement agency.

(*iv*) The officer is acting pursuant to the request of a state or local law enforcement officer or agency.

(*v*) The officer is responding to an emergency.

(2) Except as otherwise provided in subsection (3), a federal law enforcement officer who meets the requirements of subsection (1) has the privileges and immunities of a peace officer of this state.

(3) This section does not impose liability upon or require indemnification by the state or a local unit of government for an act performed by a federal law enforcement officer under this section.

(4) As used in this section:

(a) “Emergency” means a sudden or unexpected circumstance that requires immediate action to protect the health, safety, welfare, or property of an individual from actual or threatened harm or from an unlawful act.

(b) “Local unit of government” means a county, city, village, or township.

History: Add. 1987, Act 256, Imd. Eff. Dec. 28, 1987;—Am. 1999, Act 64, Eff. Oct. 1, 1999.

764.15e Violation of condition of release; arrest without warrant; duties of peace officer; release on interim bond; priority to certain cases; hearing and revocation procedures.

Sec. 15e. (1) A peace officer, without a warrant, may arrest and take into custody a defendant whom the peace officer has or receives positive information that another peace officer has reasonable cause to believe is violating or has violated a condition of release imposed under section 6b of chapter V or section 2a of 1961 PA 44, MCL 780.582a.

(2) If a peace officer arrests a defendant under subsection (1), the peace officer shall do all of the following:

(a) Prepare a complaint of violation of conditional release substantially in the following format:

COMPLAINT OF VIOLATION OF CONDITIONAL RELEASE

I _____ am a peace officer. I have determined by:
(name)

L.E.I.N. and verification with the police agency holding the order

Certified or true copy of order

Other (Describe)

That _____ released _____ subject to the following
(court) (name of defendent)

conditions:

(state or attach a statement of relevant conditions)

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(b) If the arrest occurred within the judicial district of the court that imposed the conditions of release, both of the following:

(*i*) Immediately provide 1 copy of the complaint to the defendant, the original and 1 copy of the complaint to that court, and 1 copy of the complaint to the prosecuting attorney for the case in which the conditional release was granted. The law enforcement agency shall retain 1 copy of the complaint.

(*ii*) Bring the defendant before that court within 1 business day following the defendant's arrest to answer the charge of violating the conditions of release.

(c) If the arrest occurred outside the judicial district of the court that imposed the conditions of release, both of the following:

(*i*) Immediately provide 1 copy of the complaint to the defendant, and the original and 1 copy of the complaint to the district court or municipal court in the judicial district in which the violation occurred. The law enforcement agency shall retain 1 copy of the complaint.

(*ii*) Bring the defendant before the district court or municipal court in the judicial district in which the violation occurred within 1 business day following the arrest. The court shall determine conditions of release and promptly transfer the case to the court that released the defendant subject to conditions. The court to which the case is transferred shall notify the prosecuting attorney in writing of the alleged violation.

(3) If, in the opinion of the arresting police agency or officer in charge of the jail, it is safe to release the defendant before the defendant is brought before the court under subsection (2), the arresting police agency or officer in charge of the jail may release the defendant on interim bond of not more than $500.00 requiring the defendant to appear at the opening of court the next business day. If the defendant is held for more than 24 hours without being brought before the court under subsection (2), the officer in charge of the jail shall note in the jail records why it was not safe to release the defendant on interim bond under this subsection.

(4) The court shall give priority to cases brought under this section in which the defendant is in custody or in which the defendant's release would present an unusual risk to the safety of any person.

(5) The hearing and revocation procedures for cases brought under this section shall be governed by Supreme court rules.

History: Add. 1993, Act 52, Eff. July 1, 1993;—Am. 1999, Act 269, Eff. July 1, 2000.

764.15f Violation of order issued by probate court or family division of circuit court; arrest without warrant; duties of police officer and court; authority of judge to arraign, take plea, or sentence; judge not available; entering order into or removing from law enforcement information network.

Sec. 15f. (1) A peace officer, without a warrant, may arrest and take into custody a person if the peace officer has reasonable cause to believe all of the following exist:

(a) The probate court before January 1, 1998 or the family division of circuit court on or after January 1, 1998 has issued an order under section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.13a of the Michigan Compiled Laws, stating on its face the period of time for which the order is valid.

(b) A true copy of the order and proof of service has been filed with the law enforcement agency having jurisdiction of the area in which the person having custody of the child pursuant to section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939 resides.

(c) The person named in the order has received notice of the order.

(d) The person named in the order is acting in violation of the order.

(e) The order states on its face that a violation of its terms subjects the person to criminal contempt of court and, if found guilty, the person shall be imprisoned for not more than 90 days and may be fined not more than $500.00.

(2) If a peace officer arrests a person under this section, the peace officer shall do all of the following:

(a) Prepare a complaint of violation of the order substantially in the following format:

COMPLAINT OF VIOLATION OF CHILD PROTECTIVE ORDER

I am a peace officer. I have determined by:

(name)

L.E.I.N. and verification with the police agency holding the order

Certified or true copy of order

Other

(Describe)

That family division of circuit court ordered

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(county) (name)
NOT TO ENTER THE FOLLOWING PREMISES:
I have reasonable cause to believe that
on at
(date) (time)
the person subject to the order violated the order as follows:
(state violations)

(Signature of officer)

(Date)

(b) Provide 1 copy of the complaint to the person subject to the order and the original and 1 copy to the court that imposed the conditions. The law enforcement agency shall retain 1 copy of the complaint.

(3) A person arrested pursuant to this section shall be brought before the family division of circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violation of the order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the order. The hearing shall be conducted within 72 hours after arrest, unless extended by the court on the motion of the arrested person.

(b) Set a reasonable bond pending a hearing of the alleged violation of the order.

(c) Notify the person having custody of the child under section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939 and direct that person to appear at the hearing and give evidence on the charge of contempt.

(4) For purposes of this section, a judge of the family division of circuit court may arraign, take a plea, or sentence the person for criminal contempt in the same manner that the circuit court may arraign, take a plea, or sentence a person in other criminal cases.

(5) If a judge of the family division of circuit court is not present or available within 24 hours after arrest, a person arrested under this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall order the defendant to appear before the family division of circuit court that entered or has jurisdiction over the order for a hearing on the charge. The district court shall set bond for the person.

(6) Upon receipt of a true copy of an order and proof of service under this section, the law enforcement agency shall enter the order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, Act No. 163 of the Public Acts of 1974, being sections 28.211 to 28.216 of the Michigan Compiled Laws.

(7) If an order entered under section 13a(4) of chapter XIIA of Act No. 288 of the Public Acts of 1939 is rescinded, the court shall immediately order the law enforcement agency to remove the order from the law enforcement information network.

History: Add. 1993, Act 113, Imd. Eff. July 20, 1993;—Am. 1996, Act 418, Eff. Jan. 1, 1998.

764.15g Determination that person arrested is parolee; notice to department of corrections; compliance.

Sec. 15g. (1) When a person is arrested and taken into custody with or without a warrant as allowed under this chapter, the peace officer who made the arrest, the law enforcement agency employing that officer, or a central dispatch service for the law enforcement agency shall promptly use the law enforcement information network to determine whether the person arrested is a parolee under the jurisdiction of the department of corrections. If the person arrested is a parolee, the peace officer who made the arrest, the law enforcement agency employing that officer, or a central dispatch service for the law enforcement agency shall promptly give to the department of corrections, by telephonic or electronic means, notice of all of the following:

(a) The identity of the person arrested.

(b) The fact that information in databases managed by the department of corrections and accessible by the law enforcement information network provides reason to believe the person arrested is a parolee under the jurisdiction of the department of corrections.

(c) The charge or charges for which the person was arrested.

(2) The requirement to give notice to the department of corrections under subsection (1) is complied with if the notice is transmitted to any of the following:

(a) The department by a central toll-free telephone number that is designated by the department for that

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purpose and that is in operation 24 hours a day and is posted in the department's database of information concerning the status of parolees.

(b) A parole agent serving the county where the arrest occurred.

(c) The supervisor of the parole office serving the county where the arrest occurred.

History: Add. 2006, Act 543, Imd. Eff. Dec. 29, 2006.

764.16 Arrest by private person; situations.

Sec. 16. A private person may make an arrest—in the following situations:

(a) For a felony committed in the private person's presence.

(b) If the person to be arrested has committed a felony although not in the private person's presence.

(c) If the private person is summoned by a peace officer to assist the officer in making an arrest.

(d) If the private person is a merchant, an agent of a merchant, an employee of a merchant, or an independent contractor providing security for a merchant of a store and has reasonable cause to believe that the person to be arrested has violated section 356c or 356d of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.356c and 750.356d of the Michigan Compiled Laws, in that store, regardless of whether the violation was committed in the presence of the private person.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17150;—CL 1948, 764.16;—Am. 1988, Act 19, Eff. June 1, 1988.

764.17 Arrest; time.

Sec. 17. An arrest may be made on any day at any time of the day or night.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17151;—CL 1948, 764.17.

764.18 Arrest; under warrant; duty of officer.

Sec. 18. Where an arrest is made under a warrant, it shall not be necessary for the arresting officer personally to have the warrant in his possession but such officer must, if possible, inform the person arrested that there is a warrant for his arrest and, after the arrest is made, shall show such person said warrant if required, as soon as practicable.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17152;—CL 1948, 764.18.

764.19 Arrest; without warrant; officer, duties; return as evidence.

Sec. 19. When arresting a person, without a warrant, the officer making the arrest shall inform the person arrested of his authority and the cause of the arrest, except when the person arrested is engaged in the commission of a criminal offense, or if he flees or if he forcibly resists arrest before the officer has time to inform him. The return of the officer making the arrest, endorsed upon the warrant upon which the accused person shall be subsequently held, affirming compliance with the provisions herein, shall be prima facie evidence of the fact in the trial of any criminal cause.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17153;—CL 1948, 764.19.

764.20 Arrest; private persons, duty.

Sec. 20. A private person, before making an arrest, shall inform the person to be arrested of the intention to arrest him and the cause of the arrest, except when he is then engaged in the commission of a criminal offense, or if he flees or forcibly resists arrest before the person making the arrest has opportunity so to inform him.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17154;—CL 1948, 764.20.

764.21 Right to break open inner or outer door.

Sec. 21. A private person, when making an arrest for a felony committed in his or her presence, or a peace officer or federal law enforcement officer, when making an arrest with a warrant or when making a felony arrest without a warrant as authorized by law, may break open an inner or outer door of a building in which the person to be arrested is located or is reasonably believed to be located if, after announcing his or her purpose, he or she is refused admittance.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17155;—CL 1948, 764.21;—Am. 1987, Act 256, Imd. Eff. Dec. 28, 1987.

764.22 Right to break open door or window.

Sec. 22. A peace officer, a federal law enforcement officer, or a private person who has lawfully entered a building for the purpose of making an arrest and is detained in the building, may break open a door or window of the building if necessary to escape from the building. A peace officer or federal law enforcement officer may break open a door or window of a building if necessary to liberate a person who lawfully entered the

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building for the purpose of making an arrest and is detained in the building.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17156;—CL 1948, 764.22;—Am. 1987, Act 256, Imd. Eff. Dec. 28, 1987.

764.23 Escape from custody or from state correctional facility; pursuit and retaking or arrest without warrant; definition.

Sec. 23. (1) If a person who has been lawfully arrested escapes or is rescued, the person from whose custody he or she escaped or was rescued may immediately pursue and retake him or her at any time and in any place within the state without a warrant.

(2) If a prisoner escapes from a state correctional facility, or willfully fails to remain within the extended limits of his or her confinement as prescribed in section 65a of 1953 PA 232, MCL 791.265a, the prisoner may be pursued and arrested, without a warrant, by a person who is either of the following:

(a) An employee of the department of corrections who is designated by the director of the department of corrections as having the authority to pursue and arrest escaped prisoners.

(b) An employee of a private vendor that operates a youth correctional facility under section 20g of 1953 PA 232, MCL 791.20g, if that employee meets the same criteria established by the director of the department of corrections for departmental employees described in subdivision (a).

(3) As used in this section, "state correctional facility" means any facility that houses prisoners committed to the jurisdiction of the department of corrections, including a prison, reformatory, camp, community corrections center, halfway house, resident home, or a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.232.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17157;—CL 1948, 764.23;—Am. 1988, Act 137, Imd. Eff. June 1, 1988;—Am. 1998, Act 511, Imd. Eff. Jan. 8, 1999.

764.23a Trespass upon state correctional facility; violation; arrest without warrant; "state correctional facility" defined.

Sec. 23a. (1) A person who trespasses upon a state correctional facility in violation of section 552b of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.552b of the Michigan Compiled Laws, may be arrested without a warrant by any employee of the department of corrections whom the director of the department of corrections designates as having authority to arrest those persons.

(2) As used in this section, "state correctional facility" means a facility or institution that houses a prisoner population under the jurisdiction of the department of corrections. State correctional facility does not include a community corrections center or a community residential home.

History: Add. 1996, Act 230, Eff. Jan. 1, 1997.

764.24 Arrest; escape or rescue; means of recapture.

Sec. 24. To retake the person escaping or rescued, the person pursuing may use the same means to retake as are authorized for an arrest.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17158;—CL 1948, 764.24.

764.25 Arrest; weapons and articles on prisoner; seizure, disposal.

Sec. 25. Any person making an arrest shall take from the person arrested, all offensive weapons or incriminating articles which he may have about his person and must deliver them to the sheriff of the county, chief of police of the city or to the magistrate before whom he is taken.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17159;—CL 1948, 764.25.

764.25a Strip search.

Sec. 25a. (1) As used in this section, "strip search" means a search which requires a person to remove his or her clothing to expose underclothing, breasts, buttocks, or genitalia.

(2) A person arrested or detained for a misdemeanor offense, or an offense which is punishable only by a civil fine shall not be strip searched unless both of the following occur:

(a) The person arrested is being lodged into a detention facility by order of a court or there is reasonable cause to believe that the person is concealing a weapon, a controlled substance, or evidence of a crime.

(b) The strip search is conducted by a person who has obtained prior written authorization from the chief law enforcement officer of the law enforcement agency conducting the strip search, or from that officer's designee; or if the strip search is conducted upon a minor in a juvenile detention facility which is not operated by a law enforcement agency, the strip search is conducted by a person who has obtained prior written authorization from the chief administrative officer of that facility, or from that officer's designee.

(3) A strip search conducted under this section shall be performed by a person of the same sex as the

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person being searched and shall be performed in a place that prevents the search from being observed by a person not conducting or necessary to assist with the search. A law enforcement officer who assists in the strip search shall be of the same sex as the person being searched.

(4) If a strip search is conducted under this section, the arresting officer shall prepare a report of the strip search. The report shall include the following information:

(a) The name and sex of the person subjected to the strip search.

(b) The name and sex of the person conducting the strip search.

(c) The name and sex of a person who assists in conducting the strip search.

(d) The time, date, and place of the strip search.

(e) The justification for conducting a strip search.

(f) A list of all items recovered from the person who was strip searched.

(g) A copy of the written authorization required under subsection (2)(b).

(5) A copy of the report required by subsection (4) shall be given without cost to the person who has been searched, subject to deletions permitted by section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(6) A law enforcement officer, any employee of the law enforcement agency, or a chief administrative officer or employee of a juvenile detention facility who conducts or authorizes a strip search in violation of this section is guilty of a misdemeanor.

(7) This section shall not apply to the strip search of a person lodged in a detention facility by an order of a court or in a state correctional facility housing prisoners under the jurisdiction of the department of corrections, including a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

History: Add. 1979, Act 185, Eff. Mar. 27, 1980;—Am. 1983, Act 92, Eff. Mar. 29, 1984;—Am. 1999, Act 65, Imd. Eff. June 24, 1999.

764.25b Body cavity search.

Sec. 25b. (1) As used in this section:

(a) “Body cavity” means the interior of the human body not visible by normal observation, being the stomach or rectal cavity of a person and the vagina of a female person.

(b) “Body cavity search” means a physical intrusion into a body cavity for the purpose of discovering any object concealed in a body cavity.

(2) Except as otherwise provided in this section, a search of a body cavity shall not be conducted without a valid search warrant.

(3) Subsection (2) does not apply to a body cavity search of a person who is any of the following:

(a) A person serving a sentence for a criminal offense in a detention facility or a state correctional facility housing prisoners under the jurisdiction of the department of corrections, including a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

(b) A person who, as a result of an order by a court, is lodged in an inpatient facility operated by or under contract with the department of community health or a county community mental health board, if the person is self-abusive and the search is necessary for his or her protection.

(c) A person who, as the result of a dispositional order entered after adjudication by the juvenile division of probate court before January 1, 1998 or by the family division of the circuit court on or after January 1, 1998, is residing in a juvenile detention facility.

(4) If any of the circumstances described in subsection (3)(a), (b), or (c) applies, a search of a body cavity shall not be conducted unless the person conducting the search has obtained prior written authorization from the chief administrative officer of the facility or from that officer's designee.

(5) A body cavity search shall be conducted by a licensed physician or a physician's assistant, licensed practical nurse, or registered professional nurse acting with the approval of a licensed physician. If the body cavity search is conducted by a person of the opposite sex as the person being searched, the search shall be conducted in the presence of a person of the same sex as the person being searched.

(6) If a body cavity search is conducted under a valid search warrant, the law enforcement officer who executes the warrant required under subsection (2) shall prepare a report containing all of the following:

(a) A copy of the search warrant required under subsection (2).

(b) The name and sex of the person searched, if not contained in the warrant.

(c) The name of the person who conducted the search.

(d) The time, date, and place of the search.

(e) A list of all items recovered from the person who was searched.

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(f) The name and sex of all law enforcement officers or employees of the law enforcement agency present at the search.

(7) If a body cavity search is conducted under subsections (3) and (4), the personnel authorized to conduct the body cavity search shall prepare a report containing all of the following:

(a) A copy of the written authorization required under subsection (4).

(b) The name and sex of the person searched, if not contained in the written authorization.

(c) The name of the person who conducted the search.

(d) The time, date, and place of the search.

(e) A list of all items recovered from the person who was searched.

(f) The name and sex of all personnel present at the search.

(8) A copy of the report required by subsection (6) or (7) shall be given without cost to the person who has been searched, subject to deletions permitted by section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(9) A law enforcement officer, an employee of the law enforcement agency, or the chief administrative officer or personnel of a facility described in subsection (3) who conducts or authorizes a body cavity search in violation of this section is guilty of a misdemeanor.

History: Add. 1979, Act 185, Eff. Mar. 27, 1980;—Am. 1983, Act 92, Eff. Mar. 29, 1984;—Am. 1996, Act 418, Eff. Jan. 1, 1998;—Am. 1999, Act 65, Imd. Eff. June 24, 1999.

764.25c Repealed. 1983, Act 92, Eff. Mar. 29, 1984.

Compiler's note: The repealed section pertained to the applicability of MCL 764.25a and 764.25b.

764.26 Arrest; rights of alleged felon.

Sec. 26. Every person charged with a felony shall, without unnecessary delay after his arrest, be taken before a magistrate or other judicial officer and, after being informed as to his rights, shall be given an opportunity publicly to make any statement and answer any questions regarding the charge that he may desire to answer.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17160;—CL 1948, 764.26.

764.27 Arrest of child less than 17 years of age; procedure.

Sec. 27. Except as otherwise provided in section 606 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.606 of the Michigan Compiled Laws, or section 10a(1)(c) of Act No. 369 of the Public Acts of 1919, being section 725.10a of the Michigan Compiled Laws, if a child less than 17 years of age is arrested, with or without a warrant, the child shall be taken immediately before the family division of circuit court of the county where the offense is alleged to have been committed, and the officer making the arrest shall immediately make and file, or cause to be made and filed, a petition against the child as provided in chapter XIIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.31 of the Michigan Compiled Laws. Except as otherwise provided in section 606 of Act No. 236 of the Public Acts of 1961 or section 10a(1)(c) of Act No. 369 of the Public Acts of 1919, if during the pendency of a criminal case against a child in a court in this state it is ascertained that the child is less than 17 years of age, the court shall immediately transfer the case, together with all papers connected with the case, to the family division of circuit court of the county where the offense is alleged to have been committed. If a child 14 years of age or older is charged with a felony, the judge of probate, after investigation and examination and upon motion of the prosecuting attorney, may waive jurisdiction under section 4 of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.4 of the Michigan Compiled Laws. If jurisdiction is waived, the child may be tried in the court having general criminal jurisdiction of the offense. If during the pendency of a criminal case against a child in a court of record other than the family division of circuit court it is determined that the child is 17 years of age, the court, if the court finds that any of the conditions exist as outlined in section 2(d) of chapter XIIA of Act No. 288 of the Public Acts of 1939, as amended, being section 712A.2 of the Michigan Compiled Laws, upon motion of the prosecuting attorney, the child, or his or her representative, may transfer the case together with all papers connected with the case to the family division of circuit court of the county where the offense is alleged to have been committed.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17161;—Am. 1931, Act 309, Eff. Sept. 18, 1931;—CL 1948, 764.27;—Am. 1958, Act 212, Eff. Sept. 13, 1958;—Am. 1972, Act 44, Imd. Eff. Feb. 19, 1972;—Am. 1988, Act 67, Eff. Oct. 1, 1988;—Am. 1996, Act 255, Eff. Jan. 1, 1997;—Am. 1996, Act 418, Eff. Jan. 1, 1998.

Compiler's note: Section 3 of Act 67 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was amended by Act 173 of 1988 to read as follows: “This amendatory act shall take effect October 1, 1988.”

Former law: See section 6 of Act 6 of 1907 (Ex. Sess.); Act 308 of 1915; CL 1915, § 2016; and Act 105 of 1923.

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764.27a Juvenile taken into custody or detained; prohibitions; confinement of juvenile in county jail; other confinement; credit for time served.

Sec. 27a. (1) A juvenile, other than a juvenile confined under subsection (3), shall not be confined in a police station, prison, jail, lock-up, or reformatory, or be transported with, or compelled or permitted to associate or mingle with, criminal persons while awaiting trial.

(2) A juvenile, other than a juvenile confined under subsection (3), whose habits or conduct are considered to be a menace to other children, or who may not otherwise be safely detained, may be ordered by a court to be placed in a jail or other place of detention for adults, but in a room or ward out of sight and sound from adults.

(3) A juvenile or individual less than 17 years of age who is under the jurisdiction of the circuit court or recorder's court of the city of Detroit for committing a felony may be confined in the county jail pending trial. An individual less than 17 years of age who is under the jurisdiction of the probate court for committing a felony may be held in the county jail pending trial if the case is designated by the court under section 2d of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2d of the Michigan Compiled Laws, as a case in which the individual is to be tried in the same manner as an adult and the court has determined that there is probable cause to believe that the felony was committed and that there is probable cause to believe the individual committed that felony. If a juvenile or individual less than 17 years of age is confined in the county jail under this subsection, the juvenile or individual less than 17 years of age shall be held physically separate from adult prisoners. A juvenile or individual less than 17 years of age shall not be confined in the county jail under this subsection without the prior approval of the county sheriff. As used in this subsection, “felony” means a crime that is designated by law as a felony or that is punishable by imprisonment for more than 1 year.

(4) The court, upon motion of a juvenile or individual less than 17 years of age who is subject to confinement under subsection (3) may, for good cause shown, order the juvenile or individual less than 17 years of age to be confined as otherwise provided by law.

(5) If a person is convicted of a crime within this state and has served time in a juvenile facility before sentencing because of being denied or being unable to furnish bond for the offense of which he or she is convicted, the trial court in imposing sentence shall specifically grant credit against the sentence for time served in a juvenile facility before sentencing.

History: Add. 1988, Act 67, Eff. Oct. 1, 1988;—Am. 1996, Act 254, Eff. Jan. 1, 1997.

Compiler's note: Section 3 of Act 67 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was amended by Act 173 of 1988 to read as follows: “This amendatory act shall take effect October 1, 1988.”

764.28 Failure of person under recognizance or appeal to appear; forfeiture; issuing process for arrest of appellant or defendant.

Sec. 28. If a person under recognizance on an appeal from a conviction and judgment of a magistrate does not appear according to the condition of the recognizance, and the recognizance is forfeited by reason of the breach of that condition, and the forfeiture is entered on the record by order of the court having jurisdiction of the case, that court may issue a capias or other process for the arrest of the appellant or defendant named in the recognizance, to bring the appellant or defendant before the court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17162;—CL 1948, 764.28;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 2 of Act 209 of 1861, being CL 1871, § 7962; How., § 9575; CL 1897, § 11959; and CL 1915, § 15832.

764.29 Fingerprints.

Sec. 29. (1) At the time of arraignment of a person on a complaint for a felony or a misdemeanor punishable by imprisonment for more than 92 days, the magistrate shall examine the court file to determine if the person has had fingerprints taken as required by section 3 of Act No. 289 of the Public Acts of 1925, being section 28.243 of the Michigan Compiled Laws.

(2) If the person has not had his or her fingerprints taken prior to the time of arraignment for the felony or the misdemeanor punishable by imprisonment for more than 92 days, upon completion of the arraignment, the magistrate shall do either of the following:

(a) Order the person to submit himself or herself to the police agency that arrested or obtained the warrant for the arrest of the person so that the person's fingerprints can be taken.

(b) Order the person committed to the custody of the sheriff for the taking of the person's fingerprints.

History: Add. 1986, Act 232, Eff. June 1, 1987.

CHAPTER V

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765.1 Judges and district court magistrate empowered to let accused person to bail; recognizance for appearance of accused person.

Sec. 1. (1) A judge of the circuit court, of the recorder's court of the city of Detroit, of the traffic and ordinance division of the recorder's court of the city of Detroit, of the district court, and of a municipal court, and a district court magistrate, shall have power to let an accused person brought before the judge or district court magistrate to bail pursuant to section 15 of article 1 of the state constitution of 1963 .

(2) A recognizance for the appearance of an accused person may be taken and entered into by and before the clerks of the courts listed in subsection (1), subject to the direction of the court if the amount of bail has been set by the judge.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17163;—CL 1948, 765.1;—Am. 1951, Act 3, Imd. Eff. Mar. 6, 1951;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 26 of Ch. 163 of R.S. 1846, being CL 1857, § 6002; CL 1871, § 7868; How., § 9479; CL 1897, § 11863; CL 1915, § 15690; and Act 4 of 1858.

765.2 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to admission to bail.

765.3 Judges empowered to permit committed prisoners to post bail; notice to prosecuting attorney; inquiry.

Sec. 3. A judge of the circuit court, the recorder's court of the city of Detroit, the traffic and ordinance division of the recorder's court of the city of Detroit, the district court, or a municipal court, on application of a prisoner committed for a bailable offense, and after due notice to the prosecuting attorney for the county, may inquire into the case and permit the prisoner to post bail. Any person committed for not finding sureties to recognize for him or her also may be permitted to post bail by any of the judges listed in this section.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17165;—CL 1948, 765.3;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 23 of Ch. 163 of R.S. 1846, being CL 1857, § 5999; CL 1871, § 7865; How., § 9476; CL 1897, § 11860; CL 1915, § 15687; and Act 134 of 1873.

765.4 Admission to bail; procedure for information, same as under indictment.

Sec. 4. Any person who may, according to law, be committed to jail or become recognized or held to bail with sureties for his appearance in court to answer to any indictment may, in like manner so be committed to jail, or become recognized and held to bail for his appearance, to answer to any information or indictment as the case may be.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17166;—CL 1948, 765.4.

Former law: See section 5 of Act 138 of 1859, being CL 1871, § 7941; How., § 9552; CL 1897, § 11937; and CL 1915, § 15764.

765.5 Admission to bail; persons not entitled.

Sec. 5. No person charged with treason or murder shall be admitted to bail if the proof of his guilt is evident or the presumption great.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17167;—CL 1948, 765.5.

765.6 Accused persons entitled to bail; amount of bail; considerations and findings; surety bond; surrender by defendant of operator's or chauffeur's license as security; receipt; expiration date; extension; written notice; return of license.

Sec. 6. (1) Except as otherwise provided by law, a person accused of a criminal offense is entitled to bail. The amount of bail shall not be excessive. The court in fixing the amount of the bail shall consider and make findings on the record as to each of the following:

(a) The seriousness of the offense charged.

(b) The protection of the public.

(c) The previous criminal record and the dangerousness of the person accused.

(d) The probability or improbability of the person accused appearing at the trial of the cause.

(2) If the court fixes a bail amount under subsection (1) and allows for the posting of a 10% deposit bond, the person accused may post bail by a surety bond in an amount equal to 1/4 of the full bail amount fixed under subsection (1) and executed by a surety approved by the court.

(3) If a person is arrested for an ordinance violation or a misdemeanor and if the defendant's operator's or chauffeur's license is not expired, suspended, revoked, or cancelled, the court may require the defendant, in place of other security for the defendant's appearance in court for trial or sentencing or, as a condition for

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release of the defendant on personal recognizance, to surrender to the court his or her operator's or chauffeur's license. The court shall issue to the defendant a receipt for the license, as provided in section 311a of the Michigan vehicle code, 1949 PA 300, MCL 257.311a. If the trial date is set at the arraignment, the court shall specify on the receipt the date on which the defendant is required to appear for trial. If a trial date is not set at the arraignment, the court shall specify on the receipt a date on which the receipt expires. By written notice the court may extend the expiration date of the receipt, as needed, to secure the defendant's appearance for trial and sentencing. The written notice shall instruct the person to whom the receipt was issued to attach the notice to the receipt. Upon its attachment to the receipt, the written notice shall be considered a part of the receipt for purposes of determining the expiration date. At the conclusion of the trial or imposition of sentence, as applicable, the court shall return the license to the defendant unless other disposition of the license is authorized by law.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17168;—CL 1948, 765.6;—Am. 1969, Act 222, Imd. Eff. Aug. 6, 1969;—Am. 1983, Act 56, Eff. Mar. 29, 1984;—Am. 1988, Act 46, Eff. June 1, 1988;—Am. 2004, Act 167, Imd. Eff. June 24, 2004.

765.6a Cash bond or surety as condition of granting application for bail.

Sec. 6a. Before granting an application for bail, a court shall require a cash bond or a surety other than the applicant if the applicant

(1) Is charged with a crime alleged to have occurred while on bail pursuant to a bond personally executed by him; or

(2) Has been twice convicted of a felony within the preceding 5 years.

History: Add. 1974, Act 252, Imd. Eff. Aug. 1, 1974.

765.6b Release of defendant subject to protective conditions; contents of order; purchase or possession of firearm; entering or removing order from LEIN; order to wear electronic monitoring device; other orders; definitions; authority to impose other conditions not limited; "LEIN" defined.

Sec. 6b. (1) A judge or district court magistrate may release a defendant under this subsection subject to conditions reasonably necessary for the protection of 1 or more named persons. If a judge or district court magistrate releases a defendant under this subsection subject to protective conditions, the judge or district court magistrate shall make a finding of the need for protective conditions and inform the defendant on the record, either orally or by a writing that is personally delivered to the defendant, of the specific conditions imposed and that if the defendant violates a condition of release, he or she will be subject to arrest without a warrant and may have his or her bail forfeited or revoked and new conditions of release imposed, in addition to the penalty provided under section 3f of chapter XI and any other penalties that may be imposed if the defendant is found in contempt of court.

(2) An order or amended order issued under subsection (1) shall contain all of the following:

(a) A statement of the defendant's full name.

(b) A statement of the defendant's height, weight, race, sex, date of birth, hair color, eye color, and any other identifying information the judge or district court magistrate considers appropriate.

(c) A statement of the date the conditions become effective.

(d) A statement of the date on which the order will expire.

(e) A statement of the conditions imposed.

(3) An order or amended order issued under this subsection and subsection (1) may impose a condition that the defendant not purchase or possess a firearm. However, if the court orders the defendant to carry or wear an electronic monitoring device as a condition of release as described in subsection (6), the court shall also impose a condition that the defendant not purchase or possess a firearm.

(4) The judge or district court magistrate shall immediately direct the issuing court or a law enforcement agency within the jurisdiction of the court, in writing, to enter an order or amended order issued under subsection (1) or subsections (1) and (3) into LEIN. If the order or amended order is rescinded, the judge or district court magistrate shall immediately order the issuing court or law enforcement agency to remove the order or amended order from LEIN.

(5) The issuing court or a law enforcement agency within the jurisdiction of the court shall immediately enter an order or amended order into LEIN or shall remove the order or amended order from the law enforcement information network upon expiration of the order or as directed by the court under subsection (4).

(6) If a defendant who is charged with a crime involving domestic violence, or any other assaultive crime, is released under this subsection and subsection (1), the judge or district court magistrate may order the defendant to wear an electronic monitoring device as a condition of release. With the informed consent of the

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victim, the court may also order the defendant to provide the victim of the charged crime with an electronic receptor device capable of receiving the global positioning system information from the electronic monitoring device worn by the defendant that notifies the victim if the defendant is located within a proximity to the victim as determined by the judge or district court magistrate in consultation with the victim. The victim shall also be furnished with a telephone contact with the local law enforcement agency to request immediate assistance if the defendant is located within that proximity to the victim. In addition, the victim may provide the court with a list of areas from which he or she would like the defendant excluded. The court shall consider the victim's request and shall determine which areas the defendant shall be prohibited from accessing. The court shall instruct the entity monitoring the defendant's position to notify the proper authorities if the defendant violates the order. In determining whether to order a defendant to wear an electronic monitoring device, the court shall consider the likelihood that the defendant's participation in electronic monitoring will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the victim prior to trial. The victim may request the court to terminate the victim's participation in the monitoring of the defendant at any time. The court shall not impose sanctions on the victim for refusing to participate in monitoring under this subsection. A defendant described in this subsection shall only be released if he or she agrees to pay the cost of the device and any monitoring as a condition of release or to perform community service work in lieu of paying that cost. An electronic monitoring device ordered to be worn under this subsection shall provide reliable notification of removal or tampering. As used in this subsection:

(a) "Assaultive crime" means that term as defined in section 9a of chapter X.

(b) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(c) "Electronic monitoring device" includes any electronic device or instrument that is used to track the location of an individual or to monitor an individual's blood alcohol content, but does not include any technology that is implanted or violates the corporeal body of the individual.

(d) "Informed consent" means that the victim was given information concerning all of the following before consenting to participate in electronic monitoring:

(*i*) The victim's right to refuse to participate in that monitoring and the process for requesting the court to terminate the victim's participation after it has been ordered.

(*ii*) The manner in which the monitoring technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements.

(*iii*) The boundaries imposed on the defendant during the monitoring program.

(*iv*) Sanctions that the court may impose on the defendant for violating an order issued under this subsection.

(*v*) The procedure that the victim is to follow if the defendant violates an order issued under this subsection or if monitoring equipment fails to operate properly.

(*vi*) Identification of support services available to assist the victim to develop a safety plan to use if the court's order issued under this subsection is violated or if the monitoring equipment fails to operate properly.

(*vii*) Identification of community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other help in addressing the consequences and effects of domestic violence.

(*viii*) The nonconfidential nature of the victim's communications with the court concerning electronic monitoring and the restrictions to be imposed upon the defendant's movements.

(7) A judge or district court magistrate may release under this subsection a defendant subject to conditions reasonably necessary for the protection of the public if the defendant has submitted to a preliminary roadside analysis that detects the presence of alcoholic liquor, a controlled substance, or other intoxicating substance, or any combination of them, and that a subsequent chemical test is pending. The judge or district court magistrate shall inform the defendant on the record, either orally or by a writing that is personally delivered to the defendant, of all of the following:

(a) That if the defendant is released under this subsection, he or she shall not operate a motor vehicle under the influence of alcoholic liquor, a controlled substance, or another intoxicating substance, or any combination of them, as a condition of release.

(b) That if the defendant violates the condition of release under subdivision (a), he or she will be subject to arrest without a warrant, shall have his or her bail forfeited or revoked, and shall not be released from custody prior to arraignment.

(8) The judge or district court magistrate shall immediately direct the issuing court or a law enforcement agency within the jurisdiction of the court, in writing, to enter an order or amended order issued under subsection (7) into LEIN. If the order or amended order is rescinded, the judge or district court magistrate shall immediately order the issuing court or law enforcement agency to remove the order or amended order from LEIN.

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(9) The issuing court or a law enforcement agency within the jurisdiction of the court shall immediately enter an order or amended order into LEIN. If the order or amended order is rescinded, the court or law enforcement agency shall immediately remove the order or amended order from LEIN upon expiration of the order under subsection (8).

(10) This section does not limit the authority of judges or district court magistrates to impose protective or other release conditions under other applicable statutes or court rules, including ordering a defendant to wear an electronic monitoring device.

(11) As used in this section, "LEIN" means the law enforcement information network regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215, or by the department of state police.

History: Add. 1993, Act 53, Eff. July 1, 1993;—Am. 1994, Act 335, Eff. Apr. 1, 1996;—Am. 2008, Act 192, Imd. Eff. July 10, 2008 ;—Am. 2013, Act 54, Imd. Eff. June 11, 2013;—Am. 2014, Act 316, Eff. Jan. 12, 2015.

Compiler's note: Enacting section 1 of Act 192 of 2008 provides:
"Enacting section 1. This amendatory act shall be known and cited as 'Mary's Law' ".

765.6c Bail; cash deposit; use.

Sec. 6c. If a defendant for whom bail or bond is required personally fulfills that requirement by a cash deposit, the defendant shall be notified that upon the defendant's conviction the cash deposit may be used to collect a fine, costs, restitution, assessment, or other payment pursuant to section 15(2) of this chapter.

History: Add. 1993, Act 343, Eff. May 1, 1994.

765.6d Release on bail; waiver of extradition.

Sec. 6d. (1) Except as provided in subsection (2), the court may require an individual to sign a written waiver of extradition to this state before releasing the individual on bail under this chapter. If the individual fails to sign the waiver, the court may consider the failure in determining the amount of bail to be posted by the individual.

(2) The court shall require an individual charged with a crime for which bail may be denied under section 15 of article I of the state constitution of 1963 to sign a written waiver of extradition to this state before releasing the individual on bail under this chapter.

History: Add. 2002, Act 583, Eff. Jan. 1, 2003.

765.7 Permitting defendant to post bail on own recognizance if appeal taken by or on behalf of state; exception.

Sec. 7. If an appeal is taken by or on behalf of the people of the state of Michigan from a court of record, the defendant shall be permitted to post bail on his or her own recognizance, pending the prosecution and determination of the appeal, unless the trial court determines and certifies that the character of the offense, the respondent, and the questions involved in the appeal, render it advisable that bail be required.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17169;—CL 1948, 765.7;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 3 of Act 159 of 1917.

765.8 Surety or bail posted by attorney or counselor prohibited.

Sec. 8. A practicing attorney or counselor shall not become a surety or post bail for the appearance of a person charged with a felony, a misdemeanor, or an ordinance violation. A surety or bail posted by an attorney or counselor in violation of this section, taken by a judge or other officer authorized by law to take a recognizance, is void.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17170;—CL 1948, 765.8;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 75 of Chapter 1 of Act 314 of 1915, being CL 1915, § 12080; and section 1 of Act 61 of 1865, being CL 1871, § 5645; How., § 7196; CL 1897, § 1143.

765.9 Surety; person acting in same capacity on other bond.

Sec. 9. Any magistrate or judge of any court shall have authority in his discretion to refuse to accept as surety upon a bond any person who shall, at the time of so offering himself, be acting as surety on any other bond pending in his court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17171;—CL 1948, 765.9.

765.10, 765.11 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to recognizance for offenses against municipal bylaws and ordinances, and to cash in lieu of bond.

765.12 Deposit of cash; certified check or certain securities in lieu of bond or bail; right.

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Sec. 12. In any criminal cause or proceeding where bond or bail of any character is required or permitted for any purpose, the party or parties required or permitted to furnish such bail or bond may deposit, in lieu thereof, in the manner herein provided, cash, certified check on any state or national bank in this state, obligations of the United States government negotiable by delivery or bonds of any municipality of this state negotiable by delivery, equal in amount to the amount of the bond or bail so required or permitted.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17174;—CL 1948, 765.12.

Former law: See section 1 of Act 332 of 1919.

765.12a Money collected in addition to bail or bond money; disposition; purpose.

Sec. 12a. (1) A law enforcement agency that obtains bail or bond money from or on behalf of a person arrested pursuant to a warrant issued by a court may collect, in addition to the bail or bond money, an amount not more than $10.00 from the person arrested or from another person on behalf of the person arrested.

(2) A law enforcement agency collecting the amount of money under subsection (1) shall promptly deposit the money into an account created for that purpose in the treasury of the law enforcement agency's governing body.

(3) The money in the account created under subsection (2) may be expended by the governing body to defray the expense of receiving, depositing, and delivering bail or bond money.

History: Add. 2002, Act 631, Imd. Eff. Dec. 23, 2002.

765.13 Depository; receipt.

Sec. 13. Such cash, check or security shall be deposited with the clerk of the court, if under bond, or with the treasurer of the county, city, village or township within which the bail or bond is to be furnished or, in any case, with the state treasurer. Such treasurer or clerk shall accept such cash, check or security and deliver to the depositor thereof a receipt, in duplicate, reciting the fact and purpose of such deposit. In case such bail or bond be required after the office hours of the treasurer or clerk with whom the deposit should be made, such deposit may be made with the officer who has the function of approving the bond or bail or with the sheriff of the county or his deputy in charge of the county jail or sheriff's office, who shall accept the same, give duplicate receipts therefor and cause the cash, check or security to be delivered to the proper treasurer or clerk within 48 hours thereafter.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17175;—CL 1948, 765.13;—Am. 1970, Act 78, Imd. Eff. July 16, 1970.

Former law: See section 4 of Act 332 of 1919.

765.14 Deposit of cash; filing duplicate receipts in court, effect.

Sec. 14. The filing of 1 of such duplicate receipts in the court in which such bond or bail is required or permitted to be filed shall have the same effect as the furnishing of such bond or bail and shall be taken and given effect by such court and its officers in lieu of such bond or bail.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17176;—CL 1948, 765.14.

Former law: See section 3 of Act 332 of 1919.

765.15 Bail; cash, check, or security; disposition upon forfeiture or discharge of bond or bail.

Sec. 15. (1) If bond or bail is forfeited, the court shall enter an order upon its records directing the disposition of the cash, check, or security within 45 days of the order. The treasurer or clerk, upon presentation of a certified copy of such order, shall dispose of the cash, check, or security pursuant to the order. The court shall set aside the forfeiture and discharge the bail or bond, within 1 year from the time of the forfeiture judgment, in accordance with subsection (2) if the person who forfeited bond or bail is apprehended, the ends of justice have not been thwarted, and the county has been repaid its costs for apprehending the person.

(2) If bond or bail is discharged, the court shall enter an order with a statement of the amount to be returned to the depositor. If the court ordered the defendant to pay a fine, costs, restitution, assessment, or other payment, the court shall order the fine, costs, restitution, assessment, or other payment collected out of cash bond or bail personally deposited by the defendant under this chapter, and the cash bond or bail used for that purpose shall be allocated as provided in section 22 of chapter XV. Upon presentation of a certified copy of the order, the treasurer or clerk having the cash, check, or security shall pay or deliver it as provided in the order to the person named in the order or to that person's order.

(3) If the cash, check, or security is in the hands of the sheriff or any officer other than the treasurer or clerk, the officer holding it shall dispose of the cash, check, or security as the court orders upon presentation of a certified copy of the court's order.

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History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17177;—CL 1948, 765.15;—Am. 1970, Act 78, Imd. Eff. July 16, 1970;—Am. 1970, Act 226, Eff. Apr. 1, 1970;—Am. 1993, Act 343, Eff. May 1, 1994.

Former law: See section 4 of Act 332 of 1919.

765.16 Subjection to legal process; assignment.

Sec. 16. Cash, checks or securities deposited hereunder shall not be subject to garnishment or attachment. No assignment thereof shall be valid unless it be in writing, signed by the depositor, before 2 witnesses, acknowledged before an officer having authority to take the acknowledgment of deeds, and specifically stating the desired disposition of the whole of the deposit. An assignment made before the order of the court directing the disposition of such cash, check or security shall be contingent upon the discharge of the same and shall not be valid or effective unless and until it is filed with the court having jurisdiction to discharge the bond or bail. No assignment made after the order of the court discharging such bail or bond shall be valid unless it is indorsed upon or attached to the certified copy of the discharge order presented to the treasurer, clerk or officer having custody of the cash, check or security. In case 1 or more assignments be filed with the court before the order discharging the bail or bond, the court shall, in the order, determine the persons to whom such cash shall be paid or securities delivered.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17178;—CL 1948, 765.16;—Am. 1970, Act 78, Imd. Eff. July 16, 1970.

Former law: See section 4 of Act 332 of 1919.

765.17 Deposit in special fund; interest.

Sec. 17. Any cash or securities received by any treasurer or clerk under the provisions of this chapter shall be deposited in a special fund, or place of deposit subject to the order of the proper court. Any interest accumulating upon such fund shall be paid into the general fund or corresponding fund of the state, county, city, village or township according to the nature of the case or in accordance with the order of the proper court. When bonds or other securities are deposited the interest coupons shall not be detached therefrom but shall follow the disposition of the securities.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17179;—CL 1948, 765.17;—Am. 1970, Act 78, Imd. Eff. July 16, 1970.

Former law: See section 5 of Act 332 of 1919.

765.18 Deposit of cash; redemption before forfeiture by substitution of bond.

Sec. 18. Any person, firm or corporation availing himself or itself of the provisions of this chapter may, at any time before forfeiture of the same, redeem any cash or securities so deposited by substituting the bond originally required or permitted.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17180;—CL 1948, 765.18.

Former law: See section 6 of Act 332 of 1919.

765.19 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to construction of act.

765.20 Administering oath to proposed surety to ascertain financial condition; requiring surety upon criminal recognizance to pledge real estate; value of surety's interest in real estate; executing recognizance and affidavit of justification; form; deposition of surety.

Sec. 20. (1) A judge listed in section 1(1) of this chapter or a district court magistrate may administer an oath to a proposed surety upon a recognizance given for the release of a person accused of a felony, misdemeanor, or ordinance violation, to ascertain his or her financial condition. A judge or district court magistrate may require a surety upon a criminal recognizance taken before the judge or magistrate, to pledge to the people of the state, real estate owned by the surety and located in the county in which the court is established. The value of the interest of the surety in the real estate shall be at least equal to the penal amount of the recognizance. If a pledge of real estate is required, the surety shall execute the usual form of recognizance and, in addition, there shall be included in the recognizance, as a part of the recognizance, an affidavit of justification in substantially the following form. The affidavit shall be executed by the proposed surety under an oath administered by the clerk, a district court magistrate, or a judge of the court.

STATE OF MICHIGAN)

)ss.

COUNTY OF)

..... residing at..... who offers himself or herself as surety for..... being first duly sworn, deposes and says that he or she owns in his or her own right real estate subject to levy of execution located in the county of ..... state of Michigan, consisting of .....

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and described as follows, to-wit: .....; that the title to the real estate is in his or her name only; that the value of the real estate is not less than $..... and is subject to no encumbrances whatever except ..... mortgage of $.....; that he or she is not surety upon any unpaid or forfeited recognizance and that he or she is not party to any unsatisfied judgment upon any recognizance; that he or she is worth in good property no less than $..... over and above all debts, liabilities, and lawful claims against him or her and all liens, encumbrances, and lawful claims against his or her property.

. . ...

Subscribed and sworn to before me this

. . ... day. . ... 19___.

of

. . ...

Judge/district court magistrate/clerk of the court

. . ...

county

(2) The judge or district court magistrate, in addition to the affidavit, may require the proposed surety to depose under oath that he or she is not at the time of executing the recognizance and affidavit a surety upon another recognizance and that there are no unsatisfied judgments or executions against the proposed surety. The judge or district court magistrate may require the proposed surety to depose to any other fact which is relevant and material to a correct determination of the proposed surety's sufficiency to act as bail. However, a lien upon real estate shall not be required for a minor offense.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17182;—CL 1948, 765.20;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 1 of Act 17 of 1926.

765.21 Surety on recognizance; attachment of lien; record notice of lien, form, effect.

Sec. 21. Upon the execution of any recognizance in the usual form and an affidavit of justification containing a description of real estate there shall immediately attach to the said real estate, described in said affidavit of justification, a lien in favor of the people of the state of Michigan in the penal amount of the recognizance, which lien shall remain in full force and effect during the time that said recognizance remains effective, or until the further order of said court. Upon the acceptance by any of the judges of any such court of a recognizance in the usual form containing the above described affidavit of justification, and description of real estate, the said recognizance shall be immediately filed with the clerk of such court. The clerk of such court shall forthwith upon the filing with him of said recognizance, record with the register of deeds of the county in which said real estate is located, a notice of lien in writing in substantially the following form:

To Whom It May Concern:

TAKE NOTICE that the hereinafter described real estate located in the county of ..... has been pledged for the sum of ..... dollars ($.....) to the people of the state of Michigan, by ..... surety upon the recognizance of ..... in a certain cause pending in ..... court for the city of.....

county

to-wit:

People of the state of Michigan, Plaintiff, vs. ...

Defendant, known and identified in said court as Cause No. ...

Description of Real Estate.

. . ...

. . ...

. . ...

. .

city

Clerk of the ..... Court.

For the county of ...

Dated ...

Said notice of lien, when recorded, shall constitute notice to everyone that the real estate therein described has been pledged to the people of the state of Michigan as security for the performance of the conditions of a criminal recognizance, in the penal amount set forth in said recognizance.

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History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17183;—CL 1948, 765.21;—Am. 1958, Act 122, Eff. Sept. 13, 1958.

Former law: See section 2 of Act 17 of 1926.

765.22 Surety on recognizance; discharge; notice, form.

Sec. 22. Whenever by the order of such court a recognizance in the above form shall have been cancelled, discharged or set aside, or the cause in which said recognizance is given shall have been dismissed, the clerk of such court shall forthwith record with the register of deeds of the county in which the real estate is located, a notice of discharge in writing in substantially the following form:

To Whom it May Concern:

TAKE NOTICE that by the order of the ...
of the city
county of ..... the recognizance of ..... as principal and
..... as surety, given in the cause of the people of the state of Michigan, Plaintiff, vs.
..... Defendant, known and identified as Cause No. ..... in said court, is cancelled, discharged and set aside and the lien of the people of the state of Michigan to the real estate therein pledged as security is hereby waived, discharged and set aside.

Description of Real Estate.

. . ...
. . ...
. . ...

. .
Clerk of the ..... Court.

For the city
county. . ...
of
Dated ...

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17184;—CL 1948, 765.22;—Am. 1958, Act 122, Eff. Sept. 13, 1958.

Former law: See section 3 of Act 17 of 1926.

765.23 Surety on recognizance; register of deeds; duty as to notices of lien and discharges; fees.

Sec. 23. The register of deeds of the county in which such court is located shall properly keep and record all such notices of lien and notices of discharge as hereinbefore provided as may be recorded with him, and shall keep in addition thereto a book or record in which he shall properly index such notice of lien and notices of discharge as may be recorded with him. The register of deeds shall receive for such service the same fee as is provided by law for the recording of deeds.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17185;—CL 1948, 765.23;—Am. 1958, Act 122, Eff. Sept. 13, 1958.

Former law: See section 4 of Act 17 of 1926.

765.24 Effect of chapter on certain recognizances; order releasing lien.

Sec. 24. Nothing in this chapter shall be construed as limiting or qualifying in any way the power of any such courts or any of the judges thereof to release any accused person upon his personal recognizance, or upon a recognizance executed by a surety in accordance with the provisions of Act No. 229 of the Public Acts of 1923, or upon the deposit with the clerk of such court of any cash bail or other security in accordance with the provisions of section 6 of Act No. 369, of the Public Acts of 1919. Whenever such surety deposits with the clerk of such court the penal amount of such recognizance in cash or in other security satisfactory to such court, an order shall issue releasing the lien on the real estate. Nothing in this act shall be construed as qualifying or in any way changing the usual and legal and existing procedure of collecting upon forfeited recognizances, as provided by law.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17186;—CL 1948, 765.24.

Compiler's note: For provisions of Act 229 of 1923, referred to in this section, see MCL 550.101. For provisions of section 6 of Act 369 of 1919, referred to in this section, see § 725.6.

Former law: See section 5 of Act 17 of 1926.

765.25 Perjury in affidavit of justification; penalty.

Sec. 25. Any surety who shall swear falsely to any of the material facts set up in his affidavit of justification shall be deemed guilty of perjury and upon conviction thereof, shall be punished in accordance

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with the law in such case made and provided.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17187;—CL 1948, 765.25.

Former law: See section 6 of Act 17 of 1926.

765.26 Release of surety; arrest or detention of accused; mittimus.

Sec. 26. (1) In all criminal cases where a person has entered into any recognizance for the personal appearance of another and such bail and surety afterwards desires to be relieved from responsibility, he or she may, with or without assistance, arrest or detain the accused and deliver him or her to any jail or to the sheriff of any county. In making the arrest or detainment, he or she is entitled to the assistance of any peace officer.

(2) The sheriff or keeper of any jail is authorized to receive the principal and detain him or her in jail until he or she is discharged. Upon delivery of his or her principal at the jail by the surety or his or her agent or any officer, the surety shall be released from the conditions of his or her recognizance.

(3) Whenever the prosecuting attorney of a county is satisfied that a person who has been recognized to appear for trial has absconded, or is about to abscond, and that his or her sureties or either of them have become worthless, or are about to dispose or have disposed of their property for the purpose of evading the payment or the obligation of such bond or recognizance or with intent to defraud their creditors, and that prosecuting attorney makes a satisfactory showing to this effect to the court having jurisdiction of that person, the court or judge shall promptly grant a mittimus to the sheriff or any peace officer of that county, commanding him or her forthwith to arrest the person so recognized and bring him or her before the officer issuing the mittimus and on the return of that mittimus may, after a hearing on the merits, order him or her to be recommitted to the county jail until such time as he or she gives additional and satisfactory sureties, or is otherwise discharged.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17188;—CL 1948, 765.26;—Am. 2002, Act 659, Eff. Apr. 1, 2003.

Former law: See Act 98 of 1840, being CL 1857, § 6009; CL 1871, § 7877; How., § 9488; CL 1897, § 11872; CL 1915, § 15699; and Act 82 of 1877.

765.27 Action on recognizance; technicality as bar.

Sec. 27. No action brought upon any recognizance entered into in any criminal prosecution, either to appear and answer, or to testify in any court, shall be barred or defeated nor shall judgment thereon be arrested, by reason of any neglect or omission to note or record the default of any principal or surety at the time when such default shall happen, nor by reason of any defect in the form of the recognizance, if it sufficiently appear, from the tenor thereof, at what court the party or witness was bound to appear, and that the court or a magistrate before whom it was taken was authorized by law to require and take such recognizance.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17189;—CL 1948, 765.27.

Former law: See section 32 of Ch. 163 of R.S. 1846, being CL 1857, § 6008; CL 1871, § 7874; How., § 9485; CL 1897, § 11869; and CL 1915, § 15696.

765.28 Default in recognizance; record; notice; summary judgment; execution; set aside of forfeiture order; discharge of bail or surety bond; conditions.

Sec. 28. (1) If default is made in any recognizance in a court of record, the default shall be entered on the record by the clerk of the court. After the default is entered, the court shall give each surety immediate notice not to exceed 7 days after the date of the failure to appear. The notice shall be served upon each surety in person or left at the surety's last known business address. Each surety shall be given an opportunity to appear before the court on a day certain and show cause why judgment should not be entered against the surety for the full amount of the bail or surety bond. If good cause is not shown for the defendant's failure to appear, the court shall enter judgment against the surety on the recognizance for an amount determined appropriate by the court but not more than the full amount of the bail, or if a surety bond has been posted the full amount of the surety bond. If the amount of a forfeited surety bond is less than the full amount of the bail, the defendant shall continue to be liable to the court for the difference, unless otherwise ordered by the court. Execution shall be awarded and executed upon the judgment in the manner provided for in personal actions.

(2) Except as provided in subsection (3), the court shall set aside the forfeiture and discharge the bail or surety bond within 1 year from the date of forfeiture judgment if the defendant has been apprehended, the ends of justice have not been thwarted, and the county has been repaid its costs for apprehending the person. If the bond or bail is discharged, the court shall enter an order to that effect with a statement of the amount to be returned to the surety.

(3) Subsection (2) does not apply if the defendant was apprehended more than 56 days after the bail or bond was ordered forfeited and judgment entered and the surety did not fully pay the forfeiture judgment

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within that 56-day period.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17190;—CL 1948, 765.28;—Am. 2002, Act 659, Eff. Apr. 1, 2003;—Am. 2004, Act 332, Imd. Eff. Sept. 23, 2004.

765.29 Witness in criminal case; necessity of giving bail for appearance.

Sec. 29. A witness in a criminal case need not give bail for his or her appearance as a witness unless required to do so by the order of a judge of a court of record as provided in section 35 of chapter 7.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17191;—CL 1948, 765.29;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See sections 19 and 22 of Ch. 163 of R.S. 1846, being CL 1857, §§ 5995 and 5998; CL 1871, §§ 7861 and 7864; How., §§ 9472 and 9476; CL 1897, §§ 11856 and 11859; CL 1915, §§ 15683 and 15686; Act 77 of 1871; Act 302 of 1925; Act 177 of 1875, being How., § 9453; CL 1897, § 11817; CL 1915, § 15644; and Act 141 of 1879.

765.30 Minor or material witness; recognizance.

Sec. 30. If a material witness in a criminal case is a minor, any other person may be allowed to recognize for the appearance of the minor.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17192;—CL 1948, 765.30;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 21 of Ch. 163 of R.S. 1846, being CL 1857, § 5996; CL 1871, § 7863; How., § 9474; CL 1897, § 11858; and CL 1915, § 15685.

765.31 Proceeding to enforce recognizance; venue; service of process.

Sec. 31. Any proceeding to enforce a recognizance taken, as provided in this act, may be brought in the county where the offense is charged to have been committed, and service of process issued in any such proceeding may be made upon the principal or surety or both anywhere in the state, by any person authorized to serve process issued from a court of record.

History: Add. 1931, Act 309, Eff. Sept. 18, 1931;—CL 1948, 765.31.

CHAPTER VI
EXAMINATION OF OFFENDERS

766.1 Right of state and defendant to prompt examination and determination; authority of district court magistrate.

Sec. 1. The state and the defendant are entitled to a prompt examination and determination by the examining magistrate in all criminal causes and it is the duty of all courts and public officers having duties to perform in connection with an examination, to bring it to a final determination without delay except as necessary to secure to the defendant a fair and impartial examination. A district court magistrate appointed under chapter 85 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8501 to 600.8551, shall not preside at a preliminary examination or accept a plea of guilty or nolo contendere to an offense or impose a sentence except as otherwise authorized by section 8511(a), (b), or (c) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8511.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17193;—CL 1948, 766.1;—Am. 2014, Act 123, Imd. Eff. May 20, 2014.

Constitutionality: There is no federal constitutional right to a preliminary examination or hearing in a criminal prosecution. The procedure is left to the states. In Michigan, the right is statutory. People v Johnson, 427 Mich 98; 398 NW2d 219 (1986).

Compiler's note: Enacting section 1 of Act 123 of 2014 provides:
"Enacting section 1. This amendatory act applies to cases in which the defendant is arraigned in district court or municipal court on or after January 1, 2015."

766.2, 766.3 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to examination on oath of complainant and witnesses.

766.4 Probable cause conference and preliminary examination; dates; scope; waiver; acceptance of plea agreement; scheduling and commencement of preliminary examination; testimony of victim; definition; codefendants; examination by magistrate.

Sec. 4. (1) Except as provided in section 4 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.4, the magistrate before whom any person is arraigned on a charge of having committed a felony shall set a date for a probable cause conference to be held not less than 7 days or more than 14 days after the date of the arraignment, and a date for a preliminary examination of not less than 5 days or more than 7 days after the date of the probable cause conference. The dates for the probable cause conference and preliminary examination shall be set at the time of arraignment. The probable cause conference shall include the following:

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(a) Discussions as to a possible plea agreement among the prosecuting attorney, the defendant, and the attorney for the defendant.

(b) Discussions regarding bail and the opportunity for the defendant to petition the magistrate for a bond modification.

(c) Discussions regarding stipulations and procedural aspects of the case.

(d) Discussions regarding any other matters relevant to the case as agreed upon by both parties.

(2) The probable cause conference may be waived by agreement between the prosecuting attorney and the attorney for the defendant. The parties shall notify the court of the waiver agreement and whether the parties will be conducting a preliminary examination, waiving the examination, or entering a plea.

(3) A district judge has the authority to accept a felony plea. A district judge shall take a plea to a misdemeanor or felony as provided by court rule if a plea agreement is reached between the parties. Sentencing for a felony shall be conducted by a circuit judge, who shall be assigned and whose name shall be available to the litigants, pursuant to court rule, before the plea is taken.

(4) If a plea agreement is not reached and if the preliminary examination is not waived by the defendant with the consent of the prosecuting attorney, a preliminary examination shall be held as scheduled unless adjourned or waived under section 7 of this chapter. The parties, with the approval of the court, may agree to schedule the preliminary examination earlier than 5 days after the conference. Upon the request of the prosecuting attorney, however, the preliminary examination shall commence immediately for the sole purpose of taking and preserving the testimony of a victim if the victim is present. For purposes of this subdivision, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime. If that testimony is insufficient to establish probable cause to believe that the defendant committed the charged crime or crimes, the magistrate shall adjourn the preliminary examination to the date set at arraignment. A victim who testifies under this subdivision shall not be called again to testify at the adjourned preliminary examination absent a showing of good cause.

(5) If 1 or more defendants have been charged on complaints listing codefendants with a felony or felonies, the probable cause conference and preliminary examination for those defendants who have been arrested and arraigned at least 72 hours before that conference on those charges shall be consolidated, and only 1 joint conference or 1 joint preliminary examination shall be held unless the prosecuting attorney consents to a severance, a defendant seeks severance by motion and the magistrate finds severance to be required by law, or 1 of the defendants is unavailable and does not appear at the hearing.

(6) At the preliminary examination, a magistrate shall examine the complainant and the witnesses in support of the prosecution, on oath and, except as provided in sections 11a and 11b of this chapter, in the presence of the defendant, concerning the offense charged and in regard to any other matters connected with the charge that the magistrate considers pertinent.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17196;—CL 1948, 766.4;—Am. 1970, Act 213, Imd. Eff. Oct. 4, 1970;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 1988, Act 64, Eff. Oct. 1, 1988;—Am. 1993, Act 287, Eff. Mar. 1, 1994;—Am. 1994, Act 167, Eff. Oct. 1, 1994;—Am. 2014, Act 123, Imd. Eff. May 20, 2014.

Compiler's note: Section 2 of Act 63 of 1974 provides:

"Effective date.

"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

Section 3 of Act 64 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 175 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

Enacting section 1 of Act 123 of 2014 provides:

"Enacting section 1. This amendatory act applies to cases in which the defendant is arraigned in district court or municipal court on or after January 1, 2015."

Former law: See section 13 of Ch. 163 of R.S. 1846, being CL 1857, § 5989; CL 1871, § 7855; How., § 9466; CL 1897, § 11850; and CL 1915, § 15677.

766.5 Bail; commitment to jail; release on own recognizance.

Sec. 5. If it appears that a felony has been committed and that there is probable cause to believe that the accused is guilty thereof, and if the offense is bailable by the magistrate and the accused offers sufficient bail, it shall be taken and the prisoner discharged until trial. If sufficient bail is not offered or the offense is not bailable by the magistrate, the accused shall be committed to jail for trial. This section shall not prevent the magistrate from releasing the accused on his own recognizance where authorized by law.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17197;—CL 1948, 766.5;—Am. 1974, Act 63, Eff. May 1, 1974.

Compiler's note: Section 2 of Act 63 of 1974 provides:

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"Effective date.

"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

Former law: See section 18 of Ch. 163 of R.S. 1846, being CL 1857, § 5994; CL 1871, § 7860; How., § 9471; CL 1897, § 11855; and CL 1915, § 15682.

766.6 Associate magistrate; powers, duties, fees.

Sec. 6. Any magistrate to whom complaint is made, or before whom any prisoner is brought, may associate with himself 1 or more other magistrates of the same county, and they may together execute the powers and duties conferred upon such magistrates respectively by this chapter, but no fees shall be taxed for such associates.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17198;—CL 1948, 766.6.

Former law: See section 24 of Ch. 163 of R.S. 1846, being CL 1857, § 6000; CL 1871, § 7866; How., § 9477; CL 1897, § 11861; and CL 1915, § 15688.

766.7 Adjournment, continuance, or delay of preliminary examination.

Sec. 7. A magistrate may adjourn a preliminary examination for a felony to a place in the county as the magistrate determines is necessary. The defendant may in the meantime be committed either to the county jail or to the custody of the officer by whom he or she was arrested or to any other officer; or, unless the defendant is charged with treason or murder, the defendant may be admitted to bail. The defendant may waive the preliminary examination with the consent of the prosecuting attorney. An adjournment, continuance, or delay of a preliminary examination may be granted by a magistrate without the consent of the defendant or the prosecuting attorney for good cause shown. A magistrate may adjourn, continue, or delay the examination of any cause with the consent of the defendant and prosecuting attorney. An action on the part of the magistrate in adjourning or continuing any case does not cause the magistrate to lose jurisdiction of the case.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17199;—CL 1948, 766.7;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 2014, Act 123, Imd. Eff. May 20, 2014.

Compiler's note: Section 2 of Act 63 of 1974 provides:

"Effective date.

"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

Enacting section 1 of Act 123 of 2014 provides:

"Enacting section 1. This amendatory act applies to cases in which the defendant is arraigned in district court or municipal court on or after January 1, 2015."

Former law: See section 10 of Ch. 163 of R.S. 1846, being CL 1857, § 5986; CL 1871, § 7852; How., § 9463; CL 1897, § 11847; and CL 1915, § 15674.

766.8 Adjournment of examination; form of commitment of accused, order for re-appearance.

Sec. 8. The person accused may be committed as provided in the preceding section, by the verbal order of the magistrate, or by a warrant under his hand, stating that he is committed for such further examination on a day to be named in the warrant; and on the day therein specified, he may be brought before the magistrate by his verbal order to the same officer by or to whose custody he was committed, or by an order in writing to a different officer.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17200;—CL 1948, 766.8.

Former law: See section 11 of Ch. 163 of R.S. 1846, being CL 1857, § 5987; CL 1871, § 7853; How., § 9464; CL 1897, § 11848; and CL 1915, § 15675.

766.9 Closure of preliminary examination.

Sec. 9. (1) Upon the motion of any party, the examining magistrate may close to members of the general public the preliminary examination of a person charged with criminal sexual conduct in any degree, assault with intent to commit criminal sexual conduct, sodomy, gross indecency, or any other offense involving sexual misconduct if all of the following conditions are met:

(a) The magistrate determines that the need for protection of a victim, a witness, or the defendant outweighs the public's right of access to the examination.

(b) The denial of access to the examination is narrowly tailored to accommodate the interest being

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protected.

(c) The magistrate states on the record the specific reasons for his or her decision to close the examination to members of the general public.

(2) In determining whether closure of the preliminary examination is necessary to protect a victim or witness, the magistrate shall consider all of the following:

(a) The psychological condition of the victim or witness.

(b) The nature of the offense charged against the defendant.

(c) The desire of the victim or witness to have the examination closed to the public.

(3) The magistrate may close a preliminary examination to protect the right of a party to a fair trial only if both of the following apply:

(a) There is a substantial probability that the party's right to a fair trial will be prejudiced by publicity that closure would prevent.

(b) Reasonable alternatives to closure cannot adequately protect the party's right to a fair trial.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17201;—CL 1948, 766.9;—Am. 1988, Act 106, Eff. June 1, 1988.

Former law: See Act 138 of 1895, being CL 1897, § 11873; and CL 1915, § 15700.

766.10 Exclusion of persons from examination; witness not examined, minor; separation of witnesses.

Sec. 10. The magistrate while conducting such examination may exclude from the place of the examination all the witnesses who have not been examined; and he may also, if requested or if he sees cause, direct the witnesses whether for or against the prisoner, to be kept separate so that they cannot converse with each other until they shall have been examined. And such magistrate may in his discretion, also exclude from the place of examination any or all minors during the examination of such witnesses.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17202;—CL 1948, 766.10.

Former law: See section 15 of Ch. 163 of R.S. 1846, being CL 1857, § 5991; CL 1871, § 7857; How., § 9468; CL 1897, § 11852; CL 1915, § 15679; and Act 178 of 1885.

766.11 Subpoena of witnesses; taking down evidence in shorthand; appointment, oath, and fees of stenographer; signing of testimony not required; testimony to be typewritten, certified, received, and filed; testimony as prima facie evidence.

Sec. 11. (1) Witnesses may be compelled to appear before the magistrate by subpoenas issued by the magistrate, or by an officer of the court authorized to issue subpoenas, in the same manner and with the same effect and subject to the same penalties for disobedience, or for refusing to be sworn or to testify, as in cases of trials in the circuit court.

(2) Unless otherwise provided by law, the evidence given by the witnesses examined in a municipal court shall be taken down in shorthand by a county stenographer where one has been appointed under the provision of a local act of the legislature or by the county board of commissioners of the county in which the examination is held, or the magistrate for cause shown may appoint some other suitable stenographer at the request of the prosecuting attorney of the county with the consent of the respondent or the respondent's attorney to act as official stenographer pro tempore for the court of the magistrate to take down in shorthand the testimony of an examination. A stenographer so appointed shall take the constitutional oath as the official stenographer and shall be entitled to the following fees: $6.00 for each day and $3.00 for each half day while so employed in taking down the testimony and 10 cents per folio for typewriting the testimony taken down in shorthand, or other compensation and fees as shall be fixed by the county board of commissioners appointing the stenographer.

The fees may be allowed and paid out of the treasury of the county in which the testimony is taken. It shall not be necessary for a witness or witnesses whose testimony is taken in shorthand by the stenographer to sign the testimony. Except as provided in section 15 of this chapter, the testimony so taken under this subsection, shall be typewritten, certified, received, and filed in the court to which the accused is held for trial.

(3) Testimony taken by a stenographer appointed pursuant to subsection (2) or taken by shorthand or recorded by a court stenographer or district court recorder as provided by law, when transcribed, shall be considered prima facie evidence of the testimony of the witness or witnesses at the examination.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17203;—CL 1948, 766.11;—Am. 1954, Act 19, Imd. Eff. Mar. 22, 1954;—Am. 1978, Act 155, Eff. July 1, 1978.

Former law: See section 16 of Ch. 163 of R.S. 1846, being CL 1857, § 5992; CL 1871, § 7858; How., § 9469; CL 1897, § 11853; CL 1915, § 15680; Act 168 of 1863; Act 160 of 1915; and Act 329 of 1917.

766.11a Testimony of witness; conduct by telephonic, voice, or video conferencing.

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Sec. 11a. On motion of either party, the magistrate shall permit the testimony of any witness, except the complaining witness, an alleged eyewitness, or a law enforcement officer to whom the defendant is alleged to have made an incriminating statement, to be conducted by means of telephonic, voice, or video conferencing. The testimony taken by video conferencing shall be admissible in any subsequent trial or hearing as otherwise permitted by law.

History: Add. 2004, Act 20, Imd. Eff. Mar. 4, 2004;—Am. 2014, Act 123, Imd. Eff. May 20, 2014.

Compiler's note: Enacting section 1 of Act 123 of 2014 provides:
"Enacting section 1. This amendatory act applies to cases in which the defendant is arraigned in district court or municipal court on or after January 1, 2015."

766.11b Rules of evidence; exception; hearsay testimony; "controlled substance" defined.

Sec. 11b. (1) The rules of evidence apply at the preliminary examination except that the following are not excluded by the rule against hearsay and shall be admissible at the preliminary examination without requiring the testimony of the author of the report, keeper of the records, or any additional foundation or authentication:

(a) A report of the results of properly performed drug analysis field testing to establish that the substance tested is a controlled substance.

(b) A certified copy of any written or electronic order, judgment, decree, docket entry, register of actions, or other record of any court or governmental agency of this state.

(c) A report other than a law enforcement report that is made or kept in the ordinary course of business.

(d) Except for the police investigative report, a report prepared by a law enforcement officer or other public agency. Reports permitted under this subdivision include, but are not limited to, a report of the findings of a technician of the division of the department of state police concerned with forensic science, a laboratory report, a medical report, a report of an arson investigator, and an autopsy report.

(2) The magistrate shall allow the prosecuting attorney or the defense to subpoena and call a witness from whom hearsay testimony was introduced under this section on a satisfactory showing to the magistrate that live testimony will be relevant to the magistrate's decision whether there is probable cause to believe that a felony has been committed and probable cause to believe that the defendant committed the felony.

(3) As used in this section, "controlled substance" means that term as defined under section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

History: Add. 2007, Act 89, Eff. Dec. 29, 2007;—Am. 2014, Act 123, Imd. Eff. May 20, 2014.

Compiler's note: Enacting section 1 of Act 123 of 2014 provides:
"Enacting section 1. This amendatory act applies to cases in which the defendant is arraigned in district court or municipal court on or after January 1, 2015."

766.12 Evidence for defense; examination, cross-examination of witnesses.

Sec. 12. After the testimony in support of the prosecution has been given, the witnesses for the prisoner, if he have any, shall be sworn, examined and cross-examined and he may be assisted by counsel in such examination and in the cross-examination of the witnesses in support of the prosecution.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17204;—CL 1948, 766.12.

Former law: See section 14 of Ch. 163 of R.S. 1846, being CL 1857, § 5990; CL 1871, § 7856; How., § 9467; CL 1897, § 11851; and CL 1915, § 15678.

766.13 Discharge of defendant or reduction of charge; binding defendant to appear for arraignment.

Sec. 13. If the magistrate determines at the conclusion of the preliminary examination that a felony has not been committed or that there is not probable cause for charging the defendant with committing a felony, the magistrate shall either discharge the defendant or reduce the charge to an offense that is not a felony. If the magistrate determines at the conclusion of the preliminary examination that a felony has been committed and that there is probable cause for charging the defendant with committing a felony, the magistrate shall forthwith bind the defendant to appear within 14 days for arraignment before the circuit court of that county, or the magistrate may conduct the circuit court arraignment as provided by court rule.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17205;—CL 1948, 766.13;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 2014, Act 123, Imd. Eff. May 20, 2014.

Compiler's note: Section 2 of Act 63 of 1974 provides:
"Effective date.
"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

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Enacting section 1 of Act 123 of 2014 provides:

"Enacting section 1. This amendatory act applies to cases in which the defendant is arraigned in district court or municipal court on or after January 1, 2015."

Former law: See section 17 of Ch. 163 of R.S. 1846, being CL 1857, § 5993; CL 1871, § 7859; How., § 9470; CL 1897, § 11854; and CL 1915, § 15681.

766.14 Proceedings where offense charged not felony; transfer of case to family division of circuit court; waiver of jurisdiction; "specified juvenile violation" defined.

Sec. 14. (1) If the court determines at the conclusion of the preliminary examination of a person charged with a felony that the offense charged is not a felony or that an included offense that is not a felony has been committed, the accused shall not be dismissed but the magistrate shall proceed in the same manner as if the accused had initially been charged with an offense that is not a felony.

(2) If at the conclusion of the preliminary examination of a juvenile the magistrate finds that a specified juvenile violation did not occur or that there is not probable cause to believe that the juvenile committed the violation, but that there is probable cause to believe that some other offense occurred and that the juvenile committed that other offense, the magistrate shall transfer the case to the family division of circuit court of the county where the offense is alleged to have been committed.

(3) A transfer under subsection (2) does not prevent the family division of circuit court from waiving jurisdiction over the juvenile under section 4 of chapter XIIA of 1939 PA 288, MCL 712A.4.

(4) As used in this section, "specified juvenile violation" means any of the following:

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

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

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

(*ii*) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

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

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

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

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

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

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

(e) An attempt to commit a violation described in subdivisions (a) to (d).

(f) Conspiracy to commit a violation described in subdivisions (a) to (d).

(g) Solicitation to commit a violation described in subdivisions (a) to (d).

(h) Any lesser included offense of a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

(i) Any other violation arising out of the same transaction as a violation described in subdivisions (a) to (g) if the individual is charged with a violation described in subdivisions (a) to (g).

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17206;—CL 1948, 766.14;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 1988, Act 67, Eff. Oct. 1, 1988;—Am. 1994, Act 195, Eff. Oct. 1, 1994;—Am. 1996, Act 255, Eff. Jan. 1, 1997;—Am. 1996, Act 418, Eff. Jan. 1, 1998;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 2 of Act 63 of 1974 provides:

"Effective date.

"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

Section 3 of Act 67 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 173 of

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1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

766.15 Certification and return of examinations and recognizances; effect of refusing or neglecting to return examinations and recognizances; written demand or motion to prepare or file written transcript of testimony of preliminary examination; listening to electronically recorded testimony, copy of recording tape or disc, or stenographer's notes.

Sec. 15. (1) Except as provided in subsection (2) or (3), all examinations and recognizances taken by a magistrate pursuant to this chapter shall be immediately certified and returned by the magistrate to the clerk of the court before which the party charged is bound to appear. If that magistrate refuses or neglects to return the same, the magistrate may be compelled immediately by order of the court, and in case of disobedience may be proceeded against as for a contempt by an order to show cause or a bench warrant.

(2) A written transcript of the testimony of a preliminary examination need not be prepared or filed except upon written demand of the prosecuting attorney, defense attorney, or defendant if the defendant is not represented by an attorney, or as ordered sua sponte by the trial court. A written demand to prepare and file a written transcript is timely made if filed within 2 weeks following the arraignment on the information or indictment. A copy of a demand to prepare and file a written transcript shall be filed with the trial court, all attorneys of record, and the court which held the preliminary examination. Upon sua sponte order of the trial court or timely written demand of an attorney, a written transcript of the preliminary examination or a portion thereof shall be prepared and filed with the trial court.

(3) If a written demand is not timely made as provided in subsection (2), a written transcript need not be prepared or filed except upon motion of an attorney or a defendant who is not represented by an attorney, upon cause shown, and when granting of the motion would not delay the start of the trial. When the start of the trial would otherwise be delayed, upon good cause shown to the trial court, in lieu of preparation of the transcript or a portion thereof, the trial court may direct that the defense and prosecution shall have an opportunity before trial to listen to any electronically recorded testimony, a copy of the recording tape or disc, or a stenographer's notes being read back.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17207;—CL 1948, 766.15;—Am. 1978, Act 155, Eff. July 1, 1978.

Former law: See section 25 of Ch. 163 of R.S. 1846, being CL 1857, § 6001; CL 1871, § 7867; How., § 9478; CL 1897, § 11862; and CL 1915, § 15689.

766.15a, 766.15b Repealed. 1951, Act 170, Eff. Sept. 28, 1951.

Compiler's note: The repealed sections provided for mental examination of any person charged with murder, and set penalty for failure of any clerk of court to notify state hospital commission as to fact of binding over of person charged with murder.

766.15c Repealed. 1966, Act 266, Eff. Mar. 10, 1967.

Compiler's note: The repealed section provided for commitment to state hospital for criminally insane for life of one acquitted of murder by reason of insanity, subject to discharge by governor.

766.15d Repealed. 1951, Act 170, Eff. Sept. 28, 1951.

Compiler's note: The repealed section defined psychiatrist under section providing for mental examination of persons charged with murder.

766.16 Default of recognizance; record; procedure.

Sec. 16. If the person recognized according to the provisions of this chapter shall not appear before the magistrate at the time appointed for his further examination, the magistrate shall record the default, and shall certify the recognizance, with the record of such default, to the court to which the accused might otherwise have been held for trial, and the like proceedings shall be had thereon as upon the breach of the condition of a recognizance for appearance before such court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17208;—CL 1948, 766.16.

Former law: See section 12 of Ch. 163 of R.S. 1846, being CL 1857, § 5988; CL 1871, § 7854; How., § 9465; CL 1897, § 11849; and CL 1915, § 15676.

766.17 Admission to bail after commitment to jail; discharge of prisoner.

Sec. 17. Whenever no sufficient bail is offered, and the prisoner is committed to jail, the magistrate before whom the examination was had, shall certify upon the mittimus issued by him, the sum for which bail was required, and if the prisoner shall offer sufficient bail for such sum to the clerk of the court wherein the prisoner was committed for trial, it shall be taken by said clerk and the prisoner shall be discharged.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17209;—CL 1948, 766.17.

Former law: See section 33 of Ch. 163 of R.S. 1846, being CL 1871, § 7875; How., § 9486; CL 1897, § 11870; CL 1915, § 15697;

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and Act 159 of 1859.

766.18 Admission to bail after commitment to jail; clerk of court, authority.

Sec. 18. The clerk of the court to whom such bail is offered, is authorized and required to examine the person or persons offered for bail on oath as to their pecuniary responsibility, and if he shall be satisfied with the same, to take bail and certify and return the recognizance in the same manner and to the same effect as the magistrate might have done.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17210;—CL 1948, 766.18.

Former law: See section 34 of Ch. 163 of R.S. 1846, being CL 1871, § 7876; How., § 9487; CL 1897, § 11871; CL 1915, § 15698; and Act 159 of 1859 .

766.19-766.22 Repealed. 1994, Act 63, Eff. July 1, 1994.

Compiler's note: The repealed sections pertained to discharge of accused and recognizance in misdemeanor cases where injured party receives satisfaction.

CHAPTER VII
GRAND JURIES, INDICTMENTS, INFORMATIONS AND PROCEEDINGS BEFORE TRIAL

767.1 Courts of record; jurisdiction over prosecutions upon information.

Sec. 1. The several circuit courts of this state, the recorders' courts and any court of record having jurisdiction of criminal causes, shall possess and may exercise the same power and jurisdiction to hear, try and determine prosecutions upon informations for crimes, misdemeanors and offenses, to issue writs and process and do all other acts therein as they possess and may exercise in cases of like prosecutions upon indictments.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17215;—CL 1948, 767.1.

Former law: See sections 1 and 9 of Act 138 of 1859, being CL 1871, §§ 7937 and 7945; How., §§ 9548 and 9556; CL 1897, §§ 11933 and 11941; and CL 1915, §§ 15760 and 15768.

767.2 Applicability of indictment laws to informations.

Sec. 2. All provisions of the law applying to prosecutions upon indictments, to writs and process therein and the issuing and service thereof, to commitments, bail, motions, pleadings, trials, appeals and punishments, or the execution of any sentence, and to all other proceedings in cases of indictments whether in the court of original or appellate jurisdiction, shall, in the same manner and to the same extent as near as may be, be applied to informations and all prosecutions and proceedings thereon.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17216;—CL 1948, 767.2.

Former law: See section 4 of Act 138 of 1859, being CL 1871, § 7940; How., § 9551; CL 1897, § 11936; and CL 1915, § 15763.

767.3 Proceedings before trial; inquiry; summoning witnesses; notification to judge; taking testimony; legal counsel; disqualification of judge.

Sec. 3. Whenever by reason of the filing of any complaint, which may be upon information and belief, or upon the application of the prosecuting attorney or attorney general, any judge of a court of law and of record shall have probable cause to suspect that any crime, offense or misdemeanor has been committed within his jurisdiction, and that any persons may be able to give any material evidence respecting such suspected crime, offense or misdemeanor, such judge in his discretion may make an order directing that an inquiry be made into the matters relating to such complaint, which order, or any amendment thereof, shall be specific to common intent of the scope of the inquiry to be conducted, and thereupon conduct such inquiry. In any court having more than 1 judge such order and the designation of the judge to conduct the inquiry shall be made in accordance with the rules of such court. Thereupon such judge shall require such persons to attend before him as witnesses and answer such questions as the judge may require concerning any violation of law about which they may be questioned within the scope of the order. The proceedings to summon such witness and to compel him to testify shall, as far as possible, be the same as proceedings to summon witnesses and compel their attendance and testimony. The witnesses shall not receive any compensation or remuneration other than witness fees as paid witnesses in other criminal proceedings. The witness shall not be employed in any capacity by the judge or by any person connected with such inquiry, within the scope of the inquiry being conducted. Whenever a subpoena is issued by the judge conducting the inquiry, commanding the appearance of a witness before the judge forthwith upon the service of such subpoena, and, following the service thereof, the witness arrives at the time and place stated in the subpoena, the judge issuing the same shall be forthwith notified of the appearance by the officer serving the subpoena, and the judge forthwith shall appear and take the testimony of the witness. Any person called before the grand jury shall at all times be entitled to legal

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counsel not involving delay and he may discuss fully with his counsel all matters relative to his part in the inquiry without being subject to a citation for contempt. The witness shall have the right to have counsel present in the room where the inquiry is held. All matters revealed to the attorney shall be subject to the requirements of secrecy in section 4, and any revelation thereof by the attorney shall make him subject to punishment as provided in section 4. No testimony shall be taken or given by any witness except in the presence of the judge.

Any judge, prosecuting attorney or special prosecuting attorney, or the attorney general participating in any inquiry under this section which continues more than 30 calendar days shall thereafter be disqualified from appointment or election to any office other than one held at the time of the inquiry. The disqualification shall not extend more than 1 year from date of termination of the inquiry, as determined by final order of the judge entered prior to such date.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17217;—CL 1948, 767.3;—Am. 1949, Act 311, Eff. Sept. 23, 1949;—Am. 1951, Act 276, Eff. Sept. 28, 1951;—Am. 1965, Act 251, Imd. Eff. July 21, 1965.

Former law: See section 1 of Act 196 of 1917.

767.4 Proceedings before trial; apprehension of suspect; disqualification as examining magistrate; finding as to misconduct in office; disclosures, penalty, exceptions; report of no finding of criminal guilt; period of inquiry; successor judge, appointment.

Sec. 4. If upon such inquiry the judge shall be satisfied that any offense has been committed and that there is probable cause to suspect any person to be guilty thereof, he may cause the apprehension of such person by proper process and, upon the return of such process served or executed, the judge having jurisdiction shall proceed with the case, matter or proceeding in like manner as upon formal complaint. The judge conducting the inquiry under section 3 shall be disqualified from acting as the examining magistrate in connection with the hearing on the complaint or indictment, or from presiding at any trial arising therefrom, or from hearing any motion to dismiss or quash any complaint or indictment, or from hearing any charge of contempt under section 5, except alleged contempt for neglect or refusal to appear in response to a summons or subpoena. If upon such inquiry the judge shall find from the evidence that there is probable cause to believe that any public officer, elective or appointive and subject to removal by law, has been guilty of misfeasance or malfeasance in office or wilful neglect of duty or of any other offense prescribed as a ground of removal, the judge shall make a written finding setting up the offense so found and shall serve said finding upon the public officer, public board or body having jurisdiction under the law to conduct removal proceedings against the officer. The finding shall be a sufficient complaint as a basis for removal of said officer and the public officer, public board or public body having jurisdiction of removal proceedings against the officer shall proceed in the method prescribed by law for a hearing and determination of said charges. Except in cases of prosecutions for contempt or perjury against witnesses who may have been summoned before the judge conducting such inquiry, or for the purpose of determining whether the testimony of a witness examined before the judge is consistent with or different from the testimony given by such witness before a court in any subsequent proceeding, or in cases of disciplinary action against attorneys and counselors in this state, any judge conducting the inquiry, any prosecuting attorney and other persons who may at the discretion of the judge be admitted to such inquiry, who shall while conducting such inquiry or while in the services of the judge or after his services with the judge shall have been discontinued, utter or publish any statement pertaining to any information or evidence involved in the inquiry, or who shall disclose the fact that any indictment for a felony has been found against any person not in custody or under recognizance, or who shall disclose that any person has been questioned or summoned in connection with the inquiry, who shall disclose or publish or cause to be published any of the proceedings of the inquiry otherwise than by issuing or executing processes prior to the indictment, or shall disclose, publish or cause to be published any comment, opinion or conclusions related to the proceedings of the inquiry, shall be guilty of a misdemeanor punishable by imprisonment in the county jail not more than 1 year or by a fine of not less than $100.00 nor more than $1,000.00, or both fine and imprisonment in the discretion of the court, and the offense when committed by a public official shall also constitute malfeasance in office. The limitations, restrictions and penalties relating to the uttering, publishing or disclosing of any statement pertaining to any information or evidence, imposed by this section, do not apply to disclosures of information or evidence made by a judge conducting such an investigation to another judge concurrently conducting an investigation as provided in section 3. Upon the termination of the inquiry if the judge shall make no presentment of crime or wrongdoing as to any person whose apprehension or removal from office he has not so caused, he may, in his discretion, with the consent of the person who may be named, file with the clerk of the county in which such inquiry has been conducted, a report of no finding of criminal guilt as to any person or persons involved in such inquiry, either as witness or otherwise, whose involvement in such inquiry has become public.

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No inquiry or proceeding under this chapter shall continue longer than 6 months unless extended by specific order of the judge or his successor for an additional period not to exceed 6 months.

In the event any judge conducting such inquiry shall be unable to continue because of physical disability, disqualification, termination of office or death, the presiding circuit judge of Michigan shall appoint a successor.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17218;—Am. 1947, Act 33, Imd. Eff. Apr. 4, 1947;—CL 1948, 767.4;—Am. 1949, Act 311, Eff. Sept. 23, 1949;—Am. 1951, Act 276, Eff. Sept. 28, 1951;—Am. 1967, Act 70, Eff. Nov. 2, 1967.

Former law: See section 2 of Act 196 of 1917 and Act 395 of 1921.

767.4a Proceedings before trial; unlawful use or possession of testimony, exhibits or proceedings; exceptions, penalty.

Sec. 4a. It shall be unlawful for any person, firm or corporation to possess, use, publish, or make known to any other person any testimony, exhibits or secret proceedings obtained or used in connection with any grand jury inquiry conducted prior to the effective date of this act, except in the manner specifically provided herein, and also excepting any information heretofore disclosed before any investigating committee of the Congress of the United States or any agency of the federal government. Any person violating the provisions of this section shall be guilty of a felony.

History: Add. 1951, Act 276, Eff. Sept. 28, 1951.

767.5 Proceedings before trial; failure of witnesses to appear or answer questions; hearing, penalty; commutation or suspension of sentence.

Sec. 5. Any witness neglecting or refusing to appear in response to such summons or to answer any questions which such judge may require as material to such inquiry, shall be deemed guilty of a contempt and after a public hearing in open court and conviction of such contempt, shall be punished by a fine not exceeding $1,000.00 or imprisonment in the county jail not exceeding 1 year or both at the discretion of the court: Provided, That if such witness after being so sentenced shall offer to appear before such judge to purge himself of such contempt, the judge shall cause such witness to be brought before him and, after examination of such witness, the judge may in his discretion commute or suspend the further execution of such sentence.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17219;—CL 1948, 767.5;—Am. 1949, Act 311, Eff. Sept. 23, 1949;—Am. 1951, Act 276, Eff. Sept. 28, 1951.

Constitutionality: This section, in regard to a contemnor appearing before a judge to purge himself and the discretion of the judge to commute or suspend further execution of a sentence, insofar as criminal contempt is concerned, constitutes an unconstitutional delegation by the legislature to the judicial branch of government of a power which exists only in the executive. People v Joseph, 384 Mich 24; 179 NW2d 383 (1970).

Former law: See section 3 of Act 196 of 1917.

767.5a Disclosing identity of informant; privileged and confidential communications.

Sec. 5a. (1) a reporter or other person who is involved in the gathering or preparation of news for broadcast or publication shall not be required to disclose the identity of an informant, any unpublished information obtained from an informant, or any unpublished matter or documentation, in whatever manner recorded, relating to a communication with an informant, in any inquiry authorized by this act, except an inquiry for a crime punishable by imprisonment for life when it has been established that the information which is sought is essential to the purpose of the proceeding and that other available sources of the information have been exhausted.

(2) Any communications between attorneys and their clients, between members of the clergy and the members of their respective churches, and between physicians and their patients are hereby declared to be privileged and confidential when those communications were necessary to enable the attorneys, members of the clergy, or physicians to serve as such attorney, member of the clergy, or physician.

History: Add. 1949, Act 311, Eff. Sept. 23, 1949;—Am. 1951, Act 276, Eff. Sept. 28, 1951;—Am. 1986, Act 293, Imd. Eff. Dec. 22, 1986.

Compiler's note: At the beginning of subsection (1) of this section, “a” evidently should read “A”.

767.6 Incriminating answers of witnesses; order granting immunity; use of truthful testimony or other information against witness in criminal case; transcript; applicability of secrecy provisions; scope of order.

Sec. 6. (1) Upon inquiry, a witness shall not be required to answer any questions or be convicted for contempt upon refusal to do so If the answers might tend to incriminate him or her.

(2) Upon written motion by the prosecuting attorney or a duly authorized representative of the state in a proceeding described in section 3 of this chapter, the judge may enter a written order granting immunity to the

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witness. The order shall set forth verbatim the questions the witness refused to answer. A true copy of the motion and order shall be delivered to the witness before he or she answers the questions in the inquiry. The order granting immunity shall extend to all related questions which may be asked of the witness after entry of the order until the judge advises the witness that the immunity no longer applies.

(3) Truthful testimony compelled under the order granting immunity and any information derived directly or indirectly from that truthful testimony shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to comply with the order.

(4) All questions and the witness's answers shall be transcribed under the judge's direction. A true copy of the transcript, duly certified by the judge, shall be delivered to the witness as soon as practicable.

(5) The provisions for secrecy provided for in section 3 of this chapter apply to all copies of the motion, order, and transcript delivered to the witness. However, the witness may disclose that information to his or her attorney if his or her testimony or any information derived directly or indirectly from that testimony is used against the witness in violation of subsection (3).

(6) An order granting immunity does not extend beyond the scope of an inquiry described in this section or beyond the particular questions set forth in the motion, order, or transcript.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17220;—CL 1948, 767.6;—Am. 1949, Act 311, Eff. Sept. 23, 1949;—Am. 1951, Act 276, Eff. Sept. 28, 1951;—Am. 1999, Act 250, Imd. Eff. Dec. 28, 1999.

Former law: See section 4 of Act 196 of 1917.

767.6a Docket, journal, transcript and record; seal and file; violation of secrecy; available in connection with appeal, order, receipt; destruction of transcripts, notes and records.

Sec. 6a. On termination of any such inquiry lasting not more than 30 calendar days the docket, journal, reporters' notes, transcript and other record of such judge in such inquiry shall be sealed and filed with the clerk of the court having jurisdiction; and if lasting more than 30 calendar days shall be sealed and filed with the clerk of the supreme court of the state of Michigan, where it shall be held secretly in a separate container securely locked. Any person who shall violate the secrecy herein ordered as to such docket, journal, transcript and record shall be punished as provided in section 4 hereof. And the entire transcript and record as to any witness, and so far as material, including any grant of immunity, shall be available to such witness in connection with any appeal or other judicial proceeding where it may be relevant upon such witness filing a petition with the circuit court of the county in which he resides setting forth the proceeding for which such documents are sought and describing the portions of such transcript and record as to such witness only, which such witness requested for such appeal or proceeding; the judge of such circuit court shall issue an order upon the filing of such petition directed to the clerk of the supreme court of the state of Michigan or the clerk of the court, as the case may be, ordering such clerk to make available to such witness all such portions of the transcript and record as shall pertain to such witness and as set forth in the petition. The clerk shall immediately reseal the remaining transcript and records after compliance with such order. The petitioner shall execute to the clerk of the supreme court a receipt for such documents and such documents shall be returned to the clerk immediately upon the termination of such appeal or proceeding for which the same shall have been obtained: Provided, however, upon the petition of the prosecuting attorney of the county in which such inquiry was conducted, or any other interested person, any circuit judge, acting as such in said county, upon determining that there is no further need for preserving and retaining the same, shall enter an order providing for the referring to the supreme court, for the entry of such order or orders as a majority of the court may at any time determine, for the destruction of said transcripts, notes and records, or any part thereof: Provided further, That no such order shall be entered by such circuit judge until at least 6 years after the termination of such inquiry.

History: Add. 1951, Act 276, Eff. Sept. 28, 1951.

767.6b Public accounting by judge; time, filing.

Sec. 6b. Within 90 days after the termination of such inquiry, such judge shall file with the clerk of the court having jurisdiction a public accounting of all monies disbursed by him or disbursed at his direction.

History: Add. 1951, Act 276, Eff. Sept. 28, 1951.

767.7 Grand jury; summoning, procedure.

Sec. 7. Grand juries shall not hereafter be drawn, summoned or required to attend at the sittings of any court within this state, as provided by law, unless the judge thereof shall so direct by writing under his hand, and filed with the clerk of said court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17221;—CL 1948, 767.7.

Former law: See section 7 of Act 138 of 1859, being CL 1871, § 7943; How., § 9554; CL 1897, § 11939; and CL 1915, § 15766.

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767.7a Grand jurors; term of service; recalling.

Sec. 7a. Notwithstanding the provisions of section 1343 of Act No. 236 of the Public Acts of 1961, as added, being section 600.1343 of the Compiled Laws of 1948, the term of service of grand jurors shall be 6 months unless extended by specific order of the judge who summoned such jurors or his successor for an additional period not to exceed 6 months, except that the grand jurors may be recalled at any time by the judge who summoned such jurors or by his successor to conclude business commenced during their term of service.

History: Add. 1970, Act 9, Imd. Eff. Mar. 26, 1970.

767.7b Grand jury; petition by attorney general or county prosecuting attorneys to convene; jurisdiction; contents of petition.

Sec. 7b. (1) The attorney general may petition the court of appeals of this state to convene a grand jury with jurisdiction over 2 or more counties in this state.

(2) Two or more attorneys who are county prosecuting attorneys in this state may, with the approval of the attorney general, petition the court of appeals of this state to convene a grand jury with jurisdiction over all of the counties in which they are prosecuting attorneys.

(3) A petition to the court of appeals under this section shall contain all of the following:

(a) The name and official title of each petitioner.

(b) The name of each county over which the grand jury is to have jurisdiction.

(c) A statement setting forth probable cause to believe that a crime, or a portion of that crime, has been committed in 2 or more of the counties named in the petition.

(d) A statement setting forth the reasons to convene a grand jury with jurisdiction over all of the counties named in the petition.

(e) The signature of each petitioner.

(f) The date of the petition.

History: Add. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

767.7c Grand jury convened by court of appeals; procedure; jurisdiction.

Sec. 7c. The court of appeals of this state, acting in a 3-judge panel consistent with the Michigan court rules, may convene a grand jury with jurisdiction over 2 or more counties in this state as follows:

(a) If a petition is filed under section 7b(1) by the attorney general, the court of appeals may convene a grand jury with jurisdiction over 2 or more of the counties named in the petition.

(b) If a petition is filed under section 7b(2) by 2 or more attorneys who are county prosecuting attorneys in this state, the court of appeals may convene a grand jury with jurisdiction over 2 or more of the counties named in the petition in which the attorneys are prosecuting attorneys.

History: Add. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

767.7d Grand jury convened by court of appeals; circumstances.

Sec. 7d. The court of appeals may convene a grand jury under section 7c with jurisdiction over 2 or more counties in this state if a petition is properly filed under section 7b, and all of the following circumstances exist:

(a) The petition establishes probable cause to believe that a crime, or a portion of that crime, has been committed in 2 or more of the counties named in the petition.

(b) The petition establishes reason to believe that a grand jury with jurisdiction over 2 or more of the counties named in the petition could more effectively address the criminal activity referred to in the petition than could a grand jury with jurisdiction over 1 of those counties.

History: Add. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

767.7e Grand jury convened by court of appeals; duties of court of appeals.

Sec. 7e. If the court of appeals convenes a grand jury with jurisdiction over 2 or more counties, the court of appeals shall do all of the following:

(a) Designate a judge of the circuit court or of the recorder's court to preside over the grand jury proceedings.

(b) If the petition to convene the grand jury was filed under section 7b(2), designate the prosecuting attorney of 1 of the counties over which the grand jury is to have jurisdiction to assist the grand jury.

(c) Designate the counties from which the jurors shall be drawn from among the counties over which the grand jury is to have jurisdiction.

(d) Designate the number of jurors to be drawn for the grand jury and the number of jurors to be drawn

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from each county.

(e) Designate the locations for the grand jury proceedings.

History: Add. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

767.7f Grand jury convened by court of appeals; term; extension; dismissal; recall.

Sec. 7f. (1) Except as provided in subsection (2), the term of a grand jury convened under section 7c shall not exceed 6 months.

(2) The court of appeals of this state may order the term of the grand jury extended for an additional period not to exceed 6 months, for good cause shown. The judge presiding over the grand jury proceedings shall dismiss the grand jury upon completion of the functions of the grand jury whether or not the maximum term of the grand jury has been met. The grand jurors may be recalled at any time by the presiding judge or his or her successor to conclude business commenced during their term of service.

History: Add. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

767.7g Grand jury convened by court of appeals; expansion of jurisdiction; petition.

Sec. 7g. (1) If a grand jury has been convened under section 7c(a), and the attorney general seeks to expand the jurisdiction of the grand jury to include 1 or more additional counties, the attorney general may petition the court of appeals under section 7b(1) to convene a grand jury which includes the additional county or counties. If the petition is granted, the court of appeals shall convene a new grand jury pursuant to section 7e and shall dismiss the existing grand jury.

(2) If a grand jury has been convened under section 7c(b) and the prosecuting attorneys of all of the counties over which the grand jury has jurisdiction seek to expand the jurisdiction of the grand jury to include 1 or more additional counties, the prosecuting attorneys of the counties over which the grand jury had jurisdiction and the prosecuting attorneys of the additional counties may, with the approval of the attorney general, petition the court of appeals under section 7b(2) to convene a grand jury with jurisdiction over all of those counties. If the petition is granted, the court of appeals shall convene a new grand jury pursuant to section 7e and shall dismiss the existing grand jury.

History: Add. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

767.8 Grand jury; juror; grounds for discharge; summoning new juror.

Sec. 8. Any court in which a grand jury may be sitting, may discharge any of the grand jurors for intoxication or other gross misconduct; and in case of such discharge, or in case of the sickness, death or non-attendance of any grand juror, after he shall have been sworn, the court may cause another juror to be summoned from among the bystanders, or inhabitants of the city, township or village having the qualifications required by law, and to be sworn and to serve in his stead.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17222;—CL 1948, 767.8.

Former law: See section 1 of Ch. 164 of R.S. 1846, being CL 1857, § 6010; CL 1871, § 7879; How., § 9490; CL 1897, § 11875; and CL 1915, § 15702.

767.9 Grand jurors; alphabetical list; administration and form of oath.

Sec. 9. The clerk of the court shall prepare an alphabetical list of all the persons returned as grand jurors. When the jury is to be impaneled, the following oath shall be administered to the jurors: “You as grand jurors of this inquest do solemnly swear that you will diligently inquire and true presentment make of all such matters and things as shall be given you in charge; your own counsel and the counsel of the people, and of your fellows, you shall keep secret; you shall present no person for envy, hatred or malice, neither shall you leave any person unpresented for love, fear, favor, affection or hope of reward; but you shall present things truly, as they come to your knowledge, according to the best of your understanding; so help you God”.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17223;—CL 1948, 767.9;—Am. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

Former law: See sections 2 and 3 of Ch. 164 of R.S. 1846, being CL 1857, §§ 6011 and 6012; CL 1871, §§ 7880 and 7881; How., §§ 9491 and 9492; CL 1897, §§ 11876 and 11877; and CL 1915, §§ 15703 and 15704.

767.10 Grand jury; affirmation in lieu of oath.

Sec. 10. Any person returned as a grand juror shall be allowed to make affirmation, substituting the word “affirm” instead of the word “swear”; and also the words, “this you do under the pains and penalties of perjury”, instead of the words “so help you God”.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17224;—CL 1948, 767.10.

Former law: See section 4 of Ch. 164 of R.S. 1846, being CL 1857, § 6013; CL 1871, § 7882; How., § 9493; CL 1897, § 11878; and CL 1915, § 15705.

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767.11 Grand jury; size; foreman, appointment.

Sec. 11. There shall be no more than 17 persons nor less than 13 persons sworn on any grand jury; and after such jurors have been impaneled and have received their charge from the court, they shall retire with the officer appointed to attend them and before they proceed to discharge the duties of their office, the court shall appoint 1 of their number to be foreman and the clerk shall record the same.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17225;—CL 1948, 767.11;—Am. 1970, Act 9, Imd. Eff. Mar. 26, 1970.

Former law: See section 5 of Ch. 164 of R.S. 1846, being CL 1857, § 6014; CL 1871, § 7883; How., § 9494; CL 1897, § 11879; and CL 1915, § 15706.

767.12 Grand jury; foreman; term, vacancy.

Sec. 12. The foreman appointed by the court in the manner provided in the preceding section, shall be foreman during the whole time they are required to serve; but in case of his death or absence or if he shall be discharged, or excused before the grand jury shall be dismissed, another of such jurors shall be appointed foreman for the residue of such time of service.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17226;—CL 1948, 767.12.

Former law: See section 6 of Ch. 164 of R.S. 1846, being CL 1857, § 6015; CL 1871, § 7884; How., § 9495; CL 1897, § 11880; and CL 1915, § 15707.

767.13 Grand jury; juror; grounds of objection to competency.

Sec. 13. A person held to answer to any criminal charge may object to the competency of any 1 summoned to serve as a grand juror, on the ground that he is the prosecutor or complainant upon any charge against such person; and if such objection be established, the person so summoned shall be set aside.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17227;—CL 1948, 767.13.

Former law: See section 7 of Ch. 164 of R.S. 1846, being CL 1857, § 6016; CL 1871, § 7885; How., § 9496; CL 1897, § 11881; and CL 1915, § 15708.

767.14 Grand jury; no challenge of array or individual juror in other cases.

Sec. 14. No challenge to the array of grand jurors, or to any person summoned as a grand juror, shall be allowed in any other case than that specified in the preceding section.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17228;—CL 1948, 767.14.

Former law: See section 8 of Ch. 164 of R.S. 1846, being CL 1857, § 6017; CL 1871, § 7886; How., § 9497; CL 1897, § 11882; and CL 1915, § 15709.

767.15 Grand jury; witnesses; administration of oath, list.

Sec. 15. The foreman of every grand jury, the attorney general and the prosecuting attorney, or other prosecuting officer who shall be before them, shall have authority to administer all oaths and affirmations, in the manner prescribed by law, to witnesses who shall appear before such jury for the purpose of testifying in any matter of which they may have cognizance, and the foreman shall return to the court, or deliver to the prosecuting officer, a list of all the witnesses sworn before the grand jury in each case in which an indictment shall be found.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17229;—CL 1948, 767.15.

Former law: See section 9 of Ch. 164 of R.S. 1846, being CL 1857, § 6018; CL 1871, § 7887; How., § 9498; CL 1897, § 11883; and CL 1915, § 15710.

767.16 Grand jury; clerk, stenographer; appointment, duties.

Sec. 16. The grand jury may appoint 1 of their number to be their clerk, to preserve minutes of their proceedings and of evidence given before them; which minutes shall be delivered to the prosecuting officer, when so directed by the grand jury. Whenever it appears to the judge that it is necessary he may appoint a stenographer to take the testimony given before the grand jury.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17230;—CL 1948, 767.16.

Former law: See section 10 of Ch. 164 of R.S. 1846, being CL 1857, § 6019; CL 1871, § 7888; How., § 9499; CL 1897, § 11884; and CL 1915, § 15711.

767.17 Grand jury; summoning after dismissal.

Sec. 17. When the grand jury attending any court shall have been dismissed before the court is adjourned without day, they may be summoned to attend again, in the same term at such time as the court shall direct, for the dispatch of any business that may come before them.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17231;—CL 1948, 767.17.

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Former law: See section 11 of Ch. 164 of R.S. 1846, being CL 1857, § 6020; CL 1871, § 7889; How., § 9500; CL 1897, § 11885; and CL 1915, § 15712.

767.18 Grand jury; disclosure of indictment for felony.

Sec. 18. No grand juror, stenographer or officer of the court shall disclose the fact that any indictment for a felony has been found against any person not in custody or under recognizance, otherwise than by issuing or executing process on such indictment, until such person has been arrested.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17232;—CL 1948, 767.18.

Former law: See section 12 of Ch. 164 of R.S. 1846, being CL 1857, § 6021; CL 1871, § 7890; How., § 9501; CL 1897, § 11886; and CL 1915, § 15713.

767.19 Grand jury; testimony to certain facts required.

Sec. 19. Members of the grand jury may be required by any court to testify, whether the testimony of a witness examined before such jury is consistent with, or different from the evidence given by such witness before such court; and they may also be required to disclose the testimony given before them by any person, upon complaint against such person for perjury, or upon his trial for such offense; but in no case can a member of a grand jury be obliged or allowed to testify or declare in what manner he or any other member of the jury voted on any question before them, or what opinions were expressed by any juror in relation to any such question.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17233;—CL 1948, 767.19.

Former law: See section 13 of Ch. 164 of R.S. 1846, being CL 1857, § 6022; CL 1871, § 7891; How., § 9502; CL 1897, § 11887; and CL 1915, § 15714.

767.19a Grand jury; order granting immunity to persons giving testimony; application; verified petition; entry of order.

Sec. 19a. The prosecuting attorney may apply to the judge who summoned the jury or his or her successor, or to the presiding judge, for an order granting immunity to any person designated by name and address in the application who might give testimony concerning any matter before the grand jury. The application shall be accompanied by a verified petition of the prosecuting attorney that sets forth the facts upon which the application is based. If the judge to whom the application is presented is satisfied that it is in the interest of justice that immunity be granted to that person, the judge shall enter an order granting immunity to the person, if the person appears before the grand jury and testifies under oath about any matter before the grand jury and set forth in the petition of the prosecuting attorney.

History: Add. 1970, Act 9, Imd. Eff. Mar. 26, 1970;—Am. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

767.19b Delivery of immunity order to witness; use of truthful testimony or other information against witness in criminal case; transcript; duration of order granting immunity.

Sec. 19b. (1) A true copy of the order granting immunity shall be delivered to the witness before he or she answers any questions before the grand jury.

(2) Truthful testimony or other information compelled under the order granting immunity and any information derived directly or indirectly from that truthful testimony or other information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to comply with the order.

(3) All questions asked of the witness and his or her answers shall be transcribed. If a witness who has been granted immunity subsequently alleges that he or she is being prosecuted for an offense in violation of the grant of immunity, a true copy of the transcript, duly certified by an officer authorized to administer oaths, shall be delivered to the witness as soon as practicable.

(4) The order granting immunity shall continue in effect until the judge who summoned the jury or his or her successor, in his or her discretion and upon the prosecuting attorney's application, enters an order terminating the order granting immunity and informs the witness of the order of termination.

History: Add. 1970, Act 9, Imd. Eff. Mar. 26, 1970;—Am. 1999, Act 250, Imd. Eff. Dec. 28, 1999.

767.19c Grand jury; witness, failing to appear, contempt; penalty; purging.

Sec. 19c. Any witness who neglects or refuses to appear or testify or both in response to a summons of the grand jury or to answer any questions before the grand jury concerning any matter or thing of which the witness has knowledge concerning matters before the grand jury after service of a true copy of an order granting the witness immunity as to such matters shall be guilty of a contempt and after a public hearing in open court and conviction of such contempt shall be fined not exceeding $10,000.00 or imprisoned not exceeding 1 year, or both. If the witness thereafter appears before the court to purge himself of such contempt,

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the court shall order the recalling of the grand jury to afford such opportunity, and after appearance of the witness before the grand jury upon a transcript of the testimony there and then given, the witness shall be brought before the court and after examination, the court shall determine whether the witness has purged himself of the contempt and shall commute the sentence upon a finding that the witness has purged himself.

History: Add. 1970, Act 9, Imd. Eff. Mar. 26, 1970.

Constitutionality: In People v David Johnson, 407 Mich 134; 283 NW2d 632 (1979), the Michigan supreme court held that an indigent witness has a right under the due process clause of the Michigan constitution to the assistance and appointment of counsel at contempt proceedings in respect to a citizens' grand jury which may result in incarceration.

767.19d Grand jury; perjury.

Sec. 19d. A person who wilfully swears falsely under oath in regard to any matter or thing upon which he is being examined is subject to the penalties of perjury as prescribed by law.

History: Add. 1970, Act 9, Imd. Eff. Mar. 26, 1970.

767.19e Grand jury; right of witness to legal counsel; communications between witness and legal counsel.

Sec. 19e. A witness called before the grand jury is at all times entitled to legal counsel not involving delay. The witness may discuss fully with his or her legal counsel any matter relating to the witness's part in the inquiry without being subject to citation for contempt. The witness has the right to have legal counsel present in the room in which the inquiry is held. All communications between the witness and his or her legal counsel are subject to the requirements of section 19f, and any disclosure of those communications by the witness or his or her legal counsel in violation of section 19f is punishable as provided in section 19f.

History: Add. 1970, Act 9, Imd. Eff. Mar. 26, 1970;—Am. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

767.19f Grand jury; publication of testimony prohibited; penalty, exceptions.

Sec. 19f. (1) Except as otherwise provided by law, a person shall not publish or make known to any other person any testimony or exhibits obtained or used, or any proceeding conducted, in connection with any grand jury inquiry. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than $1,000.00, or both.

(2) Subsection (1) does not apply to any of the following:

(a) Communications between prosecuting officers for the purpose of presenting evidence before the grand jury, for the purpose of reviewing evidence presented to the grand jury for prospective prosecution, or for any other purpose involving the execution of a public duty.

(b) Communications between law enforcement officers in cases involving violations of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(3) Subsection (1) applies to, but its application is not limited to, applications and petitions for and orders of immunity and to any transcript of testimony that may be delivered to a witness pursuant to his or her grant of immunity, except that the witness may be privileged to disclose such application, petition, order, and transcript to his or her attorney.

History: Add. 1970, Act 9, Imd. Eff. Mar. 26, 1970;—Am. 2002, Act 114, Eff. May 1, 2002.

767.19g Furnishing testimony of witness to person indicted by grand jury.

Sec. 19g. (1) The testimony of any witness before the grand jury shall not be made available to any person indicted by such grand jury prior to the time of trial of the indictment except as otherwise provided by this section.

(2) After the filing of an indictment returned by a citizen's grand jury but prior to trial, upon motion of the defendant made not later than 20 days after the arraignment of the defendant on the indictment, the trial judge shall direct the prosecuting attorney to furnish to the defendant the testimony which the defendant gave before the grand jury relative to the offense with which he is charged and may direct the prosecuting attorney to furnish to the defendant the testimony which any witness who will testify at the trial gave before the grand jury relative to the offense with which the defendant is charged except those portions adjudged irrelevant, immaterial or excluded for other good cause shown. If the trial judge directs the prosecuting attorney to furnish to the defendant a copy of a witness's testimony, which has been requested in accordance with this subsection, the prosecuting attorney shall furnish such testimony not later than 10 days prior to the time of trial or shall not call that witness to testify at the defendant's trial.

(3) If the trial judge has not directed the prosecuting attorney to furnish a copy of a witness's testimony to the defendant prior to trial, then at such time during the course of the trial when the direct examination of such a witness has been completed, a copy of the witness's testimony before the grand jury relative to the offense

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with which the defendant is charged, upon the request of the defendant, shall be furnished by the prosecuting attorney to the defendant.

History: Add. 1970, Act 9, Imd. Eff. Mar. 26, 1970;—Am. 1972, Act 53, Imd. Eff. Feb. 21, 1972.

767.20 Grand jury; examination of witnesses; advice on legal matters.

Sec. 20. If requested by the grand jury, the prosecuting attorney or attorney general shall examine witnesses in the presence of the grand jury, and advise the grand jury on legal matters.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17234;—CL 1948, 767.20;—Am. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

Former law: See section 14 of Ch. 164 of R.S. 1846, being CL 1857, § 6023; CL 1871, § 7892; How., § 9503; CL 1897, § 11888; and CL 1915, § 15715.

767.21 Grand jury; prosecutor to subpoena witness.

Sec. 21. The prosecuting attorney and other prosecuting officers, may, in all cases, issue subpoenas for witnesses to appear and testify on behalf of the people of this state; and the subpoena, under the hand of such officer, shall have the same force and be obeyed in the same manner and under the same penalties, as if issued by the clerk or any magistrate.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17235;—CL 1948, 767.21.

Former law: See section 15 of Ch. 164 of R.S. 1846, being CL 1857, § 6024; CL 1871, § 7893; How., § 9504; CL 1897, § 11889; and CL 1915, § 15716.

767.22 Grand jury; appearances to give information; deliberations or vote of grand jury.

Sec. 22. The prosecuting attorney, attorney general, or other prosecuting officer, shall be allowed at all times to appear before the grand jury on his or her request to give information to the grand jury regarding any matter cognizable by the grand jury. No person other than a grand juror shall be present during the deliberations of the grand jury or during the vote of the grand jury upon any matter before the grand jury.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17236;—CL 1948, 767.22;—Am. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

Former law: See section 16 of Ch. 164 of R.S. 1846, being CL 1857, § 6025; CL 1871, § 7894; How., § 9505; CL 1897, § 11890; and CL 1915, § 15717.

767.23 Grand jury; indictment, vote required; true bill.

Sec. 23. No indictment can be found without the concurrence of at least 9 grand jurors; and when so found, and not otherwise, the foreman of the grand jury shall certify thereon, under his hand, that the same is a true bill.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17237;—CL 1948, 767.23;—Am. 1970, Act 9, Imd. Eff. Mar. 26, 1970.

Former law: See section 17 of Ch. 164 of R.S. 1846, being CL 1857, § 6026; CL 1871, § 7895; How., § 9506; CL 1897, § 11891; and CL 1915, § 15718.

767.23a Grand jury; indictment; specifying county where offense took place.

Sec. 23a. A grand jury convened under section 7c may indict a person for an offense committed in any county over which the grand jury has jurisdiction. If the grand jury indicts a person under this subsection, the grand jury shall specify in the indictment the county or counties in which the offense took place.

History: Add. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

767.24 Indictments; crimes; subsection (2) to be known as "Theresa Flores's Law"; subsection (4) to be known as Brandon D'Annunzio's law; findings and filing; limitations; extension or tolling.

Sec. 24. (1) An indictment for any of the following crimes may be found and filed at any time:

(a) Murder, conspiracy to commit murder, or solicitation to commit murder, or criminal sexual conduct in the first degree.

(b) A violation of chapter XXXIII of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a, that is punishable by imprisonment for life.

(c) A violation of chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h, that is punishable by imprisonment for life.

(d) A violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, that is punishable by imprisonment for life.

(2) An indictment for a violation or attempted violation of section 13, 462b, 462c, 462d, or 462e of the Michigan penal code, 1931 PA 328, MCL 750.13, 750.462b, 750.462c, 750.462d, and 750.462e, may be found and filed within 25 years after the offense is committed. This subdivision shall be known as "Theresa Flores's Law".

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(3) An indictment for a violation or attempted violation of section 145c, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c, 750.520c, 750.520d, 750.520e, and 750.520g, may be found and filed as follows:

(a) Except as otherwise provided in subdivision (b), an indictment may be found and filed within 10 years after the offense is committed or by the alleged victim's twenty-first birthday, whichever is later.

(b) If evidence of the offense is obtained and that evidence contains DNA that is determined to be from an unidentified individual, an indictment against that individual for the offense may be found and filed at any time after the offense is committed. However, after the individual is identified, the indictment may be found and filed within 10 years after the individual is identified or by the alleged victim's twenty-first birthday, whichever is later.

(c) As used in this subsection:

(*i*) "DNA" means human deoxyribonucleic acid.

(*ii*) "Identified" means the individual's legal name is known and he or she has been determined to be the source of the DNA.

(4) An indictment for kidnapping, extortion, assault with intent to commit murder, attempted murder, manslaughter, or first-degree home invasion may be found and filed as follows:

(a) Except as otherwise provided in subdivision (b), an indictment may be found and filed within 10 years after the offense is committed.

(b) If the offense is reported to a police agency within 1 year after the offense is committed and the individual who committed the offense is unknown, an indictment for that offense may be found and filed within 10 years after the individual is identified. This subsection shall be known as Brandon D'Annunzio's law. As used in this subsection, "identified" means the individual's legal name is known.

(5) An indictment for identity theft or attempted identity theft may be found and filed as follows:

(a) Except as otherwise provided in subdivision (b), an indictment may be found and filed within 6 years after the offense is committed.

(b) If evidence of the offense is obtained and the individual who committed the offense has not been identified, an indictment may be found and filed at any time after the offense is committed, but not more than 6 years after the individual is identified.

(c) As used in this subsection:

(*i*) "Identified" means the individual's legal name is known.

(*ii*) "Identity theft" means 1 or more of the following:

(A) Conduct prohibited in section 5 or 7 of the identity theft protection act, 2004 PA 452, MCL 445.65 and 445.67.

(B) Conduct prohibited under former section 285 of the Michigan penal code, 1931 PA 328.

(6) An indictment for false pretenses involving real property, forgery or uttering and publishing of an instrument affecting an interest in real property, or mortgage fraud may be found and filed within 10 years after the offense was committed or within 10 years after the instrument affecting real property was recorded, whichever occurs later.

(7) All other indictments may be found and filed within 6 years after the offense is committed.

(8) Any period during which the party charged did not usually and publicly reside within this state is not part of the time within which the respective indictments may be found and filed.

(9) The extension or tolling, as applicable, of the limitations period provided in this section applies to any of those violations for which the limitations period has not expired at the time the extension or tolling takes effect.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17238;—Am. 1935, Act 144, Eff. Sept. 21, 1935;—CL 1948, 767.24;—Am. 1954, Act 100, Imd. Eff. Apr. 14, 1954;—Am. 1987, Act 255, Eff. Mar. 30, 1988;—Am. 2001, Act 6, Imd. Eff. May 2, 2001;—Am. 2002, Act 119, Eff. Apr. 22, 2002;—Am. 2004, Act 458, Eff. Mar. 1, 2005;—Am. 2005, Act 35, Imd. Eff. June 7, 2005;—Am. 2011, Act 203, Imd. Eff. Oct. 20, 2011;—Am. 2012, Act 363, Eff. Mar. 28, 2013;—Am. 2014, Act 324, Eff. Jan. 14, 2015.

Compiler's note: Enacting section 1 of Act 6 of 2001 provides:

"Enacting section 1. The legislature intends that the extension or tolling, as applicable, of the limitations period provided in this amendatory act shall apply to any of those violations for which the limitations period has not expired at the time this amendatory act takes effect."

In subsection (2), "This subdivision shall be known as "Theresa Flores's Law" evidently should read "This subsection shall be known as "Theresa Flores's Law."

Former law: See section 18 of Ch. 164 of R.S. 1846, being CL 1857, § 6027; CL 1871, § 7896; How., § 9507; CL 1897, § 11892; and CL 1915, § 15719.

767.25 Indictment by grand jury; indorsement; presentment; return; filing; inspection.

Sec. 25. (1) If a person is indicted by a grand jury, the grand jury shall indorse all of the names of the

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complainants and all of the names of the witnesses on the back of the indictment. The foreperson of the grand jury shall present the indictment to the court in the presence of the grand jury.

(2) If a person is indicted by a grand jury convened under section 7c, the indictment shall remain with the court having jurisdiction over the offense, after the indictment is certified and filed with that court.

(3) If the grand jury indicts a person under subsection (1), the judge presiding over the grand jury proceedings shall return the indictment to any court having proper jurisdiction over the offense.

(4) Except as otherwise provided in this section, the indictment shall be filed with the court and remain with the court as a public record.

(5) If a person is indicted for a felony and the person is not in custody, the indictment shall not be open to inspection by any person other than the attorney general or the prosecuting attorney until the defendant is in custody.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17239;—CL 1948, 767.25;—Am. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

Former law: See section 19 of Ch. 164 of R.S. 1846, being CL 1857, § 6028; CL 1871, § 7897; How., § 9508; CL 1897, § 11893; and CL 1915, § 15720.

767.26 Discharge of accused in absence of indictment.

Sec. 26. Any person held in prison on any charge of having committed a crime, shall be discharged if he be not indicted before the end of the second term of the court at which he is held to answer unless it shall appear to the satisfaction of the court that the witnesses on the part of the people have been enticed or kept away, or are detained and prevented from attending the court by sickness or some inevitable accident, and except in the case provided for in the next section.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17240;—CL 1948, 767.26.

Former law: See section 20 of Ch. 164 of R.S. 1846, being CL 1857, § 6029; CL 1871, § 7898; How., § 9509; CL 1897, § 11894; and CL 1915, § 15721.

767.27 Repealed. 1966, Act 266, Eff. Mar. 10, 1967.

Compiler's note: The repealed section pertained to procedure followed when person accused of felony was found to be insane or when he was acquitted of felony upon grounds of insanity.

767.27a-767.27c Repealed. 1974, Act 258, Eff. Aug. 6, 1975.

Compiler's note: The repealed sections pertained to persons incompetent to stand trial.

767.28 Indictment; right of indictee to copy.

Sec. 28. Every person indicted for any offense, who shall have been arrested upon process issued upon such indictment or who shall have duly entered into recognizance to appear and answer to such indictment shall, on demand, be entitled to a copy of the indictment and of all endorsements thereon.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17242;—CL 1948, 767.28.

Former law: See section 22 of Ch. 164 of R.S. 1846, being CL 1857, § 6031; CL 1871, § 7900; How., § 9511; CL 1897, § 11896; and CL 1915, § 15723.

767.29 Discontinuance or abandonment of indictment.

Sec. 29. A prosecuting attorney shall not enter a nolle prosequi upon an indictment, or discontinue or abandon the indictment, without stating on the record the reasons for the discontinuance or abandonment and without the leave of the court having jurisdiction to try the offense charged, entered in its minutes. If a defendant is charged with a major controlled substance offense, in addition to the requirements of this section, the requirements of section 7415 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7415 of the Michigan Compiled Laws, shall apply upon the prosecuting attorney's motion to dismiss the charge.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1929, Act 24, Imd. Eff. Apr. 2, 1929;—CL 1929, 17243;—CL 1948, 767.29;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1988, Act 90, Imd. Eff. Mar. 30, 1988.

Former law: See section 23 of Ch. 164 of R.S. 1846, being CL 1857, § 6032; CL 1871, § 7901; How., § 9512; CL 1897, § 11897; and CL 1915, § 15724.

767.30 Warrant for arrest of indictee; issuance, persons.

Sec. 30. A warrant for the arrest of any person indicted may be issued by the court to which the indictment shall be presented, or by any justice of the supreme court, or judge of the court for the county in which such indictment shall be found, or judge of any recorder's court or any court of record having jurisdiction of criminal causes, either in vacation or during the sitting of any such court; but such warrant shall not be issued by any other officer.

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History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17244;—CL 1948, 767.30.

Former law: See section 24 of Ch. 164 of R.S. 1846, being CL 1857, § 6033; CL 1871, § 7902; How., § 9513; CL 1897, § 11898; and CL 1915, § 15725.

767.31 Warrant for arrest of indictee; persons to whom directed; place of execution.

Sec. 31. Every warrant shall be directed to the sheriff, constable, police officer or peace officer of the county in which the indictment shall be found, and may be executed in any part of this state.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17245;—CL 1948, 767.31.

Former law: See section 25 of Ch. 164 of R.S. 1846, being CL 1857, § 6034; CL 1871, § 7903; How., § 9514; CL 1897, § 11899; and CL 1915, § 15726.

767.32 Subpoena; witness for defendant; issuance by county clerk, fee.

Sec. 32. The clerk of any county in which an indictment shall be found, upon the application of the defendant, and without requiring any fees, shall issue subpoenas as well during the sitting of any court as in vacation, for such witnesses as the defendant may require, whether residing in or out of the county.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17246;—CL 1948, 767.32.

Former law: See section 26 of Ch. 164 of R.S. 1846, being CL 1857, § 6035; CL 1871, § 7904; How., § 9515; CL 1897, § 11900; and CL 1915, § 15727.

767.33 Subpoena; witness for defendant; disobedience; penalty, civil liability.

Sec. 33. Disobedience to any subpoena issued pursuant to the foregoing provisions, shall be punished in the same manner and upon the like proceedings, as provided by law in other cases; and the person guilty of such disobedience shall be liable to the party at whose instance such subpoena issued in the same manner and to the like extent as in cases of subpoenas issued in any civil suit.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17247;—CL 1948, 767.33.

Former law: See section 27 of Ch. 164 of R.S. 1846, being CL 1857, § 6036; CL 1871, § 7905; How., § 9516; CL 1897, § 11901; and CL 1915, § 15728.

767.34 Witness; issuance of capias.

Sec. 34. Any circuit court or any court of record shall have power to issue capiases, in the first instance, for any witness or witnesses in criminal cases, when it shall satisfactorily appear that such witness or witnesses are material and that there will be danger of the loss of their testimony unless such writ be issued.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17248;—CL 1948, 767.34.

Former law: See section 1 of Act 209 of 1871, being CL 1871, § 7961; How., § 9574; CL 1897, § 11958; and CL 1915, § 15831.

767.35 Material witness in criminal case; danger of loss of testimony; requiring witness to enter into recognizance with surety; commitment to jail.

Sec. 35. When it appears to a court of record that a person is a material witness in a criminal case pending in a court in the county and that there is a danger of the loss of testimony of the witness unless the witness furnishes bail or is committed if he or she fails to furnish bail, the court shall require the witness to be brought before the court. After giving the witness an opportunity to be heard, if it appears that the witness is a material witness and that there is a danger of the loss of his or her testimony unless the witness furnishes bail or is committed, the court may require the witness to enter into a recognizance with a surety in an amount determined by the court for the appearance of the witness at an examination or trial. If the witness fails to recognize, he or she shall be committed to jail by the court, until he or she does recognize or is discharged by order of the court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17249;—CL 1948, 767.35;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See sections 19, 20, and 22 of Ch. 163 of R.S. 1846, being CL 1857, §§ 5995, 5996, and 5998; CL 1871, §§ 7861, 7862, and 7864; How., §§ 9472, 9473, and 9475; CL 1897, §§ 11856, 11857, and 11859; CL 1915, §§ 15683, 15684, and 15686; and Act 77 of 1871.

767.36 Witness; subpoena by prosecution; necessity of fee.

Sec. 36. It shall not be necessary to pay or tender any fees whatever to any witness subpoenaed on the part of the people of this state in support of any prosecution, but such witness shall be bound to attend as if the fees allowed by law to witnesses in civil actions had been duly paid to him.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17250;—CL 1948, 767.36.

Former law: See section 28 of Ch. 163 of R.S. 1846, being CL 1857, § 6037; CL 1871, § 7906; How., § 9517; CL 1897, § 11902; and CL 1915, § 15729.

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767.37 Indictee; plea on arraignment.

Sec. 37. When any person shall be arraigned upon an indictment, it shall not be necessary in any case to ask him how he will be tried but if, on being so arraigned, he shall refuse to plead or answer or shall not confess the indictment to be true, the court shall order a plea of not guilty to be entered and thereupon the proceedings shall be the same as if he had pleaded not guilty to the indictment. At the arraignment of any person upon an indictment or upon the charge in a warrant, complaint or information the court may accept a plea of nolo contendere and if such a plea is accepted, the court shall proceed as if he had pleaded guilty.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17251;—CL 1948, 767.37;—Am. 1969, Act 334, Imd. Eff. Nov. 10, 1969.

Former law: See section 29 of Ch. 163 of R.S. 1846, being CL 1857, § 6038; CL 1871, § 7907; How., § 9518; CL 1897, § 11903; and CL 1915, § 15730.

767.37a Arraignments; use of 2-way interactive video technology; access to courtroom; court record.

Sec. 37a. (1) A judge or district court magistrate may conduct initial criminal arraignments and set bail by 2-way interactive video technology communication between a court facility and a prison, jail, or other place where a person is imprisoned or detained. A judge or district court magistrate may conduct initial criminal arraignments and set bail on weekends, holidays, or at any time as determined by the court.

(2) A 2-way interactive video technology system used under this section shall enable the accused and the judge or district court magistrate to see, hear, and communicate with each other simultaneously, and shall enable defense counsel and the prosecuting attorney, if present, to be heard by and to communicate simultaneously with the accused, the judge or district court magistrate, and opposing counsel.

(3) Except as otherwise provided by law, the public shall have access to the courtroom or other location, that allows them to view and hear the proceedings.

(4) If proceedings conducted under this section are not recorded by an individual certified by the state court administrative office, the court shall record and maintain an original audiovisual recording of the entire proceedings. A recording made under this subsection shall become part of the court record.

(5) This act does not prohibit the use of 2-way interactive video technology for arraignments on the information, criminal pretrial hearings, criminal pleas, sentencing hearings for misdemeanor violations cognizable in the district court, show cause hearings, or other criminal proceedings, to the extent the Michigan supreme court has authorized that use.

History: Add. 1994, Act 229, Imd. Eff. June 30, 1994;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

767.38 Indictee; right to trial or admission to bail.

Sec. 38. Every person held in prison upon an indictment shall, if he require it, be tried at the next term of court after the expiration of 6 months from the time when he was imprisoned, or shall be bailed upon his own recognizance, unless it shall appear to the satisfaction of the court that the witnesses on behalf of the people have been enticed or kept away, or are detained and prevented from attending court by sickness, or some inevitable accident.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17252;—CL 1948, 767.38.

Former law: See section 30 of Ch. 163 of R.S. 1846, being CL 1857, § 6039; CL 1871, § 7908; How., § 9519; CL 1897, § 11904; and CL 1915, § 15731.

767.39 Abolition of distinction between accessory and principal.

Sec. 39. Every person concerned in the commission of an offense, whether he directly commits the act constituting the offense or procures, counsels, aids, or abets in its commission may hereafter be prosecuted, indicted, tried and on conviction shall be punished as if he had directly committed such offense.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17253;—CL 1948, 767.39.

Former law: See sections 3 and 5 of Ch. 161 of R.S. 1846, being CL 1857, §§ 5939 and 5941; CL 1871, §§ 7805 and 7807; How., §§ 9415 and 9417; CL 1897, §§ 11776 and 11778; CL 1915, §§ 15603 and 15605; and section 19 of Act 77 of 1855, being CL 1857, § 6065; CL 1871, § 7934; How., § 9545; CL 1897, § 11930; CL 1915, § 15757.

767.40 Information; filing; subscription.

Sec. 40. All informations shall be filed in the court having jurisdiction of the offense specified in the information after the proper return is filed by the examining magistrate and by the prosecuting attorney of the county as informant. The information shall be subscribed by the prosecuting attorney or in his or her name by an assistant prosecuting attorney.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1929, Act 24, Imd. Eff. Apr. 2, 1929;—CL 1929, 17254;—CL 1948, 767.40;—Am. 1955, Act 184, Eff. Oct. 14, 1955;—Am. 1961, Act 11, Eff. Sept. 8, 1961;—Am. 1986, Act 46, Eff. July 1, 1986.

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Former law: See sections 2 and 3 of Act 138 of 1859, being CL 1871, §§ 7938 and 7939; How., §§ 9549 and 9550; CL 1897, §§ 11934 and 11935; and CL 1915, §§ 15761 and 15762.

767.40a Attaching list of witnesses to filed information; disclosing names of res gestae witnesses; sending list to defendant or defendant's attorney; additions or deletions from list; request for assistance in locating and serving process on witness; objection to request; hearing; impeachment or cross-examination of witness.

Sec. 40a. (1) The prosecuting attorney shall attach to the filed information a list of all witnesses known to the prosecuting attorney who might be called at trial and all res gestae witnesses known to the prosecuting attorney or investigating law enforcement officers.

(2) The prosecuting attorney shall be under a continuing duty to disclose the names of any further res gestae witnesses as they become known.

(3) Not less than 30 days before the trial, the prosecuting attorney shall send to the defendant or his or her attorney a list of the witnesses the prosecuting attorney intends to produce at trial.

(4) The prosecuting attorney may add or delete from the list of witnesses he or she intends to call at trial at any time upon leave of the court and for good cause shown or by stipulation of the parties.

(5) The prosecuting attorney or investigative law enforcement agency shall provide to the defendant, or defense counsel, upon request, reasonable assistance, including investigative assistance, as may be necessary to locate and serve process upon a witness. The request for assistance shall be made in writing by defendant or defense counsel not less than 10 days before the trial of the case or at such other time as the court directs. If the prosecuting attorney objects to a request by the defendant on the grounds that it is unreasonable, the prosecuting attorney shall file a pretrial motion before the court to hold a hearing to determine the reasonableness of the request.

(6) Any party may within the discretion of the court impeach or cross-examine any witnesses as though the witness had been called by another party.

History: Add. 1941, Act 336, Eff. Jan. 10, 1942;—CL 1948, 767.40a;—Am. 1986, Act 46, Eff. July 1, 1986.

767.41 Inquiry by prosecuting attorney into preliminary examination; statement of reasons for not filing information; direction by court to file proper information.

Sec. 41. The prosecuting attorney of the proper county shall inquire into and make full examination of all the facts and circumstances connected with a case of preliminary examination as provided by law, concerning the commission of an offense where the offender is committed to jail or becomes recognized or held to bail. If the prosecuting attorney determines in a case other than a major controlled substance offense that an information ought not be filed, he shall make and subscribe a statement, in writing, containing his reasons in fact and in law, for not filing an information in the case and shall file that statement with the clerk of the court at and during the term of the court at which the offender is held for appearance. The court may examine the statement, together with the evidence filed in the case and if, upon examination, the court is not satisfied with the statement, the prosecuting attorney shall be directed by the court to file the proper information and bring the case to trial.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17255;—CL 1948, 767.41;—Am. 1978, Act 77, Eff. Sept. 1, 1978.

Former law: See section 6 of Act 138 of 1859, being CL 1871, § 7942; How., § 9553; CL 1897, § 11938; CL 1915, § 15765; and Act 147 of 1863.

767.42 Preliminary examination as prerequisite to filing of information; remand where right waived without benefit of counsel; fugitives from justice.

Sec. 42. (1) An information shall not be filed against any person for a felony until such person has had a preliminary examination therefor, as provided by law, before an examining magistrate, unless that person waives his statutory right to an examination. If any person waives his statutory right to a preliminary examination without having had the benefit of counsel at the time and place of the waiver, upon proper and timely application by the person or his counsel, before trial or plea of guilty, the court having jurisdiction of the cause, in its discretion, may remand the case to a magistrate for a preliminary examination.

(2) An information may be filed without a preliminary examination against a fugitive from justice, and any fugitive from justice against whom an information shall be filed may be demanded by the governor of this state of the executive authority of any other state or territory, or of any foreign government, in the same manner and the same proceedings may be had thereon as provided by law in like cases of demand upon indictment filed.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17256;—CL 1948, 767.42;—Am. 1957, Act 38, Eff. Sept. 27, 1957;—Am. 1974, Act 63, Eff. May 1, 1974.

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Compiler's note: Section 2 of Act 63 of 1974 provides: "To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

Former law: See section 8 of Act 138 of 1859, being CL 1871, § 7944; How., § 9555; CL 1897, § 11940; and CL 1915, § 15767.

767.43 Indictment; form generally.

Sec. 43. The indictment may be substantially in the following form:

In the ..... (here give the name of the court) ..... term, 19..... the People of the state of Michigan vs. (here give the name or the description of the accused.)

The grand jury of the county or counties of ..... presents that (here give the name or the description of the accused), (here set forth the offense and transaction, according to the rules herein enunciated).

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17257;—CL 1948, 767.43;—Am. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

767.44 Indictment; forms for particular offenses; bill of particulars.

Sec. 44. The following forms may be used in the cases in which they are applicable but any other forms authorized by this or any other law of this state may also be used:

Adultery—A.B., a married man, committed adultery with C.D.; or A.B. committed adultery with C.D., a married woman.

Affray—A.B. and C.D. made an affray.

Assault—A.B. assaulted C.D.

Assault and Battery—A.B. committed an assault and battery on C.D.

Assault with intent—A.B. assaulted C.D. with intent to murder, or kill, or rob, or maim, or rape (as the case may be).

Arson—A.B. committed arson by burning the dwelling house of C.D.

Attempt—A.B. attempted to steal from C.D.; A.B. attempted to commit larceny of the goods of C.D.; A.B. attempted to commit burglary of a building belonging to C.D. (as the case may be).

Burglary—A.B. committed burglary of the house of C.D. A.B. broke and entered the dwelling house of C.D. in the night time with intent to commit larceny, or murder, or robbery therein (as the case may be).

Conspiracy—A.B. and C.D. conspired together to murder E.F. or to steal the property of E.F. or to rob E.F. (as the case may be).

Forgery—A.B. forged a certain instrument purporting to be a promissory note (or describe instrument or give its tenor or substance).

Larceny—Embezzlement and false pretenses. A.B. stole from C.D. 1 horse of the value of more than 100 dollars.

Murder—A.B. murdered C.D.

Manslaughter—A.B. killed C.D.

Perjury—A.B. appeared as a witness in a case between C.D. and E.F. being heard before the (set forth the tribunal) and committed perjury by testifying as follows: (set forth the testimony).

Rape—A.B. raped or ravished C.D.

Rape (statutory)—A.B. raped or ravished C.D., she C.D. being then under the age of (statutory age) years.

Robbery Armed—A.B. robbed C.D., A.B. being armed.

Robbery—A.B. robbed C.D., A.B. not being armed.

Provided, That the prosecuting attorney, if seasonably requested by the respondent, shall furnish a bill of particulars setting up specifically the nature of the offense charged.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17258;—CL 1948, 767.44.

Former law: See section 2 of Act 77 of 1855, being CL 1857, § 6048; CL 1871, § 7917; How., § 9528; CL 1897, § 11913; and CL 1915, § 15740.

767.45 Contents of indictment or information; felony in which motor vehicle used.

Sec. 45. (1) The indictment or information shall contain all of the following:

(a) The nature of the offense stated in language which will fairly apprise the accused and the court of the offense charged.

(b) The time of the offense as near as may be. No variance as to time shall be fatal unless time is of the essence of the offense.

(c) That the offense was committed in the county or within the jurisdiction of the court. No verdict shall be

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set aside or a new trial granted by reason of failure to prove that the offense was committed in the county or within the jurisdiction of the court unless the accused raises the issue before the case is submitted to the jury.

(2) If a person is accused of committing or attempting to commit a felony in which a motor vehicle was used, other than a felony specified in section 732(4) or 319(1)(a) to (f) of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.732 and 257.319 of the Michigan Compiled Laws, the prosecuting attorney shall include on the complaint and information the statement, "You are charged with the commission of a felony in which a motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.319 of the Michigan Compiled Laws, your driver's license shall be suspended by the secretary of state for a period of 90 days to 2 years." As used in this subsection, "felony in which a motor vehicle was used" means a felony during the commission of which the person accused operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

(*i*) The vehicle was used as an instrument of the felony.

(*ii*) The vehicle was used to transport a victim of the felony.

(*iii*) The vehicle was used to flee the scene of the felony.

(*iv*) The vehicle was necessary for the commission of the felony.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17259;—CL 1948, 767.45;—Am. 1988, Act 123, Eff. July 1, 1988.

Former law: See sections 7 and 13 of Act 77 of 1855, being CL 1857, §§ 6053 and 6059; CL 1871, §§ 7922 and 7928; How., §§ 9533 and 9539; CL 1897, §§ 11918 and 11924; and CL 1915, §§ 15745 and 15751.

767.46 Indictment; amendment of certain parts.

Sec. 46. Any defect, error or omission in the caption, commencement or conclusion of an indictment may be amended.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17260;—CL 1948, 767.46.

767.47 Indictment; effect of repugnant and unnecessary allegations.

Sec. 47. No indictment is invalid by reason of any repugnant allegations contained therein, provided that an offense is charged. All unnecessary allegations shall be rejected as surplusage.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17261;—CL 1948, 767.47.

Former law: See section 8 of Act 77 of 1855, being CL 1857, § 6054; CL 1871, § 7923; How., § 9534; CL 1897, § 11919; and CL 1915, § 15746.

767.48 Indictment; necessity of negativing statutory exception.

Sec. 48. No indictment for any offense created or defined by statute shall be deemed objectionable for the reason that it fails to negative any exception, excuse or proviso contained in the statute creating or defining the offense. The fact that the charge is made shall be considered as an allegation that no legal excuse for the doing of the act exists in the particular case.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17262;—CL 1948, 767.48.

767.49 Indictment; statement of name of individual, association or corporation.

Sec. 49. In any indictment it is sufficient for the purpose of identifying the accused to state his true name, to state the name, appellation or nickname by which he has been or is known, to state a fictitious name, or to describe him as a person whose name is unknown or to describe him in any other manner. In stating the true name or the name by which the accused has been or is known or a fictitious name, it is sufficient to state a surname, a surname and 1 or more christian name or names, or a surname and 1 or more abbreviations or initials of a christian name or names. It is sufficient for the purpose of identifying any group or association of persons, not incorporated, to state the proper name of such group or association (if such there be), to state any name or designation by which the group or association has been or is known, to state the names of all the persons in such group or association or of 1 or more of them, or to state the name or names of 1 or more persons in such group or association referring to the other or others as "another" or "others". It is sufficient for the purpose of identifying a corporation to state the corporate name of such corporation, or any name or designation by which such corporation has been or is known. It is not necessary for the purpose of identifying any group or association of persons or any corporation to state or prove the legal form of such group or association of persons or of such corporation. In no case is it necessary to aver or prove that the true name of any person, group or association of persons or corporation is unknown to the grand jury, complainant or prosecuting officer. If in the course of the trial the true name of any person, group or association of persons or corporation identified otherwise than by the true name, is disclosed by the evidence, the court shall on motion

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of the accused or of the prosecuting attorney, and may without such motion, insert the true name in the indictment wherever the name appears otherwise.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17263;—CL 1948, 767.49.

Former law: See sections 8 and 14 of Act 77 of 1855, being CL 1857, §§ 6054 and 6060; CL 1871, §§ 7923 and 7929; How., §§ 9534 and 9540; CL 1897, §§ 11919 and 11925; and CL 1915, §§ 15746 and 15752.

767.50 Indictment; description of instrument.

Sec. 50. Whenever in an indictment an allegation relative to any instrument which consists wholly or in part of writing or figures, pictures or designs, is necessary, it is sufficient to describe such instrument by any name or description by which it is usually known or by its purport without setting forth a copy or facsimile of the whole or any part thereof.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17264;—CL 1948, 767.50.

Former law: See section 10 of Act 77 of 1855, being CL 1857, § 6056; CL 1871, § 7925; How., § 9536; CL 1897, § 11921; and CL 1915, § 15748.

767.51 Indictment; allegation of time.

Sec. 51. Except insofar as time is an element of the offense charged, any allegation of the time of the commission of the offense, whether stated absolutely or under a videlicet, shall be sufficient to sustain proof of the charge at any time before or after the date or dates alleged, prior to the finding of the indictment or the filing of the complaint and within the period of limitations provided by law: Provided, That the court may on motion require the prosecution to state the time or identify the occasion as nearly as the circumstances will permit, to enable the accused to meet the charge.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17265;—CL 1948, 767.51.

Former law: See section 8 of Act 77 of 1855, being CL 1857, § 6054; CL 1871, § 7923; How., § 9534; CL 1897, § 11919; and CL 1915, § 15746.

767.52 Indictment; allegation of means of offense.

Sec. 52. The indictment need contain no allegation of the means by which the offense was committed except insofar as the means is an element of the offense.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17266;—CL 1948, 767.52.

767.53 Indictment; allegation of value or price.

Sec. 53. The indictment need not allege the value or price of any property unless the value or price is an element of the offense and in such case it is sufficient to aver that the value or price of the property is less than, equals or exceeds the certain value or price which determines the offense or grade thereof.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17267;—CL 1948, 767.53.

Former law: See sections 8 and 16 of Act 77 of 1855, being CL 1857, §§ 6054 and 6062; CL 1871, §§ 7923 and 7931; How., §§ 9534 and 9542; CL 1897, §§ 11919 and 11927; and CL 1915, §§ 15746 and 15754.

767.54 Indictment; ownership; allegation; proof.

Sec. 54. The indictment need not allege the ownership of any property unless such ownership is necessary to indicate the offense. Proof of possession or right of possession or lien or special property in the person alleged to be the owner shall be sufficient to sustain an allegation of ownership in such person.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17268;—CL 1948, 767.54.

Former law: See section 10 of Ch. 161 of R.S. 1846, being CL 1857, § 5946; CL 1871, § 7812; How., § 9422; CL 1897, § 11783; and CL 1915, § 15610.

767.55 Indictment; allegation of certain matters in the alternative.

Sec. 55. In an indictment for an offense which is constituted of 1 or more of several acts, or which may be committed by 1 or more of several means, or with 1 or more of several intents, or which may produce 1 or more of several results, 2 or more of such acts, means, intents or results may be charged in the alternative.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17269;—CL 1948, 767.55.

767.56 Indictment; allegation of prior conviction.

Sec. 56. Whenever it is necessary to allege a prior conviction of the accused in an indictment, it is sufficient to allege that the accused was at a certain stated time, in a certain stated court, convicted of a certain stated offense, giving the name of the offense, if it have one, or stating the substantial elements thereof.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17270;—CL 1948, 767.56.

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767.57 Pleading; statute or statutory right.

Sec. 57. In pleading a statute or a right derived therefrom it is sufficient to refer to the statute by its title, or in any other manner which identifies the statute and the court must thereupon take judicial notice thereof.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17271;—CL 1948, 767.57.

Former law: See section 13 of Act 77 of 1855, being CL 1857, § 6059; CL 1871, § 7928; How., § 9539; CL 1897, § 11924; and CL 1915, § 15751.

767.58 Pleading; judgment or proceeding.

Sec. 58. In pleading a judgment or other determination of, or a proceeding before any court or officer, civil or military, it is unnecessary to allege the facts conferring jurisdiction on such court or officer, but it is sufficient to allege generally that such judgment or determination was duly given or made or such proceedings had.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17272;—CL 1948, 767.58.

Former law: See section 17 of Act 77 of 1855, being CL 1857, § 6063; CL 1871, § 7932; How., § 9543; CL 1897, § 11928; and CL 1915, § 15755.

767.59 Indictment; unnecessary formal words and phrases.

Sec. 59. The indictment need not allege that the offense was committed or the act done "feloniously" or "traitorously" or "unlawfully" or "with force of arms" or "with a strong hand," nor need it use any phrase of like kind otherwise than to characterize the offense, nor need it allege that the offense was committed or the act done "burglariously", "wilfully", "knowingly", "maliciously", "negligently" nor need it otherwise characterize the manner of the commission of the offense unless such description is necessary to indicate the offense. The indictment need not contain the words "contrary to the statute", "as appears by the record", or any other words of similar import.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17273;—CL 1948, 767.59.

Former law: See section 34 of Ch. 164 of R.S. 1846, being CL 1857, § 6043; CL 1871, § 7912; How., § 9523; CL 1897, § 11908; CL 1915, § 15735; and section 8 of Act 77 of 1855, being CL 1857, § 6054; CL 1871, § 7923; How., § 9534; CL 1897, § 11908; CL 1915, § 15735.

767.60 Indictment; allegations in embezzlement, larceny and false pretense cases.

Sec. 60. In any prosecution for the offenses of embezzlement, larceny, larceny by conversion, or obtaining money or property by false pretenses under the statutes of this state, it shall be sufficient to allege generally in the information or indictment the embezzlement, larceny, larceny by conversion or obtaining by false pretenses of personal property to a certain amount without specifying the particulars of such embezzlement, larceny, larceny by conversion or obtaining by false pretenses, and on the trial evidence may be given of any such embezzlement, larceny, larceny by conversion or obtaining money or property by false pretenses within 6 months next after the time stated in the information or indictment, and it shall be sufficient to maintain the charge in the information or indictment and shall not be deemed at variance if it shall be proved that any personal property was fraudulently embezzled, stolen or obtained by false pretenses within the said period of 6 months.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17274;—CL 1948, 767.60.

Former law: See section 9 of Ch. 161 of R.S. 1846, being CL 1857, § 5945; CL 1871, § 7811; How., § 9421; CL 1897, § 11782; CL 1915, § 15609; and Act 39 of 1927.

767.61 Indictment; description of money, bonds, mortgage and similar instrument in offense relating thereto.

Sec. 61. In an indictment for larceny, larceny by conversion, embezzlement, robbery, obtaining money by false pretenses, receiving stolen property or for any other criminal conversion or misappropriation where the offense relates to money or currency, it shall be sufficient to describe the same under the terms "money", "currency", or "dollars" without specifying the particular character, number, denomination, kind, species, nature or value thereof. Where such indictment relates to promissory notes, certificates of stock, bonds, bills of lading, mortgages or any other negotiable or non-negotiable instruments, or securities or evidence of debt or property, it is sufficient to designate the same by general description without specifying the particular number or denomination thereof.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17275;—CL 1948, 767.61.

Former law: See section 15 of Act 77 of 1855, being CL 1857, § 6061; CL 1871, § 7930; How., § 9541; CL 1897, § 11926; and CL 1915, § 15753.

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767.61a Indictment; offense committed by sexually delinquent person; prosecution; expert testimony provided; examination of witnesses; testimony in open court; record; punishment.

Sec. 61a. In any prosecution for an offense committed by a sexually delinquent person for which may be imposed an alternate sentence to imprisonment for an indeterminate term, the minimum of which is 1 day and the maximum of which is life, the indictment shall charge the offense and may also charge that the defendant was, at the time said offense was committed, a sexually delinquent person. In every such prosecution the people may produce expert testimony and the court shall provide expert testimony for any indigent accused at his request. In the event the accused shall plead guilty to both charges in such indictment, the court in addition to the investigation provided for in section 35 of chapter 8 of this act, and before sentencing the accused, shall conduct an examination of witnesses relative to the sexual delinquency of such person and may call on psychiatric and expert testimony. All testimony taken at such examination shall be taken in open court and a typewritten transcript or copy thereof, certified by the court reporter taking the same, shall be placed in the file of the case in the office of the county clerk. Upon a verdict of guilty to the first charge or to both charges or upon a plea of guilty to the first charge or to both charges the court may impose any punishment provided by law for such offense.

History: Add. 1952, Act 234, Eff. Sept. 18, 1952.

767.62 Place of indictment, trial and conviction; receiver of stolen property.

Sec. 62. In the cases where any person shall be liable to prosecution as the receiver of any personal property that shall have been feloniously stolen, taken or embezzled, he may be indicted, tried and convicted in any county where he received or had such property, notwithstanding such theft was committed in another county.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17276;—CL 1948, 767.62.

Former law: See section 31 of Ch. 164 of R.S. 1846, being CL 1857, § 6040; CL 1871, § 7909; How., § 9520; CL 1897, § 11905; and CL 1915, § 15732.

767.63 Place of indictment; removal of stolen property from another county.

Sec. 63. When any property shall be stolen in 1 county and brought into another, the offender may be indicted, tried and convicted in the county into which such stolen property was brought, in the same manner as if such property had been originally stolen in that county; and when such property shall have been taken by burglary or robbery the offender may be indicted, tried and convicted of said burglary or robbery, in the county into which such property was brought in the same manner as if such burglary or robbery had been committed in that county.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17277;—CL 1948, 767.63.

Former law: See section 32 of Ch. 164 of R.S. 1846, being CL 1857, § 6041; CL 1871, § 7910; How., § 9521; CL 1897, § 11906; and CL 1915, § 15733.

767.64 Place and manner of indictment, conviction and punishment; removing stolen property from another state or country; prior conviction or acquittal.

Sec. 64. Every person who shall feloniously steal the property of another, in any other state or country, and shall bring the same into this state, may be indicted, convicted and punished in the same manner as if such larceny had been committed in this state; and in every such case such larceny may be charged to have been committed in any town or city into or through which such stolen property shall have been brought: Provided, That every such person may plead a former conviction or acquittal for the same offense in another state or country; and if such plea be admitted or established, it shall be a bar to any further or other proceedings against such person for the same offense.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17278;—CL 1948, 767.64.

Former law: See section 1 of Act 119 of 1850, being CL 1857, § 5797; CL 1871, § 7606; How., § 9177; CL 1897, § 11592; and CL 1915, § 15347.

767.65 Place and manner of indictment; receiver of property stolen in another state or country.

Sec. 65. Every receiver of personal property that shall have been feloniously stolen, knowing the same to have been stolen, may be indicted, convicted and punished in any county where he received or had such property in the same manner that receivers of personal property stolen in this state are indicted, convicted and punished, notwithstanding such theft was committed in any other state or country.

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History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17279;—CL 1948, 767.65.

Former law: See section 2 of Act 119 of 1850, being CL 1857, § 5798; CL 1871, § 7607; How., § 9178; CL 1897, § 11593; and CL 1915, § 15348.

767.66 Place and manner of indictment; person aiding and abetting thief who removes stolen property from another state or country.

Sec. 66. Every person who shall aid and abet any thief, such thief having brought the stolen property into this state, may be indicted, convicted and punished in the same manner, notwithstanding such theft was committed in any other state or country, that aiders and abettors are punished, where the theft was originally committed within this state.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17280;—CL 1948, 767.66.

Former law: See section 3 of Act 119 of 1850, being CL 1857, § 5799; CL 1871, § 7608; How., § 9179; CL 1897, § 11594; and CL 1915, § 15349.

767.67 Indictment; charging accessory without principal; substantial felony.

Sec. 67. Any number of accessories after the fact, or receivers, buyers, or persons aiding in the concealment of any stolen money, goods, or property may be charged with substantive felonies in the same indictment, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17281;—CL 1948, 767.67.

Former law: See section 5 of Act 77 of 1855, being CL 1857, § 6051; CL 1871, § 7920; How., § 9531; CL 1897, § 11916; and CL 1915, § 15743.

767.68 Indictment; charge of jointly receiving or concealing stolen property; conviction of less than all indictees.

Sec. 68. If 2 or more persons are indicted for jointly receiving, buying or aiding in the concealment of any stolen property, and the evidence shall be that 1 or more persons separately, knowingly received, bought or aided in the concealment of any part of such property, the jury may convict upon such indictment those who are proved to have received, bought or aided in the concealment of any part of such property.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17282;—CL 1948, 767.68.

Former law: See section 6 of Act 77 of 1855, being CL 1857, § 6052; CL 1871, § 7921; How., § 9532; CL 1897, § 11917; and CL 1915, § 15744.

767.69 Indictment for larceny; additional counts; conviction; election between counts unnecessary.

Sec. 69. An indictment for larceny may contain also a count for embezzlement, larceny by conversion, obtaining property by false pretenses or for receiving or having in possession, or aiding in concealing the same property, knowing it to have been stolen, and the jury may convict of any such offense; and the jury may find all or any of the persons indicted, guilty of any of the offenses charged in the indictment. The prosecuting attorney shall not be required to elect between the offenses so charged.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17283;—Am. 1931, Act 309, Eff. Sept. 18, 1931;—CL 1948, 767.69.

Former law: See section 20 of Act 77 of 1855, being CL 1857, § 6066; CL 1871, § 7936; How., § 9547; CL 1897, § 11932; and CL 1915, § 15759.

767.70 Indictment for libel; statement of application to party libelled.

Sec. 70. An indictment for libel need not set forth any extrinsic facts for the purpose of showing the application to the party libelled of the defamatory matter on which the indictment is founded, but it is sufficient to state generally that the same was published concerning him.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17284;—CL 1948, 767.70.

Former law: See section 18 of Act 77 of 1855, being CL 1857, § 6064; CL 1871, § 7934; How., § 9545; CL 1897, § 11930; and CL 1915, § 15757.

767.71 Indictment for murder and manslaughter; charging act.

Sec. 71. In all indictments for murder and manslaughter it shall not be necessary to set forth the manner in which nor the means by which the death of the deceased was caused; but it shall be sufficient in any indictment for murder to charge that the defendant did murder the deceased; and it shall be sufficient in manslaughter to charge that the defendant did kill the deceased.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17285;—CL 1948, 767.71.

Former law: See section 1 of Act 77 of 1855, being CL 1857, § 6047; CL 1871, § 7916; How., § 9527; CL 1897, § 11912; and CL

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1915, § 15739.

767.72 Indictment for manslaughter; added count for abortion; admissibility of dying declaration under either count.

Sec. 72. An indictment or information for manslaughter may contain also a count for procuring or attempting to procure an abortion and the jury may convict of either offense. Dying declarations shall be admissible in evidence in proof of either count.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17286;—CL 1948, 767.72.

767.73 Indictment; perjury; sufficiency of statement.

Sec. 73. An indictment for perjury or for subornation of, solicitation, or conspiracy to commit perjury, is sufficient which indicates the offense for which the accused is prosecuted, the nature of the controversy in respect of which the offense was committed and before what court or officer the oath was taken or was to have been taken, without setting forth any part of the records or proceedings with which the oath was connected, and without stating the commission or authority of the court or other authority before whom the perjury was committed or was to have been committed or the form of the oath or affirmation or the manner of administering the same.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17287;—CL 1948, 767.73.

Former law: See section 3 of Act 77 of 1855, being CL 1857, § 6049; CL 1871, § 7918; How., § 9529; CL 1897, § 11914; and CL 1915, § 15741.

767.74 Indictment; motion to quash; dilatory plea; proof.

Sec. 74. No motion to quash, plea in abatement or other dilatory plea to the indictment, shall be received by any court unless the party offering such plea shall prove the truth thereof by affidavit, or by some other sworn evidence.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17288;—CL 1948, 767.74.

Former law: See section 33 of Ch. 164 of R.S. 1846, being CL 1857, § 6042; CL 1871, § 7911; How., § 9522; CL 1897, § 11907; and CL 1915, § 15734.

767.75 Indictment; certain defects; quashing not allowed; remedy.

Sec. 75. No indictment shall be quashed, set aside or dismissed for any 1 or more of the following defects: (First) That there is a misjoinder of the parties accused; (Second) That there is a misjoinder of the offenses charged in the indictment, or duplicity therein; (Third) That any uncertainty exists therein. If the court be of the opinion that the first and second defects or either of them exist in any indictment, it may sever such indictment into separate indictments or informations or into separate counts as shall be proper. If the court be of the opinion that the third defect exists in any indictment, it may order that the indictment be amended to cure such defect.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17289;—CL 1948, 767.75.

Former law: See section 3 of Act 138 of 1859, being CL 1871, § 7939; How., § 9550; CL 1897, § 11935; and CL 1915, § 15762.

767.76 Indictment; time of objection to defect; amendment; discharge of jury; continuance of cause; double jeopardy; review of action by court.

Sec. 76. No indictment shall be quashed, set aside or dismissed or motion to quash be sustained or any motion for delay of sentence for the purpose of review be granted, nor shall any conviction be set aside or reversed on account of any defect in form or substance of the indictment, unless the objection to such indictment, specifically stating the defect claimed, be made prior to the commencement of the trial or at such time thereafter as the court shall in its discretion permit. The court may at any time before, during or after the trial amend the indictment in respect to any defect, imperfection or omission in form or substance or of any variance with the evidence. If any amendment be made to the substance of the indictment or to cure a variance between the indictment and the proof, the accused shall on his motion be entitled to a discharge of the jury, if a jury has been impaneled and to a reasonable continuance of the cause unless it shall clearly appear from the whole proceedings that he has not been misled or prejudiced by the defect or variance in respect to which the amendment is made or that his rights will be fully protected by proceeding with the trial or by a postponement thereof to a later day with the same or another jury. In case a jury shall be discharged from further consideration of a case under this section, the accused shall not be deemed to have been in jeopardy. No action of the court in refusing a continuance or postponement under this section shall be reviewable except after motion to and refusal by the trial court to grant a new trial therefor and no writ of error or other appeal based upon such action of the court shall be sustained, nor reversal had, unless from

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consideration of the whole proceedings, the reviewing court shall find that the accused was prejudiced in his defense or that a failure of justice resulted.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17290;—CL 1948, 767.76.

Former law: See section 34 of Ch. 164 of R.S. 1846, being CL 1857, § 6043; CL 1871, § 7912; How., § 9523; CL 1897, § 11908; CL 1915, § 15735; and sections 9, 11, 12, and 14 of Act 77 of 1855, being CL 1857, §§ 6055, 6057, 6058, and 6060; CL 1871, §§ 7924, 7926, 7927, and 7929; How., §§ 9535, 9537, 9538, and 9540; CL 1897, §§ 11920, 11922, 11923, and 11925; CL 1915, §§ 15747, 15749, 15750, and 15752.

767.77 Commission to examine out-of-state witness; granting on application of defendant.

Sec. 77. When an issue of fact shall be joined upon any indictment, the court in which the same is pending may, on application of the defendant, grant a commission to examine any material witnesses residing out of this state, in the same manner as in civil cases.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17291;—CL 1948, 767.77.

Former law: See section 35 of Ch. 164 of R.S. 1846, being CL 1857, § 6044; CL 1871, § 7913; How., § 9524; CL 1897, § 11909; and CL 1915, § 15736.

767.78 Commission to examine out-of-state witness; interrogatories; reading of deposition.

Sec. 78. Interrogatories to be annexed to such commission shall be settled and such commission shall be issued, executed and returned in the manner prescribed by law in respect to commissions in civil cases, and the deposition taken thereon and returned shall be read in the same cases, and with like effect in all respects, as in civil suits.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17292;—CL 1948, 767.78.

Former law: See section 36 of Ch. 164 of R.S. 1846, being CL 1857, § 6045; CL 1871, § 7914; How., § 9525; CL 1897, § 11910; and CL 1915, § 15737.

767.79 Conditional examination of witness for defendant; order; notice to prosecutor.

Sec. 79. After an indictment shall be found against any defendant, he may have witnesses examined in his behalf conditionally on the order of a judge of the court in which the indictment is pending, in the same cases upon the like notice to the prosecuting attorney, and with like effect in all respects as in civil suits.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17293;—CL 1948, 767.79.

Former law: See section 37 of Ch. 164 of R.S. 1846, being CL 1857, § 6046; CL 1871, § 7915; How., § 9526; CL 1897, § 11911; and CL 1915, § 15738.

767.80, 767.81 Repealed. 1970, Act 232, Imd. Eff. Dec. 3, 1970.

Compiler's note: The repealed sections pertained to residents of this state being required to attend as a witness in a criminal action in another state and bringing out-of-state witnesses into Michigan.

767.82 Repealed. 1974, Act 266, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to charge of taking indecent liberties in indictment for rape or attempted rape.

767.83 Indictment involving intent to defraud; sufficiency of allegations and proof.

Sec. 83. In any prosecution where an intent to defraud is required to constitute the offense, it shall be sufficient to allege in the indictment an intent to defraud without naming therein the particular person or body corporate intended to be defrauded; and on the trial of such indictment, it shall be deemed sufficient, and shall not be deemed a variance, if there appear to be an intent to defraud the United States, or any state, county, city or township, or any body corporate, or any public officer in his official capacity, or any copartnership or member thereof, or any particular person.

History: Add. 1931, Act 309, Eff. Sept. 18, 1931;—CL 1948, 767.83.

767.91 Out of state witnesses; attendance; definitions.

Sec. 91. As used in sections 91 to 95 of this chapter:

(a) “Witness” includes a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding.

(b) “State” includes any territory of the United States and the District of Columbia.

(c) “Summons” includes a subpoena, order or other notice requiring the appearance of a witness.

History: Add. 1970, Act 232, Imd. Eff. Dec. 3, 1970.

767.92 Attendance in another state; hearing; summons; custody; fee.

Sec. 92. (1) A judge of a court of record in a state which by law has provided for commanding persons within that state to attend and testify in this state may certify under seal of his court that for purposes of a

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criminal prosecution in his court or a grand jury investigation in his state, a person in this state is required as a material witness for a specified number of days.

(2) Upon presentation of a certificate issued pursuant to subsection (1) to a judge of a court of record in a county where such witness is found, the judge shall fix a time and place for a hearing and make an order directing the witness to appear at the hearing. At such hearing the certificate shall be prima facie evidence of all the facts stated therein.

(3) The judge shall issue a summons with a copy of the certificate attached directing the witness to attend and testify in the court where the criminal prosecution is pending or a grand jury is investigating if he determines at the hearing that:

(a) The witness is material and necessary to the prosecution or investigation.

(b) The attendance and testifying in the prosecution or investigation will not cause undue hardship to the witness.

(c) The laws of the state where the prosecution or investigation is being held and the laws of any other state through which the witness may be required to pass by ordinary course of travel protect the witness from arrest and service of civil or criminal process.

(4) If a certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, the judge may direct that the witness be forthwith brought before him for a hearing without notice. If the judge at the hearing is satisfied of the desirability of custody and delivery, for which determination the certificate shall be prima facie proof of desirability, he may order that the witness be forthwith taken into custody and delivered to an officer of the requesting state without issuing a summons.

(5) If a witness, who is summoned pursuant to this section and is paid by an authorized person the sum of 10 cents for each mile of the ordinary traveled route to and from the court where such prosecution or investigation is being held and $5.00 for each day that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

History: Add. 1970, Act 232, Imd. Eff. Dec. 3, 1970.

767.93 Attendance from without the state; certificate; fee.

Sec. 93. (1) If a person in a state, which by law provides for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this state, is a material witness in a prosecution pending in a court of record in this state, or in a grand jury investigation which has commenced or is about to commence, a judge of the court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. The certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure his attendance in this state. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

(2) If the witness is summoned to attend and testify in this state he shall be tendered the sum of 10 cents for each mile of the ordinary traveled route to and from the court where the prosecution or investigation is being held and $5.00 for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this state longer than the period stated in the certificate, unless otherwise ordered by the court. If the witness, after coming into this state, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

History: Add. 1970, Act 232, Imd. Eff. Dec. 3, 1970.

767.94 Immunity of witness.

Sec. 94. (1) If a person comes into this state in obedience to a summons which is issued pursuant to section 93 he shall not while in this state pursuant to such summons be subject to arrest or the service of civil or criminal process in connection with matters which arose before his entrance into this state under the summons.

(2) If a person passes through this state while going to another state in obedience to a summons to attend and testify in that state or while returning therefrom, he shall not while so passing through this state be subject to arrest or the service of civil or criminal process in connection with matters which arose before his entrance into this state under the summons.

History: Add. 1970, Act 232, Imd. Eff. Dec. 3, 1970.

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767.94a Disclosure of certain material or information by defendant to prosecuting attorney; compliance; motion for good cause.

Sec. 94a. (1) A defendant or his or her attorney shall disclose to the prosecuting attorney upon request the following material or information within the possession or control of the defendant or his or her attorney:

(a) The name and last known address of each witness other than the defendant whom the defendant intends to call at trial provided the witness is not listed by the prosecuting attorney.

(b) The nature of any defense the defendant intends to establish at trial by expert testimony.

(c) Any report or statement by an expert concerning a mental or physical examination, or any other test, experiment, or comparison that the defendant intends to offer in evidence, or that was prepared by a person, other than the defendant, whom the defendant intends to call as a witness, if the report or statement relates to the testimony to be offered by the witness.

(d) Any book, paper, document, photograph, or tangible object that the defendant intends to offer in evidence or that relates to the testimony of a witness, other than the defendant, whom the defendant intends to call.

(2) The defendant or his or her attorney shall comply with the disclosure provisions of subsection (1) not later than 10 days before trial or at any other time as the court directs.

(3) A defendant shall not offer at trial any evidence required to be disclosed pursuant to subsection (1) that was not disclosed unless permitted by the court upon motion for good cause shown. A motion under this subsection may be made before or during trial.

History: Add. 1994, Act 113, Eff. Oct. 1, 1994.

Compiler's note: On November 16, 1994, the Michigan Supreme Court entered Administrative Order No. 1994-10, which provides as follows:

"On May 4, 1994, the Governor signed House Bill 4227, concerning discovery by the prosecution of certain information known to the defendant in a criminal case. 1994 PA 113, MCL 767.94a; MSA 28.1023(194a). On November 16, 1994, this Court promulgated MCR 6.201, which is a comprehensive treatment of the subject of discovery in criminal cases.

"On order of the Court, effective January 1, 1995, discovery in criminal cases heard in the courts of this state is governed by MCR 6.201 and not by MCL 767.94a; MSA 28.1023(194a). Const 1963, art 6, § 5; MCR 1.104."

767.95 Short title; uniformity.

Sec. 95. Sections 91 to 95 constitute the uniform act to secure the attendance of witnesses from without a state in criminal proceedings and shall be so interpreted and construed as to effectuate their general purposes to make uniform the law of the states which enact them.

History: Add. 1970, Act 232, Imd. Eff. Dec. 3, 1970.

767.96 Costs of grand jury.

Sec. 96. (1) Except as otherwise provided by law, the costs of a grand jury convened under section 7c(a) shall be borne by this state, and shall be paid from the general fund of this state.

(2) Except as otherwise provided by law, the costs of a grand jury convened under section 7c(b) shall be borne equally by each county over which the grand jury has jurisdiction, and shall be paid by those counties.

History: Add. 1989, Act 204, Imd. Eff. Nov. 1, 1989.

CHAPTER VIIA

767A.1 "Prosecuting attorney" defined.

Sec. 1. As used in this chapter, "prosecuting attorney" means the attorney general or the prosecuting attorney for a county, or his or her designee.

History: Add. 1995, Act 148, Eff. Oct. 1, 1995.

767A.2 Investigative subpoenas; petition for authorization; contents; filing; application for immunity; confidentiality of application; exemption from disclosure.

Sec. 2. (1) A prosecuting attorney may petition the district court, the circuit court, or the recorder's court in writing for authorization to issue 1 or more subpoenas to investigate the commission of a felony as provided in this chapter.

(2) A petition for authorization to issue 1 or more investigative subpoenas under subsection (1) shall contain all of the following:

(a) A brief description of each felony being investigated.

(b) The name of each person who will be questioned or who will be required to produce material described under subdivision (c).

(c) A general description of any records, documents, or physical evidence to be examined.

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(d) A brief statement of the facts establishing the basis for the prosecuting attorney's belief that the testimony of the person or examination of the records, documents, or physical evidence is relevant to the investigation of a felony described in the petition.

(3) The petition for authorization to issue 1 or more investigative subpoenas may be filed by the prosecuting attorney with any of the following:

(a) The circuit court of the judicial circuit in which the felony or a portion of the felony is alleged to have been committed or of any judicial circuit in which the prosecuting attorney lawfully maintains an office.

(b) The recorder's court if the felony or a portion of the felony is alleged to have been committed in the city of Detroit or if the prosecuting attorney lawfully maintains an office in the city of Detroit.

(c) The district court of the judicial district in which the felony or a portion of the felony is alleged to have been committed or of any judicial district in which the prosecuting attorney lawfully maintains an office.

(4) A prosecuting attorney may file an application for immunity under section 7 at the time he or she files a petition for authorization to issue 1 or more investigative subpoenas under this section.

(5) An application under this section is confidential and shall not be available for public inspection or copying or divulged to any person except as otherwise provided in this chapter. An application under this section is exempt for disclosure under the freedom of information act, Act No. 422 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1995, Act 148, Eff. Oct. 1, 1995.

767A.3 Investigative subpoenas; issuance; circumstances; contents and scope of order; additional subpoenas; supplemental petitions; filing.

Sec. 3. (1) A judge may authorize a prosecuting attorney in writing to issue 1 or more investigative subpoenas under this chapter if all of the following circumstances exist:

(a) A petition is properly filed under section 2.

(b) The judge determines there is reasonable cause to believe a felony has been committed.

(c) The judge determines there is reasonable cause to believe that either of the following circumstances exists:

(*i*) The person who is the subject of the investigative subpoena may have knowledge regarding the commission of the felony.

(*ii*) The records, documents, or physical evidence are relevant to investigate the commission of a felony described in the petition.

(2) An order issued by the judge authorizing a prosecuting attorney to issue 1 or more investigative subpoenas under this chapter shall contain all of the following:

(a) A statement identifying each felony to be investigated.

(b) A statement listing each person to whom an investigative subpoena may be issued.

(c) A statement listing the records, documents, or physical evidence subject to production under an investigative subpoena. The statement shall describe the records, documents, or physical evidence with sufficient definiteness to permit those records, documents, or physical evidence to be fairly identified.

(3) A prosecuting attorney may issue investigative subpoenas to the extent authorized by the judge in the authorization order.

(4) If additional investigative subpoenas are required to conduct the investigation, the prosecuting attorney may file 1 or more supplemental petitions with the judge who issued the authorization to conduct the investigation requesting those additional investigative subpoenas. A supplemental petition under this subsection may incorporate the original petition for an investigative subpoena by reference. The petition shall be filed in the same manner that an original petition is filed under section 2.

History: Add. 1995, Act 148, Eff. Oct. 1, 1995.

767A.4 Investigative subpoenas; contents; service of process.

Sec. 4. (1) An investigative subpoena issued by a prosecuting attorney under this chapter shall contain all of the following information:

(a) The name of the person to whom it is directed and his or her address, if known. If the name of the person is not known, the investigative subpoena shall give a general description sufficient to identify the person.

(b) The time and place for taking the person's testimony or for the person to produce the required documents or physical evidence.

(c) A statement that the investigative subpoena is issued pursuant to this section.

(d) A statement identifying the criminal activity being investigated.

(e) A statement describing the records, documents, or physical evidence to be produced. The statement

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shall describe the records, documents, or physical evidence with sufficient definiteness to permit those records, documents, or physical evidence to be fairly identified.

(f) A statement that the person may object to the investigative subpoena or file reasons for not complying with the investigative subpoena by filing a written statement of objection or noncompliance with the prosecuting attorney on or before the date scheduled for the questioning or the production of the records, documents, or physical evidence. A statement under this subdivision shall also inform the person that the prosecuting attorney may seek an order compelling compliance with the investigative subpoena as provided in this chapter.

(g) A statement that the person may have legal counsel present at all times he or she is being questioned and during the examination of any records, documents, or physical evidence that he or she is required to produce.

(2) The court rules that apply to service of process in civil actions apply to service of investigative subpoenas under this chapter. However, an investigative subpoena shall be served not less than 7 days before the date set for the taking of testimony or examination of records, documents, or physical evidence unless the judge who issued the authorization for that investigative subpoena has shortened that period of time for good cause shown.

History: Add. 1995, Act 148, Eff. Oct. 1, 1995.

767A.5 Appearance before prosecuting attorney; administration of oaths and affirmations; right to legal counsel; testimony with respect to records, documents or physical evidence; informing person of rights against self-incrimination; furnishing copy of testimony to defendant; effect of failure to provide copy of testimony; furnishing copy of testimony after direct examination of witness.

Sec. 5. (1) A person properly served with an investigative subpoena under this chapter shall appear before the prosecuting attorney and answer questions concerning the felony being investigated or produce any records, documents, or physical evidence he or she is required to produce.

(2) The prosecuting attorney may administer oaths and affirmations in the manner prescribed by law to implement this chapter.

(3) Any person may have legal counsel present in the room in which the inquiry is held. The person may discuss fully with his or her legal counsel any matter relating to the person's part in the inquiry without being subject to citation for contempt.

(4) The prosecuting attorney may require a person having knowledge of any records, documents, or physical evidence subpoenaed under this chapter to testify under oath or acknowledgment with respect to those records, documents, or physical evidence.

(5) The prosecuting attorney shall inform the person of his or her constitutional rights regarding compulsory self-incrimination before asking any questions under an investigative subpoena. This subsection does not apply if the person is granted immunity under section 7.

(6) If a criminal charge is filed by the prosecuting attorney based upon information obtained pursuant to this chapter, upon the defendant's motion made not later than 21 days after the defendant is arraigned on the charge, the trial judge shall direct the prosecuting attorney to furnish to the defendant the testimony the defendant gave regarding the crime with which he or she is charged and may direct the prosecuting attorney to furnish to the defendant the testimony any witness who will testify at the trial gave the prosecuting attorney pursuant to this chapter regarding that crime except those portions that are irrelevant or immaterial, or that are excluded for other good cause shown. If the defendant requests the testimony of a witness pursuant to this section and the trial judge directs the prosecuting attorney to furnish to the defendant a copy of that witness's testimony, the prosecuting attorney shall furnish a copy of the testimony not later than 14 days before trial. If the prosecuting attorney fails or refuses to furnish a copy of the testimony to the defendant pursuant to this subsection, the prosecuting attorney may be barred from calling that witness to testify at the defendant's trial.

(7) If the trial judge has not directed the prosecuting attorney to furnish a copy of a witness's testimony to the defendant before trial, the prosecuting attorney shall, upon the defendant's request, furnish a copy of that testimony to the defendant after direct examination of that witness at trial has been completed.

History: Add. 1995, Act 148, Eff. Oct. 1, 1995.

767A.6 Motion to order compliance with subpoena; filing; notice; hearing; court order; order violating statutory privilege or constitutional right prohibited; further protections; disclosure by reporter of informant or related information; circumstances.

Sec. 6. (1) If a person files an objection to, or fails or refuses to answer any question or to produce any record, document, or physical evidence set forth in an investigative subpoena, the prosecuting attorney may

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file a motion with the judge who authorized the prosecuting attorney to issue the subpoena for an order compelling the person to comply with that subpoena. The prosecuting attorney shall serve notice of the motion under applicable court rules.

(2) If the prosecuting attorney files a motion with the court for an order under subsection (1), the court shall hold a hearing on the motion. The person has the right to appear and be heard regarding the motion and to have legal counsel present.

(3) If the court determines the question or evidentiary request of the prosecuting attorney is appropriate and within the scope of the authorization, the court shall order the person to answer the question or to produce the record, document, or physical evidence.

(4) If the court determines the question or request is inappropriate or outside the scope of the authorization, the court may order the prosecuting attorney to modify the question or the request or may disallow the question or the request.

(5) The court shall not compel the person to answer a question or produce any record, document, or physical evidence if answering that question or producing that record, document, or physical evidence would violate a statutory privilege or a constitutional right. Upon motion by the person and for good cause shown, the court may make any further order in the proceedings that justice requires to protect the person from unreasonable annoyance, embarrassment, oppression, burden, or expense.

(6) A reporter or other person who is involved in the gathering or preparation of news for broadcast or publication is not required to disclose the identity of an informant, any unpublished information obtained from an informant, or any unpublished matter or documentation, in whatever manner recorded, relating to a communication with an informant, in any inquiry conducted under this chapter. A reporter or other person who is involved in the gathering or preparation of news for broadcast or publication is subject to an inquiry under this chapter only under the following circumstances:

(a) To obtain information that has been disseminated to the public by media broadcast or print publication.

(b) If the reporter or other person is the subject of the inquiry.

History: Add. 1995, Act 148, Eff. Oct. 1, 1995.

767A.7 Order granting immunity.

Sec. 7. (1) The prosecuting attorney may apply to the court for an order granting immunity to any person, designated by name and address in the application, whom the prosecuting attorney intends to require to give testimony concerning any matter investigated under this chapter. The application shall be accompanied by the prosecuting attorney's verified petition setting forth the facts upon which the application is based. If the judge determines it is in the interest of justice to grant immunity, the judge shall enter an order granting immunity to the person if the person appears before the prosecuting attorney and testifies under oath concerning the felony set forth in the petition of the prosecuting attorney. The order granting immunity shall extend to all related questions asked of the person.

(2) The prosecuting attorney shall provide the person with a true copy of the order issued under subsection (1) before the prosecuting attorney asks the person any questions. No testimony or other information compelled under the order, or any information directly or indirectly derived from that testimony or other information, may be used against the person in any criminal case, except for impeachment purposes, in a prosecution for perjury, or for otherwise failing to comply with the order granting immunity.

(3) An order issued under this section that grants immunity to a person continues in effect until the judge or his or her successor, in his or her discretion and upon application by the prosecuting attorney, enters an order terminating the order granting immunity and the prosecuting attorney notifies the witness of the order of termination.

(4) Any person granted immunity under this section may have legal counsel present at all times at which he or she is being questioned concerning any matter included within the order granting immunity.

History: Add. 1995, Act 148, Eff. Oct. 1, 1995.

767A.8 Confidentiality of certain material and information.

Sec. 8. Petitions for immunity, orders of immunity, transcripts of testimony delivered to witnesses pursuant to grants of immunity, and records, documents, and physical evidence obtained by the prosecuting attorney pursuant to an investigation under this chapter are confidential and shall not be available for public inspection or copying or divulged to any person except as otherwise provided in this chapter. Material and information obtained under this act are exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1995, Act 148, Eff. Oct. 1, 1995.

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767A.9 Knowingly making false statement as perjury; penalty; neglect or refusal to comply with subpoena as contempt; determination that witness has purged himself or herself of contempt; commutation of sentence.

Sec. 9. (1) A person who makes a false statement under oath in an examination conducted under this chapter knowing the statement is false is guilty of perjury punishable as follows:

(a) Except as provided in subdivision (b), by imprisonment for not more than 15 years.

(b) If the false statement was made during the investigation of a crime punishable by imprisonment for life, by imprisonment for life or for any term of years.

(2) A person who neglects or refuses to comply with an investigative subpoena in violation of a court order is guilty of contempt punishable by imprisonment for not more than 1 year or by a fine of not more than $10,000.00, or both. If the witness appears before the court to purge himself or herself of that contempt, he or she shall be allowed to appear before the prosecuting attorney to answer any proper question concerning the matter under investigation, and after the witness appears before the prosecuting attorney, upon transcript of the testimony, the witness shall be brought before the court and after examination, the court shall determine whether the witness has purged himself or herself of the contempt. The court shall commute the sentence if the court finds the witness has purged himself or herself of that contempt.

History: Add. 1995, Act 148, Eff. Oct. 1, 1995.

CHAPTER VIII
TRIALS

768.1 Speedy trial; right of parties; duty of public officers.

Sec. 1. The people of this state and persons charged with crime are entitled to and shall have a speedy trial and determination of all prosecutions and it is hereby made the duty of all public officers having duties to perform in any criminal case, to bring such case to a final determination without delay except as may be necessary to secure to the accused a fair and impartial trial.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17294;—CL 1948, 768.1.

768.2 Criminal cases; precedence; adjournment; continuance.

Sec. 2. The trial of criminal cases shall take precedence over all other cases; but this provision shall not be interpreted to mean that trials of civil cases shall not be interspersed between trials of criminal cases triable before a jury at any term of court. No adjournments, continuances or delays of criminal causes shall be granted by any court except for good cause shown in the manner provided by law for adjournments, continuances and delays in the trial of civil causes in courts of record: Provided, That no court shall adjourn, continue or delay the trial of any criminal cause by the consent of the prosecution and accused unless in his discretion it shall clearly appear by a sufficient showing to said court to be entered upon the record, that the reasons for such consent are founded upon strict necessity and that the trial of said cause cannot be then had without a manifest injustice being done.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17295;—CL 1948, 768.2.

768.3 Person indicted; presence at trial.

Sec. 3. No person indicted for a felony shall be tried unless personally present during the trial; persons indicted or complained against for misdemeanors may, at their own request, through an attorney, duly authorized for that purpose, by leave of the court, be put on trial in their absence.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17296;—CL 1948, 768.3.

Former law: See section 9 of Ch. 165 of R.S. 1846, being CL 1857, § 6076; CL 1871, § 7955; How., § 9568; CL 1897, § 11951; and CL 1915, § 15824.

768.4 Proof of felony at trial for misdemeanor; effect.

Sec. 4. If, upon the trial of any person for a misdemeanor, the facts given in evidence amount in law to a felony, he shall not by reason thereof, be entitled to an acquittal of such misdemeanor, and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for felony on the same facts, unless the court before which the trial shall be had, shall discharge the jury from giving any verdict upon such trial, and shall direct such person to be indicted for felony.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17297;—CL 1948, 768.4.

Former law: See section 4 of Act 77 of 1855, being CL 1857, § 6050; CL 1871, § 7919; How., § 9530; CL 1897, § 11915; and CL 1915, § 15742.

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768.5 Defendants jointly indicted; separation of trials.

Sec. 5. When 2 or more defendants shall be jointly indicted for any criminal offense, they shall be tried separately or jointly, in the discretion of the court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17298;—CL 1948, 768.5.

Former law: See section 14 of Ch. 165 of R.S. 1846, being CL 1857, § 6081; CL 1871, § 7960; How., § 9573; CL 1897, § 11956; and CL 1915, § 15829.

768.6 Commission of offense in certain state institutions; penalty.

Sec. 6. Any person now or hereafter confined in any penal or reformatory institution in this state, and who during the term of such confinement shall commit any crime or offense punishable under the laws of this state by imprisonment in such institution, shall be subject to the same punishment as if the crime had been committed at any other place or by a person not so confined.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17299;—CL 1948, 768.6.

Former law: See section 1 of Act 132 of 1887, being How., § 9414a; CL 1897, § 11772; CL 1915, § 11586; and section 64 of Act 118 of 1893, being CL 1897, § 2143; and CL 1915, § 1762.

768.7 Jurisdiction over cases arising under MCL 768.6; proceedings; examination; warrant; custody of person confined; applicability of section and MCL 768.6.

Sec. 7. The circuit court for the county in which the prison or institution named in the preceding section is, shall have jurisdiction over cases arising under the foregoing section, and the proceedings thereto pertaining shall in all ways conform to the law and rules in cases of like offenses occurring elsewhere, except that the examination may be held in 1 of the offices of the penal institutions where the crime is committed, at the option of the magistrate before whom the complaint may be made, and that the warrant shall be made in the ordinary form, shall be directed to the warden or keeper of such institution, and shall set forth that the accused is imprisoned in such institution under and by authority of the laws of the state of Michigan; and further, that the person so confined shall remain in the custody of such warden or keeper subject to the order of the circuit court for the county in which such institution is located. The provisions of this and the preceding section shall apply to persons who are temporarily outside the limits of the institutions named in such sections, except those prisoners who have received a parole by due process of law and are at liberty under the terms of such parole.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17300;—CL 1948, 768.7;—Am. 1987, Act 268, Imd. Eff. Dec. 29, 1987.

Former law: See sections 2 and 4 of Act 132 of 1887, being How., §§ 9414b and 9414d; CL 1897, §§ 11773 and 11775; CL 1915, §§ 15587 and 15589; section 65 of Act 118 of 1893, being CL 1897, § 2144; CL 1915, § 1763; and Act 35 of 1917 .

768.7a Commission of crime during incarceration in or escape from penal or reformatory institution; felony committed while on parole; term of imprisonment; supplementary powers conferred upon court.

Sec. 7a. (1) A person who is incarcerated in a penal or reformatory institution in this state, or who escapes from such an institution, and who commits a crime during that incarceration or escape which is punishable by imprisonment in a penal or reformatory institution in this state shall, upon conviction of that crime, be sentenced as provided by law. The term of imprisonment imposed for the crime shall begin to run at the expiration of the term or terms of imprisonment which the person is serving or has become liable to serve in a penal or reformatory institution in this state.

(2) If a person is convicted and sentenced to a term of imprisonment for a felony committed while the person was on parole from a sentence for a previous offense, the term of imprisonment imposed for the later offense shall begin to run at the expiration of the remaining portion of the term of imprisonment imposed for the previous offense.

(3) The powers conferred upon the court by this section are supplementary to any other power conferred by law.

History: Add. 1954, Act 100, Imd. Eff. Apr. 14, 1954;—Am. 1976, Act 184, Imd. Eff. July 8, 1976;—Am. 1988, Act 48, Eff. June 1, 1988.

768.7b Commission of subsequent felony by person charged with felony; consecutive sentences; report.

Sec. 7b. (1) Beginning April 1, 1988, and through December 31, 1991, if a person who has been charged with a felony, pending the disposition of the charge, commits a subsequent offense that is a felony, upon conviction of the subsequent offense or acceptance of a plea of guilty, guilty but mentally ill, or nolo contendere to the subsequent offense, the sentences imposed for the prior charged offense and the subsequent

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offense shall run consecutively.

(2) Beginning January 1, 1992, if a person who has been charged with a felony, pending the disposition of the charge, commits a subsequent offense that is a felony, upon conviction of the subsequent offense or acceptance of a plea of guilty, guilty but mentally ill, or nolo contendere to the subsequent offense, the following shall apply:

(a) Unless the subsequent offense is a major controlled substance offense, the sentences imposed for the prior charged offense and the subsequent offense may run consecutively.

(b) If the subsequent offense is a major controlled substance offense, the sentences imposed for the prior charged offense and the subsequent offense shall run consecutively.

(3) The department of corrections shall report to the legislature no later than June 1, 1991, on the impact that the amendatory act that added this subsection has had on prison capacity and population.

History: Add. 1971, Act 180, Eff. Mar. 30, 1972;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1988, Act 31, Eff. Apr. 1, 1988.

768.8 Issues of fact to be tried by jury; waiver of trial by jury.

Sec. 8. Issues of fact shall be tried by a jury drawn, returned, examined on voir dire, and empaneled in the manner provided by law for the trial of issues of fact in civil cases. The accused may waive any trial by jury in the manner set forth in section 3 of chapter III.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17301;—CL 1948, 768.8;—Am. 1988, Act 89, Eff. June 1, 1988.

Former law: See section 1 of Ch. 165 of R.S. 1846, being CL 1857, § 6068; CL 1871, § 7947; How., § 9559; CL 1897, § 11942; and CL 1915, § 15815.

768.9 Challenge to juror for cause; membership on grand jury.

Sec. 9. No member of the grand jury which has found an indictment shall be put upon the jury for the trial of such indictment, if challenged for that cause by the defendant.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17302;—CL 1948, 768.9.

Former law: See section 2 of Ch. 165 of R.S. 1846, being CL 1857, § 6069; CL 1871, § 7948; How., § 9560; CL 1897, § 11943; and CL 1915, § 15816.

768.10 Challenge to juror for cause; effect of opinion or impression not positive in character; declaration by juror.

Sec. 10. The previous formation or expression of opinion or impression, not positive in its character, in reference to the circumstances upon which any criminal prosecution is based, or in reference to the guilt or innocence of the prisoner, or a present opinion or impression in reference thereto, such opinion or impression not being positive in its character, or not being based on personal knowledge of the facts in the case, shall not be a sufficient ground of challenge for principal cause, to any person who is otherwise legally qualified to serve as a juror upon the trial of such action: Provided, That the person proposed as a juror, who may have formed or expressed, or has such opinion or impression as aforesaid, shall declare on oath, that he verily believes that he can render an impartial verdict according to the evidence submitted to the jury on such trial: Provided further, That the court shall be satisfied that the person so proposed as a juror does not entertain such a present opinion as would influence his verdict as a juror.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17303;—CL 1948, 768.10.

Former law: See Act 117 of 1893, being How., § 9564; CL 1897, § 11947; and CL 1915, § 15820.

768.11 Repealed. 1978, Act 11, Imd. Eff. Feb. 8, 1978.

Compiler's note: The repealed section pertained to opinion of juror as to death penalty.

768.12 Peremptory challenge; offense not punishable by death or life imprisonment; number.

Sec. 12. (1) A person who is put on trial for an offense that is not punishable by death or life imprisonment shall be allowed to challenge peremptorily 5 of the persons drawn to serve as jurors. In a case involving 2 or more defendants who are being jointly tried for an offense that is not punishable by death or life imprisonment, each of the defendants shall be allowed to challenge peremptorily 5 persons returned as jurors. The prosecuting officers on behalf of the people shall be allowed to challenge 5 jurors peremptorily if a defendant is being tried alone or, if defendants are tried jointly, shall be allowed the total number of peremptory challenges to which all the defendants are entitled.

(2) On motion and a showing of good cause, the court may grant 1 or more of the parties an increased number of peremptory challenges. The number of additional peremptory challenges the court grants may cause the various parties to have unequal numbers of peremptory challenges.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17305;—CL 1948, 768.12;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

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Former law: See section 58 of Ch. 103 of R.S. 1846, being CL 1857, § 4400; CL 1871, § 6027; How., § 7607; CL 1897, § 10238; CL 1915, § 14594; Act 147 of 1883; Sections 3 and 4 of Ch. 165 of R.S. 1846, being CL 1857, §§ 6070 and 6071; CL 1871, §§ 7949 and 7950; How., §§ 9561 and 9562; CL 1897, §§ 11944 and 11945; and CL 1915, §§ 15817 and 15818.

768.13 Peremptory challenge; offense punishable by death or life imprisonment; number.

Sec. 13. (1) A person who is being tried alone for an offense punishable by death or imprisonment for life, shall be allowed to challenge peremptorily 12 of the persons drawn to serve as jurors. In a case punishable by death or imprisonment for life that involves 2 or more defendants, a defendant shall be allowed the following number of peremptory challenges:

(a) Two defendants – 10 each.

(b) Three defendants – 9 each.

(c) Four defendants – 8 each.

(d) Five or more defendants – 7 each.

(2) In a case punishable by death or imprisonment for life, the prosecuting officers on behalf of the people shall be allowed to challenge peremptorily 12 jurors if a defendant is being tried alone or, if defendants are tried jointly, shall be allowed the total number of peremptory challenges to which all the defendants are entitled.

(3) On motion and a showing of good cause, the court may grant 1 or more of the parties an increased number of peremptory challenges. The number of additional peremptory challenges the court grants may cause the various parties to have unequal numbers of peremptory challenges.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17306;—CL 1948, 768.13;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

Former law: See section 5 of Ch. 165 of R.S. 1846, being CL 1857, § 6072; CL 1871, § 7951; How., § 9563; CL 1897, § 11946; CL 1915, § 15819; Act 72 of 1861; and Act 139 of 1883.

768.14 Jurors; form of oath.

Sec. 14. The following oath shall be administered to the jurors for the trial of all criminal cases: "You shall well and truly try, and true deliverance make, between the people of this state and the prisoner at bar, whom you shall have in charge, according to the evidence and the laws of this state; so help you God."

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17307;—CL 1948, 768.14.

Former law: See section 7 of Ch. 165 of R.S. 1846, being CL 1857, § 6074; CL 1871, § 7953; How., § 9565; CL 1897, § 11948; and CL 1915, § 15821.

768.15 Jurors; affirmation in lieu of oath.

Sec. 15. Any juror shall be allowed to make affirmation, substituting the words "This you do under the pains and penalties of perjury" instead of the words "so help you God."

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17308;—CL 1948, 768.15.

Former law: See section 8 of Ch. 165 of R.S. 1846, being CL 1857, § 6075; CL 1871, § 7954; How., § 9566; CL 1897, § 11949; and CL 1915, §15822.

768.16 Jurors; liberty; oath and duty of officer in charge.

Sec. 16. The jurors sworn to try a criminal action in any court of record in this state, may, at any time before the cause is submitted to the jury, in the discretion of the court, be permitted to separate or to be kept in charge of proper officers. When an order shall have been entered by the court in which such action is being tried, directing said jurors to be kept in charge of such officers, the following oath shall be administered by the clerk of the court to said officers: "You do solemnly swear that you will, to the utmost of your ability, keep the persons sworn as jurors on this trial from separating from each other; that you will not suffer any communication to be made to them, or any of them, orally or otherwise; that you will not communicate with them, or any of them, orally or otherwise, except by the order of this court, or to ask them if they have agreed on their verdict, until they shall be discharged; and that you will not, before they render their verdict, communicate to any person the state of their deliberations or the verdict they have agreed upon, so help you God." And thereafter it shall be the duty of the officer so sworn to keep the jury from separating, or from receiving any communication of any character, until they shall have rendered their verdict, except under a special instruction in writing from the trial judge. After the jurors retire to consider their verdict, the court may permit the jurors to separate temporarily, whenever in his judgment such a separation is deemed proper: Provided, That in cases where separation of the members of a jury is now forbidden by law, the authority hereby granted shall not extend to permitting separation of the members of the jury of the same sex.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17309;—CL 1948, 768.16.

Former law: See section 1 of Act 176 of 1893, being CL 1897, § 11960; CL 1915, § 15833; and Act 4 of 1909.

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768.17 Jurors; medical attendance; use of newspapers and letters.

Sec. 17. The trial judge may order, in case of illness of any jurors mentioned in the preceding section, that such juror may receive medical attendance, and may be removed to his home or some other place agreeable to the judge during the continuance of his illness; and that any of the jurors may receive such newspapers and letters as make no mention of the trial then in progress, or of any facts connected therewith, which shall first be inspected by the said judge.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17310;—CL 1948, 768.17.

Former law: See section 2 of Act 176 of 1893, being CL 1897, § 11961; and CL 1915, § 15834.

768.18 Jury; impaneling; number of members; qualifications; excusing jurors; reducing jury to 12 members.

Sec. 18. (1) Any judge of a court of record in this state about to try a felony case which is likely to be protracted, may order a jury impaneled of not to exceed 14 members, who shall have the same qualifications and shall be impaneled in the same manner as is, or may be, provided by law for impaneling juries in such courts. All of those jurors shall sit and hear the cause. Should any condition arise during the trial of the cause which in the opinion of the trial court justifies the excusal of any of the jurors so impaneled from further service, he may do so and the trial shall proceed, unless the number of jurors be reduced to less than 12. In the event that more than 12 jurors are left on the jury after the charge of the court, the clerk of the court in the presence of the trial judge shall place the names of all of the jurors on slips, folded so as to conceal the names thereon, in a suitable box provided for that purpose, and shall draw therefrom the names of a sufficient number to reduce the jury to 12 members who shall then proceed to determine the issue presented in the manner provided by law.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17311;—CL 1948, 768.18;—Am. 1974, Act 63, Eff. May 1, 1974.

Compiler's note: This section is a substantial reenactment of Act 56 of 1923.
Section 2 of Act 63 of 1974 provides:
"Effective date.
"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

768.19 Perjury; acts of officer under oath.

Sec. 19. Any officer having taken an oath required by any provision of this chapter who shall knowingly and wilfully violate the same or permit the same to be violated, shall, on conviction thereof, be adjudged guilty of the crime of perjury and subject to all the pains and penalties thereof.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17312;—CL 1948, 768.19.

Former law: See section 3 of Act 176 of 1893, being CL 1897, § 11962; and CL 1915, § 15835.

768.20 Alibi as defense in felony case; notice of intention to claim defense; notice of rebuttal; disclosure and calling of additional witnesses.

Sec. 20. (1) If a defendant in a felony case proposes to offer in his defense testimony to establish an alibi at the time of the alleged offense, the defendant shall at the time of arraignment on the information or within 15 days after that arraignment but not less than 10 days before the trial of the case, or at such other time as the court directs, file and serve upon the prosecuting attorney a notice in writing of his intention to claim that defense. The notice shall contain, as particularly as is known to the defendant or the defendant's attorney, the names of witnesses to be called in behalf of the defendant to establish that defense. The defendant's notice shall include specific information as to the place at which the accused claims to have been at the time of the alleged offense.

(2) Within 10 days after the receipt of the defendant's notice but not later than 5 days before the trial of the case, or at such other time as the court may direct, the prosecuting attorney shall file and serve upon the defendant a notice of rebuttal which shall contain, as particularly as is known to the prosecuting attorney, the names of the witnesses whom the prosecuting attorney proposes to call in rebuttal to controvert the defendant's defense at the trial of the case.

(3) Both the defendant and the prosecuting attorney shall be under a continuing duty to disclose promptly the names of additional witnesses which come to the attention of either party subsequent to filing their respective notices as provided in this section. Upon motion with notice to the other party and upon a showing by the moving party that the name of an additional witness was not available when the notice required by subsections (1) or (2) was filed and could not have been available by the exercise of due diligence, the

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additional witness may be called by the moving party to testify as a witness for the purpose of establishing or rebutting an alibi defense.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1929, Act 24, Imd. Eff. Apr. 2, 1929;—CL 1929, 17313;—Am. 1939, Act 80, Eff. Sept. 29, 1939;—CL 1948, 768.20;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 1975, Act 180, Eff. Aug. 6, 1975.

Compiler's note: Section 2 of Act 63 of 1974 provides:

"Effective date.

"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

768.20a Insanity as defense in felony case; notice of intention to assert defense; examination; independent psychiatric evaluation; cooperation required; admissibility of statements; report; notice of rebuttal; admissibility of reports; "qualified personnel" defined.

Sec. 20a. (1) If a defendant in a felony case proposes to offer in his or her defense testimony to establish his or her insanity at the time of an alleged offense, the defendant shall file and serve upon the court and the prosecuting attorney a notice in writing of his or her intention to assert the defense of insanity not less than 30 days before the date set for the trial of the case, or at such other time as the court directs.

(2) Upon receipt of a notice of an intention to assert the defense of insanity, a court shall order the defendant to undergo an examination relating to his or her claim of insanity by personnel of the center for forensic psychiatry or by other qualified personnel, as applicable, for a period not to exceed 60 days from the date of the order. When the defendant is to be held in jail pending trial, the center or the other qualified personnel may perform the examination in the jail, or may notify the sheriff to transport the defendant to the center or facility used by the qualified personnel for the examination, and the sheriff shall return the defendant to the jail upon completion of the examination. When the defendant is at liberty pending trial, on bail or otherwise, the defendant shall make himself or herself available for the examination at the place and time established by the center or the other qualified personnel. If the defendant, after being notified of the place and time of the examination, fails to make himself or herself available for the examination, the court may, without a hearing, order his or her commitment to the center.

(3) The defendant may, at his or her own expense, secure an independent psychiatric evaluation by a clinician of his or her choice on the issue of his or her insanity at the time the alleged offense was committed. If the defendant is indigent, the court may, upon showing of good cause, order that the county pay for an independent psychiatric evaluation. The defendant shall notify the prosecuting attorney at least 5 days before the day scheduled for the independent evaluation that he or she intends to secure such an evaluation. The prosecuting attorney may similarly obtain independent psychiatric evaluation. A clinician secured by an indigent defendant is entitled to receive a reasonable fee as approved by the court.

(4) The defendant shall fully cooperate in his or her examination by personnel of the center for forensic psychiatry or by other qualified personnel, and by any other independent examiners for the defense and prosecution. If he or she fails to cooperate, and that failure is established to the satisfaction of the court at a hearing prior to trial, the defendant shall be barred from presenting testimony relating to his or her insanity at the trial of the case.

(5) Statements made by the defendant to personnel of the center for forensic psychiatry, to other qualified personnel, or to any independent examiner during an examination shall not be admissible or have probative value in court at the trial of the case on any issues other than his or her mental illness or insanity at the time of the alleged offense.

(6) Upon conclusion of the examination, the center for forensic psychiatry or the other qualified personnel, and any independent examiner, shall prepare a written report and shall submit the report to the prosecuting attorney and defense counsel. The report shall contain:

(a) The clinical findings of the center, the qualified personnel, or any independent examiner.

(b) The facts, in reasonable detail, upon which the findings were based.

(c) The opinion of the center or qualified personnel, and the independent examiner on the issue of the defendant's insanity at the time the alleged offense was committed and whether the defendant was mentally ill or intellectually disabled at the time the alleged offense was committed.

(7) Within 10 days after the receipt of the report from the center for forensic psychiatry or from the qualified personnel, or within 10 days after the receipt of the report of an independent examiner secured by the prosecution, whichever occurs later, but not later than 5 days before the trial of the case, or at another time the court directs, the prosecuting attorney shall file and serve upon the defendant a notice of rebuttal of the

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defense of insanity which shall contain the names of the witnesses whom the prosecuting attorney proposes to call in rebuttal.

(8) The report of the center for forensic psychiatry, the qualified personnel, or any independent examiner may be admissible in evidence upon the stipulation of the prosecution and defense.

(9) As used in this section, "qualified personnel" means personnel meeting standards determined by the department of community health under rules promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 1975, Act 180, Eff. Aug. 6, 1975;—Am. 1983, Act 42, Imd. Eff. May 12, 1983;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007;—Am. 2014, Act 76, Imd. Eff. Mar. 28, 2014.

Constitutionality: The requirement that a defendant who raises an insanity defense cooperate in a psychiatric examination relating to the claim of insanity or be barred from presenting evidence of insanity at trial does not infringe upon the defendant's right to present a defense; nor is the sanction unconstitutionally vague. People v Hayes, 421 Mich 271; 364 NW2d 635 (1984).

768.21 Failure to file and serve notices or to state names of witnesses with particularity; exclusion of evidence.

Sec. 21. (1) If the defendant fails to file and serve the written notice prescribed in section 20 or 20a, the court shall exclude evidence offered by the defendant for the purpose of establishing an alibi or the insanity of the defendant. If the notice given by the defendant does not state, as particularly as is known to the defendant or the defendant's attorney, the name of a witness to be called in behalf of the defendant to establish a defense specified in section 20 or 20a, the court shall exclude the testimony of a witness which is offered by the defendant for the purpose of establishing that defense.

(2) If the prosecuting attorney fails to file and serve a notice of rebuttal upon the defendant as provided in section 20 or 20a, the court shall exclude evidence offered by the prosecution in rebuttal to the defendant's evidence relevant to a defense specified in section 20 or 20a. If the notice given by the prosecuting attorney does not state, as particularly as is known to the prosecuting attorney, the name of a witness to be called in rebuttal of the defense of alibi or insanity, the court shall exclude the testimony of a witness which is offered by the prosecuting attorney for the purpose of rebutting that defense.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17314;—CL 1948, 768.21;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 1975, Act 180, Eff. Aug. 6, 1975;—Am. 1976, Act 51, Imd. Eff. Mar. 21, 1976.

Compiler's note: Section 2 of Act 63 of 1974 provides:

"Section 2. To give judges, prosecutors, and defense counsel a reasonable opportunity to become aware of and familiar with the time periods and sequence prescribed in this amendatory act and the effects of noncompliance, sections 20 and 21 of chapter 8 of Act No. 175 of the Public Acts of 1927, being sections 768.20 and 768.21 of the Michigan Compiled Laws, as amended by this amendatory act shall take effect May 1, 1974, and apply to cases in which the arraignment on an information occurs on or after that date. The other provisions of this amendatory act shall take effect May 1, 1974 and apply to offenses committed on or after that date."

768.21a Persons deemed legally insane; burden of proof.

Sec. 21a. (1) It is an affirmative defense to a prosecution for a criminal offense that the defendant was legally insane when he or she committed the acts constituting the offense. An individual is legally insane if, as a result of mental illness as defined in section 400 of the mental health code, 1974 PA 258, MCL 330.1400, or as a result of having an intellectual disability as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b, that person lacks substantial capacity either to appreciate the nature and quality or the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of the law. Mental illness or having an intellectual disability does not otherwise constitute a defense of legal insanity.

(2) An individual who was under the influence of voluntarily consumed or injected alcohol or controlled substances at the time of his or her alleged offense is not considered to have been legally insane solely because of being under the influence of the alcohol or controlled substances.

(3) The defendant has the burden of proving the defense of insanity by a preponderance of the evidence.

History: Add. 1975, Act 180, Eff. Aug. 6, 1975;—Am. 1994, Act 56, Eff. Oct. 1, 1994;—Am. 2014, Act 76, Imd. Eff. Mar. 28, 2014.

768.21b Breaking prison; defense of duress; notices; additional witnesses; consideration of conditions.

Sec. 21b. (1) If a defendant charged with breaking prison proposes to offer in his or her defense testimony to establish the defense of duress at the time of the alleged offense, the defendant at the time of arraignment on the information or within 15 days after that arraignment, but not less than 10 days before the trial of the case, or at such other time as the court directs, shall file and serve upon the prosecuting attorney a notice in writing of the intention to claim that defense. The notice shall contain, as particularly as is known to the defendant or the defendant's attorney, the names of witnesses to be called in behalf of the defendant to establish that defense. The defendant's notice shall include specific information relative to the defense.

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(2) Within 10 days after the receipt of the defendant's notice but not later than 5 days before the trial of the case, or at such other time as the court may direct, the prosecuting attorney shall file and serve upon the defendant a notice of rebuttal which shall contain, as particularly as is known to the prosecuting attorney, the names of the witnesses whom the prosecuting attorney proposes to call in rebuttal to controvert the defendant's defense at the trial of the case.

(3) Both the defendant and the prosecuting attorney shall be under a continuing duty to promptly disclose the names of additional witnesses which come to the attention of either party after filing the respective notices as provided in this section. Upon motion with notice to the other party and upon a showing by the moving party that the name of an additional witness was not available when the notice required by subsection (1) or (2) was filed, and could not have been available by the exercise of due diligence, the additional witness may be called by the moving party to testify as a witness for the purpose of establishing or rebutting the defense of duress or necessity.

(4) In determining whether or not the defendant broke prison while under duress the jury or court may consider the following conditions if supported by competent evidence:

(a) Whether the defendant was faced with a specific threat of death, forcible sexual attack or substantial bodily injury in the immediate future.

(b) Whether there was insufficient time for a complaint to the authorities.

(c) Whether there was a history of complaints by the defendant which failed to provide relief.

(d) Whether there was insufficient time or opportunity to resort to the courts.

(e) Whether force or violence was not used towards innocent persons in the prison break.

(f) Whether the defendant immediately reported to the proper authorities upon reaching a position of safety from the immediate threat.

History: Add. 1978, Act 600, Imd. Eff. Jan. 4, 1979.

768.21c Use of deadly force by individual in own dwelling; "dwelling" defined.

Sec. 21c. (1) In cases in which section 2 of the self-defense act does not apply, the common law of this state applies except that the duty to retreat before using deadly force is not required if an individual is in his or her own dwelling or within the curtilage of that dwelling.

(2) As used in this section, "dwelling" means a structure or shelter that is used permanently or temporarily as a place of abode, including an appurtenant structure attached to that structure or shelter.

History: Add. 2006, Act 313, Eff. Oct. 1, 2006.

768.22 Rules of evidence; applicability of criminal and quasi criminal proceedings; evidence of prior conviction.

Sec. 22. (1) The rules of evidence in civil actions, insofar as the same are applicable, shall govern in all criminal and quasi criminal proceedings except as otherwise provided by law.

(2) In prosecutions charging a second or subsequent offense under Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948, a certification by a judge or clerk of a court under the seal of the court of a prior conviction for the same offense is admissible and is prima facie evidence of the fact of conviction. The certification shall include the person's full name, address, date of birth, operator's or chauffeur's license number and vehicle registration number, if such information is available to the person so certifying, and the dates of the offense and the conviction thereof.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17315;—CL 1948, 768.22;—Am. 1967, Act 44, Eff. Nov. 2, 1967.

Former law: See Act 208 of 1917.

768.23 Exception; necessity of taking.

Sec. 23. It shall not be necessary in the trial of any criminal cause to except to any ruling or action of the court, if an objection thereto was fully made but an exception shall be deemed to follow as a matter of course.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17316;—CL 1948, 768.23.

Former law: See section 2 of Ch. 166 of R.S. 1846, being CL 1857, § 6083; CL 1871, § 7964; How., § 9577; CL 1897, § 11964; CL 1915, §15837; and Act 79 of 1885.

768.24 Evidence; leading question.

Sec. 24. Within the discretion of the court no question asked of a witness shall be deemed objectionable solely because it is leading.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17317;—CL 1948, 768.24.

768.25 Evidence; proof of signature.

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Sec. 25. Whenever in the trial of any criminal case it shall be necessary or proper to prove the signature of any person, it shall be competent to introduce in evidence for the purpose of comparison, any specimen or specimens of the handwriting or signature of such person, admitted or proved to the satisfaction of the court to be genuine, whether or not the paper on which such handwriting or signature appears is one in evidence or connected with the case or not.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17318;—CL 1948, 768.25.

768.26 Evidence; use of former testimony; deposition for defendant.

Sec. 26. Testimony taken at an examination, preliminary hearing, or at a former trial of the case, or taken by deposition at the instance of the defendant, may be used by the prosecution whenever the witness giving such testimony can not, for any reason, be produced at the trial, or whenever the witness has, since giving such testimony become insane or otherwise mentally incapacitated to testify.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17319;—CL 1948, 768.26.

768.27 Evidence; proof of intent or motive by similar acts.

Sec. 27. In any criminal case where the defendant's motive, intent, the absence of, mistake or accident on his part, or the defendant's scheme, plan or system in doing an act, is material, any like acts or other acts of the defendant which may tend to show his motive, intent, the absence of, mistake or accident on his part, or the defendant's scheme, plan or system in doing the act, in question, may be proved, whether they are contemporaneous with or prior or subsequent thereto; notwithstanding that such proof may show or tend to show the commission of another or prior or subsequent crime by the defendant.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17320;—CL 1948, 768.27.

768.27a Evidence that defendant committed another listed offense against minor; admissibility; disclosure of evidence to defendant; definitions.

Sec. 27a. (1) Notwithstanding section 27, in a criminal case in which the defendant is accused of committing a listed offense against a minor, evidence that the defendant committed another listed offense against a minor is admissible and may be considered for its bearing on any matter to which it is relevant. If the prosecuting attorney intends to offer evidence under this section, the prosecuting attorney shall disclose the evidence to the defendant at least 15 days before the scheduled date of trial or at a later time as allowed by the court for good cause shown, including the statements of witnesses or a summary of the substance of any testimony that is expected to be offered.

(2) As used in this section:

(a) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) "Minor" means an individual less than 18 years of age.

History: Add. 2005, Act 135, Eff. Jan. 1, 2006.

768.27b Domestic violence offense; commission of other domestic violence acts; admissibility; disclosure; definitions; applicability of section.

Sec. 27b. (1) Except as provided in subsection (4), in a criminal action in which the defendant is accused of an offense involving domestic violence, evidence of the defendant's commission of other acts of domestic violence is admissible for any purpose for which it is relevant, if it is not otherwise excluded under Michigan rule of evidence 403.

(2) If the prosecuting attorney intends to offer evidence under this section, the prosecuting attorney shall disclose the evidence, including the statements of witnesses or a summary of the substance of any testimony that is expected to be offered, to the defendant not less than 15 days before the scheduled date of trial or at a later time as allowed by the court for good cause shown.

(3) This section does not limit or preclude the admission or consideration of evidence under any other statute, rule of evidence, or case law.

(4) Evidence of an act occurring more than 10 years before the charged offense is inadmissible under this section, unless the court determines that admitting this evidence is in the interest of justice.

(5) As used in this section:

(a) "Domestic violence" or "offense involving domestic violence" means an occurrence of 1 or more of the following acts by a person that is not an act of self-defense:

(*i*) Causing or attempting to cause physical or mental harm to a family or household member.

(*ii*) Placing a family or household member in fear of physical or mental harm.

(*iii*) Causing or attempting to cause a family or household member to engage in involuntary sexual activity

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by force, threat of force, or duress.

(*iv*) Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(b) "Family or household member" means any of the following:

(*i*) A spouse or former spouse.

(*ii*) An individual with whom the person resides or has resided.

(*iii*) An individual with whom the person has or has had a child in common.

(*iv*) An individual with whom the person has or has had a dating relationship. As used in this subparagraph, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(6) This section applies to trials and evidentiary hearings commenced or in progress on or after May 1, 2006.

History: Add. 2006, Act 78, Imd. Eff. Mar. 24, 2006.

768.27c Statement by declarant; admissibility; circumstances relevant to trustworthiness; disclosure; privilege; definitions; applicability of section.

Sec. 27c. (1) Evidence of a statement by a declarant is admissible if all of the following apply:

(a) The statement purports to narrate, describe, or explain the infliction or threat of physical injury upon the declarant.

(b) The action in which the evidence is offered under this section is an offense involving domestic violence.

(c) The statement was made at or near the time of the infliction or threat of physical injury. Evidence of a statement made more than 5 years before the filing of the current action or proceeding is inadmissible under this section.

(d) The statement was made under circumstances that would indicate the statement's trustworthiness.

(e) The statement was made to a law enforcement officer.

(2) For the purpose of subsection (1)(d), circumstances relevant to the issue of trustworthiness include, but are not limited to, all of the following:

(a) Whether the statement was made in contemplation of pending or anticipated litigation in which the declarant was interested.

(b) Whether the declarant has a bias or motive for fabricating the statement, and the extent of any bias or motive.

(c) Whether the statement is corroborated by evidence other than statements that are admissible only under this section.

(3) If the prosecuting attorney intends to offer evidence under this section, the prosecuting attorney shall disclose the evidence, including the statements of witnesses or a summary of the substance of any testimony that is expected to be offered, to the defendant not less than 15 days before the scheduled date of trial or at a later time as allowed by the court for good cause shown.

(4) Nothing in this section shall be construed to abrogate any privilege conferred by law.

(5) As used in this section:

(a) "Declarant" means a person who makes a statement.

(b) "Domestic violence" or "offense involving domestic violence" means an occurrence of 1 or more of the following acts by a person that is not an act of self-defense:

(*i*) Causing or attempting to cause physical or mental harm to a family or household member.

(*ii*) Placing a family or household member in fear of physical or mental harm.

(*iii*) Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress.

(*iv*) Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(c) "Family or household member" means any of the following:

(*i*) A spouse or former spouse.

(*ii*) An individual with whom the person resides or has resided.

(*iii*) An individual with whom the person has or has had a child in common.

(*iv*) An individual with whom the person has or has had a dating relationship. As used in this subparagraph, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

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(6) This section applies to trials and evidentiary hearings commenced or in progress on or after May 1, 2006.

History: Add. 2006, Act 79, Imd. Eff. Mar. 24, 2006.

768.28 Evidence; view by jury.

Sec. 28. The court may order a view by any jury empaneled to try a criminal case, whenever such court shall deem such view necessary.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17321;—CL 1948, 768.28.

Former law: See section 10 of Ch. 165 of R.S. 1846, being CL 1857, § 6077; CL 1871, § 7956; How., § 9569; CL 1897, § 11952; and CL 1915, § 15825.

768.28a Evidence obtained pursuant to federal court order authorizing or approving interception of wire or oral communications; admissibility.

Sec. 28a. Evidence obtained pursuant to an order authorizing or approving the interception of wire or oral communications issued by a federal court in compliance with section 802 of title III of the omnibus crime control and safe streets act of 1968, Public Law 90-351, 18 U.S.C. 2510 to 2513 and 2515 to 2521, that is otherwise admissible under the rules of evidence of this state, may be admitted in evidence in a court of this state in a criminal prosecution for any of the following offenses:

(a) A violation of section 7401(2)(a)(*i*), 7401(2)(a)(*ii*), 7401(2)(a)(*iii*), 7401(2)(a)(*iv*), 7402(2)(a), 7403(2)(a)(*i*), 7403(2)(a)(*ii*), 7403(2)(a)(*iii*), or 7403(2)(a)(*iv*) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401, 333.7402, and 333.7403 of the Michigan Compiled Laws.

(b) A violation of section 83, 89, 91, 157b, 316, 317, 327, 328, 349, 350, 422, 436, 520b, 529, 531, or 544 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.83, 750.89, 750.91, 750.157b, 750.316, 750.317, 750.327, 750.328, 750.349, 750.350, 750.422, 750.436, 750.520b, 750.529, 750.531, and 750.544 of the Michigan Compiled Laws, that is punishable by imprisonment for life.

(c) A conspiracy to commit an offense listed in subdivision (a) or (b).

History: Add. 1988, Act 8, Imd. Eff. Feb. 8, 1988.

768.29 Judge's duty at trial; effect of failure to instruct.

Sec. 29. It shall be the duty of the judge to control all proceedings during the trial, and to limit the introduction of evidence and the argument of counsel to relevant and material matters, with a view to the expeditious and effective ascertainment of the truth regarding the matters involved. The court shall instruct the jury as to the law applicable to the case and in his charge make such comment on the evidence, the testimony and character of any witnesses, as in his opinion the interest of justice may require. The failure of the court to instruct on any point of law shall not be ground for setting aside the verdict of the jury unless such instruction is requested by the accused.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17322;—CL 1948, 768.29.

768.29a Defense of insanity in criminal action tried before jury; instructions.

Sec. 29a. (1) If the defendant asserts a defense of insanity in a criminal action which is tried before a jury, the judge shall, before testimony is presented on that issue, instruct the jury on the law as contained in sections 400a and 500(g) of Act No. 258 of the Public Acts of 1974 and in section 21a of chapter 8 of this act.

(2) At the conclusion of the trial, where warranted by the evidence, the charge to the jury shall contain instructions that it shall consider separately the issues of the presence or absence of mental illness and the presence or absence of legal insanity and shall also contain instructions as to the verdicts of guilty, guilty but mentally ill, not guilty by reason of insanity, and not guilty with regard to the offense or offenses charged and, as required by law, any lesser included offenses.

History: Add. 1975, Act 180, Eff. Aug. 6, 1975.

768.30 Exception to charge or refusal to charge; necessity.

Sec. 30. It shall not be necessary in any criminal suit, action or proceeding in any court of record, to except to the charge given to the jury, or to the refusal to give any charge requested by either of the parties to such suit, action or proceeding, but any party aggrieved by any such charge or refusal to charge, may assign error upon such charge or refusal to charge in his assignments of error, the same as if exception had been made to such charge or refusal to charge.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17323;—CL 1948, 768.30.

Former law: See Act 101 of 1885, being How., § 7621b; CL 1897, § 10247; CL 1915, § 14576; and Act 52 of 1901.

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768.31 Joint defendants; discharge for insufficient evidence.

Sec. 31. Whenever 2 or more persons shall be included in the same indictment and it shall appear that there is not sufficient evidence to put any defendant on his defense, it shall be the duty of the court to order such defendant to be discharged from such indictment, before the evidence shall be deemed to be closed.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17324;—CL 1948, 768.31.

Former law: See section 13 of Ch. 165 of R.S. 1846, being CL 1857, § 6080; CL 1871, § 7959; How., § 9572; CL 1897, § 11955; and CL 1915, § 15828.

768.32 Indictment for offense consisting of different degrees or for offense specified in MCL 333.7401 and 333.7403; finding of jury or judge; instructions.

Sec. 32. (1) Except as provided in subsection (2), upon an indictment for an offense, consisting of different degrees, as prescribed in this chapter, the jury, or the judge in a trial without a jury, may find the accused not guilty of the offense in the degree charged in the indictment and may find the accused person guilty of a degree of that offense inferior to that charged in the indictment, or of an attempt to commit that offense.

(2) Upon an indictment for an offense specified in section 7401(2)(a)(*i*) or (*ii*) or section 7403(2)(a) (*i*) or (*ii*) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws, or conspiracy to commit 1 or more of these offenses, the jury, or judge in a trial without a jury, may find the accused not guilty of the offense in the degree charged in the indictment but may find the accused guilty of a degree of that offense inferior to that charged in the indictment only if the lesser included offense is a major controlled substance offense. A jury shall not be instructed as to other lesser included offenses involving the same controlled substance nor as to an attempt to commit either a major controlled substance offense or a lesser included offense involving the same controlled substance. The jury shall be instructed to return a verdict of not guilty of an offense involving the controlled substance at issue if it finds that the evidence does not establish the defendant's guilt as to the commission of a major controlled substance offense involving that controlled substance. A judge in a trial without a jury shall find the defendant not guilty of an offense involving the controlled substance at issue if the judge finds that the evidence does not establish the defendant's guilt as to the commission of a major controlled substance offense involving that controlled substance.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17325;—CL 1948, 768.32;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1988, Act 90, Imd. Eff. Mar. 30, 1988.

Former law: See section 16 of Ch. 161 of R.S. 1846, being CL 1857, § 5952; CL 1871, § 7818; How., § 9428; CL 1897, § 11789; and CL 1915, § 15616.

768.33 Offense consisting of different degrees; subsequent trial prohibited.

Sec. 33. When a defendant shall be acquitted or convicted upon any indictment for an offense, consisting of different degrees, he shall not thereafter be tried or convicted for a different degree of the same offense; nor shall he be tried or convicted for any attempt to commit the offense charged in the indictment or to commit any degree of such offense.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17326;—CL 1948, 768.33.

Former law: See section 17 of Ch. 161 of R.S. 1846, being CL 1857, § 5953; CL 1871, § 7819; How., § 9429; CL 1897, § 11790; and CL 1915, § 15617.

768.34 Discharged or acquitted prisoner; liability for costs or fees.

Sec. 34. No prisoner or person under recognizance who shall be acquitted by verdict or discharged because no indictment has been found against him, or for want of prosecution, shall be liable for any costs or fees of office or for any charge for subsistence while he was in custody.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17327;—CL 1948, 768.34.

Former law: See section 12 of Ch. 165 of R.S. 1846, being CL 1857, § 6079; CL 1871, § 7958; How., § 9427; CL 1897, § 11954; and CL 1915, § 15827.

768.35 Plea of guilty; investigation by judge; sentence; refusal to accept.

Sec. 35. Whenever any person shall plead guilty to an information filed against him in any court, it shall be the duty of the judge of such court, before pronouncing judgment or sentence upon such plea, to become satisfied after such investigation as he may deem necessary for that purpose respecting the nature of the case, and the circumstances of such plea, that said plea was made freely, with full knowledge of the nature of the accusation, and without undue influence. And whenever said judge shall have reason to doubt the truth of such plea of guilty, it shall be his duty to vacate the same, direct a plea of not guilty to be entered and order a trial of the issue thus formed.

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History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17328;—CL 1948, 768.35.

Former law: See Act 99 of 1875, being How., § 9558; CL 1897, § 11957; and CL 1915, § 15830.

768.36 Defense of insanity in compliance with MCL 768.20a; finding of "guilty but mentally ill"; waiver of right to trial; plea of guilty but mentally ill; examination of reports; hearing; sentence; evaluation and treatment; discharge; report to parole board; treatment as condition of parole or probation; period of probation; psychiatric reports.

Sec. 36. (1) If the defendant asserts a defense of insanity in compliance with section 20a of this chapter, the defendant may be found "guilty but mentally ill" if, after trial, the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense.

(b) The defendant has proven by a preponderance of the evidence that he or she was mentally ill at the time of the commission of that offense.

(c) The defendant has not established by a preponderance of the evidence that he or she lacked the substantial capacity either to appreciate the nature and quality or the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of the law.

(2) If the defendant asserts a defense of insanity in compliance with section 20a of this chapter and the defendant waives his or her right to trial, by jury or by judge, the trial judge, with the approval of the prosecuting attorney, may accept a plea of guilty but mentally ill in lieu of a plea of guilty or a plea of nolo contendere. The judge shall not accept a plea of guilty but mentally ill until, with the defendant's consent, the judge has examined the report or reports prepared in compliance with section 20a of this chapter, the judge has held a hearing on the issue of the defendant's mental illness at which either party may present evidence, and the judge is satisfied that the defendant has proven by a preponderance of the evidence that the defendant was mentally ill at the time of the offense to which the plea is entered. The reports shall be made a part of the record of the case.

(3) If a defendant is found guilty but mentally ill or enters a plea to that effect which is accepted by the court, the court shall impose any sentence that could be imposed by law upon a defendant who is convicted of the same offense. If the defendant is committed to the custody of the department of corrections, the defendant shall undergo further evaluation and be given such treatment as is psychiatrically indicated for his or her mental illness or intellectual disability. Treatment may be provided by the department of corrections or by the department of community health as provided by law. Sections 1004 and 1006 of the mental health code, 1974 PA 258, MCL 330.2004 and 330.2006, apply to the discharge of the defendant from a facility of the department of community health to which the defendant has been admitted and to the return of the defendant to the department of corrections for the balance of the defendant's sentence. When a treating facility designated by either the department of corrections or the department of community health discharges the defendant before the expiration of the defendant's sentence, that treating facility shall transmit to the parole board a report on the condition of the defendant that contains the clinical facts, the diagnosis, the course of treatment, the prognosis for the remission of symptoms, the potential for recidivism, the danger of the defendant to himself or herself or to the public, and recommendations for future treatment. If the parole board considers the defendant for parole, the board shall consult with the treating facility at which the defendant is being treated or from which the defendant has been discharged and a comparable report on the condition of the defendant shall be filed with the board. If the defendant is placed on parole, the defendant's treatment shall, upon recommendation of the treating facility, be made a condition of parole. Failure to continue treatment except by agreement with the designated facility and parole board is grounds for revocation of parole.

(4) If a defendant who is found guilty but mentally ill is placed on probation under the jurisdiction of the sentencing court as provided by law, the trial judge, upon recommendation of the center for forensic psychiatry, shall make treatment a condition of probation. Reports as specified by the trial judge shall be filed with the probation officer and the sentencing court. Failure to continue treatment, except by agreement with the treating agency and the sentencing court, is grounds for revocation of probation. The period of probation shall not be for less than 5 years and shall not be shortened without receipt and consideration of a forensic psychiatric report by the sentencing court. Treatment shall be provided by an agency of the department of community health or, with the approval of the sentencing court and at individual expense, by private agencies, private physicians, or other mental health personnel. A psychiatric report shall be filed with the probation officer and the sentencing court every 3 months during the period of probation. If a motion on a petition to discontinue probation is made by the defendant, the probation officer shall request a report as specified from the center for forensic psychiatry or any other facility certified by department of community health for the performance of forensic psychiatric evaluation.

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History: Add. 1975, Act 180, Eff. Aug. 6, 1975;—Am. 2002, Act 245, Eff. May 1, 2002;—Am. 2014, Act 76, Imd. Eff. Mar. 28, 2014.

Constitutionality: The Michigan supreme court found that subsection (4) of this section, governing the grant of probation to guilty but mentally ill persons, does not violate the equal protection and due process clauses of the federal and state constitutions. People v McCleod, 407 Mich 632; 288 NW2d 909 (1980).

Compiler's note: For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

768.37 Under influence of or impairment by alcoholic liquor or drug as defense prohibited; exception; definitions.

Sec. 37. (1) Except as provided in subsection (2), it is not a defense to any crime that the defendant was, at that time, under the influence of or impaired by a voluntarily and knowingly consumed alcoholic liquor, drug, including a controlled substance, other substance or compound, or combination of alcoholic liquor, drug, or other substance or compound.

(2) It is an affirmative defense to a specific intent crime, for which the defendant has the burden of proof by a preponderance of the evidence, that he or she voluntarily consumed a legally obtained and properly used medication or other substance and did not know and reasonably should not have known that he or she would become intoxicated or impaired.

(3) As used in this section:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Consumed" means to have eaten, drunk, ingested, inhaled, injected, or topically applied, or to have performed any combination of those actions, or otherwise introduced into the body.

(c) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

History: Add. 2002, Act 366, Eff. Sept. 1, 2002.

Compiler's note: Enacting section 1 of Act 366 of 2002 provides:
"Enacting section 1. This amendatory act takes effect September 1, 2002, and applies to crimes committed on or after that date."

CHAPTER IX
JUDGMENT AND SENTENCE

769.1 Authority and power of court; crimes for which juvenile to be sentenced as adult; fingerprints as condition to sentencing; hearing at juvenile's sentencing; determination; criteria; waiver; violation of MCL 333.7403; statement on record; transcript; reimbursement provision in order of commitment; disposition of collections; order to intercept tax refunds and initiate offset proceedings; notice; order directed to person responsible for juvenile's support; hearing; copy of order; retention of jurisdiction over juvenile; annual review; examination of juvenile's annual report; forwarding report.

Sec. 1. (1) A judge of a court having jurisdiction may pronounce judgment against and pass sentence upon a person convicted of an offense in that court. The sentence shall not exceed the sentence prescribed by law. The court shall sentence a juvenile convicted of any of the following crimes in the same manner as an adult:

(a) Arson of a dwelling in violation of section 72 of the Michigan penal code, 1931 PA 328, MCL 750.72.

(b) Assault with intent to commit murder in violation of section 83 of the Michigan penal code, 1931 PA 328, MCL 750.83.

(c) Assault with intent to maim in violation of section 86 of the Michigan penal code, 1931 PA 328, MCL 750.86.

(d) Attempted murder in violation of section 91 of the Michigan penal code, 1931 PA 328, MCL 750.91.

(e) Conspiracy to commit murder in violation of section 157a of the Michigan penal code, 1931 PA 328, MCL 750.157a.

(f) Solicitation to commit murder in violation of section 157b of the Michigan penal code, 1931 PA 328, MCL 750.157b.

(g) First degree murder in violation of section 316 of the Michigan penal code, 1931 PA 328, MCL 750.316.

(h) Second degree murder in violation of section 317 of the Michigan penal code, 1931 PA 328, MCL 750.317.

(i) Kidnapping in violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349.

(j) First degree criminal sexual conduct in violation of section 520b of the Michigan penal code, 1931 PA

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328, MCL 750.520b.

(k) Armed robbery in violation of section 529 of the Michigan penal code, 1931 PA 328, MCL 750.529.

(*l*) Carjacking in violation of section 529a of the Michigan penal code, 1931 PA 328, MCL 750.529a.

(2) A person convicted of a felony or of a misdemeanor punishable by imprisonment for more than 92 days shall not be sentenced until the court has examined the court file and has determined that the person's fingerprints have been taken.

(3) Unless a juvenile is required to be sentenced in the same manner as an adult under subsection (1), a judge of a court having jurisdiction over a juvenile shall conduct a hearing at the juvenile's sentencing to determine if the best interests of the public would be served by placing the juvenile on probation and committing the juvenile to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, or by imposing any other sentence provided by law for an adult offender. Except as provided in subsection (5), the court shall sentence the juvenile in the same manner as an adult unless the court determines by a preponderance of the evidence that the interests of the public would be best served by placing the juvenile on probation and committing the juvenile to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309. The rules of evidence do not apply to a hearing under this subsection. In making the determination required under this subsection, the judge shall consider all of the following, giving greater weight to the seriousness of the alleged offense and the juvenile's prior record of delinquency:

(a) The seriousness of the alleged offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm or other dangerous weapon, and the impact on any victim.

(b) The juvenile's culpability in committing the alleged offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(c) The juvenile's prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior.

(d) The juvenile's programming history, including, but not limited to, the juvenile's past willingness to participate meaningfully in available programming.

(e) The adequacy of the punishment or programming available in the juvenile justice system.

(f) The dispositional options available for the juvenile.

(4) With the consent of the prosecutor and the defendant, the court may waive the hearing required under subsection (3). If the court waives the hearing required under subsection (3), the court may place the juvenile on probation and commit the juvenile to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, but shall not impose any other sentence provided by law for an adult offender.

(5) If a juvenile is convicted of a violation or conspiracy to commit a violation of section 7403(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7403, the court shall determine whether the best interests of the public would be served by imposing the sentence provided by law for an adult offender, by placing the individual on probation and committing the individual to an institution or agency under subsection (3), or by imposing a sentence of imprisonment for any term of years but not less than 25 years. If the court determines by clear and convincing evidence that the best interests of the public would be served by imposing a sentence of imprisonment for any term of years but not less than 25 years, the court may impose that sentence. In making its determination, the court shall use the criteria specified in subsection (3).

(6) The court shall state on the record the court's findings of fact and conclusions of law for the probation and commitment decision or sentencing decision made under subsection (3). If a juvenile is committed under subsection (3) to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, a transcript of the court's findings shall be sent to the family independence agency or county juvenile agency, as applicable.

(7) If a juvenile is committed under subsection (3) or (4) to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, the written order of commitment shall contain a provision for the reimbursement to the court by the juvenile or those responsible for the juvenile's support, or both, for the cost of care or service. The amount of reimbursement ordered shall be reasonable, taking into account both the income and resources of the juvenile and those responsible for the juvenile's support. The amount may be based upon the guidelines and model schedule prepared under section 18(6) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18. The reimbursement provision applies during the entire period the juvenile remains in care outside the juvenile's own home and under court supervision. The court shall provide for the collection of all amounts ordered to be reimbursed, and the money collected shall be accounted for and reported to the county board of commissioners. Collections to cover

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delinquent accounts or to pay the balance due on reimbursement orders may be made after a juvenile is released or discharged from care outside the juvenile's own home and under court supervision. Twenty-five percent of all amounts collected pursuant to an order entered under this subsection shall be credited to the appropriate fund of the county to offset the administrative cost of collections. The balance of all amounts collected pursuant to an order entered under this subsection shall be divided in the same ratio in which the county, state, and federal government participate in the cost of care outside the juvenile's own home and under county, state, or court supervision. The court may also collect benefits paid by the government of the United States for the cost of care of the juvenile. Money collected for juveniles placed with or committed to the family independence agency or a county juvenile agency shall be accounted for and reported on an individual basis. In cases of delinquent accounts, the court may also enter an order to intercept state tax refunds or the federal income tax refund of a child, parent, guardian, or custodian and initiate the necessary offset proceedings in order to recover the cost of care or service. The court shall send to the person who is the subject of the intercept order advance written notice of the proposed offset. The notice shall include notice of the opportunity to contest the offset on the grounds that the intercept is not proper because of a mistake of fact concerning the amount of the delinquency or the identity of the person subject to the order. The court shall provide for the prompt reimbursement of an amount withheld in error or an amount found to exceed the delinquent amount.

(8) If the court appoints an attorney to represent a juvenile, an order entered under this section may require the juvenile or person responsible for the juvenile's support, or both, to reimburse the court for attorney fees.

(9) An order directed to a person responsible for the juvenile's support under this section is not binding on the person unless an opportunity for a hearing has been given and until a copy of the order is served on the person, personally or by first-class mail to the person's last known address.

(10) If a juvenile is placed on probation and committed under subsection (3) or (4) to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, the court shall retain jurisdiction over the juvenile while the juvenile is on probation and committed to that institution or agency.

(11) If the court has retained jurisdiction over a juvenile under subsection (10), the court shall conduct an annual review of the services being provided to the juvenile, the juvenile's placement, and the juvenile's progress in that placement. In conducting this review, the court shall examine the juvenile's annual report prepared under section 3 of the juvenile facilities act, 1988 PA 73, MCL 803.223. The court may order changes in the juvenile's placement or treatment plan including, but not limited to, committing the juvenile to the jurisdiction of the department of corrections, based on the review.

(12) If an individual who is under the court's jurisdiction under section 4 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.4, is convicted of a violation or conspiracy to commit a violation of section 7403(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7403, the court shall determine whether the best interests of the public would be served by imposing the sentence provided by law for an adult offender or by imposing a sentence of imprisonment for any term of years but not less than 25 years. If the court determines by clear and convincing evidence that the best interests of the public would be served by imposing a sentence of imprisonment for any term of years but not less than 25 years, the court may impose that sentence. In making its determination, the court shall use the criteria specified in subsection (3) to the extent they apply.

(13) If the defendant is sentenced for an offense other than a listed offense as defined in section 2(d)(*i*) to (*ix*) and (*xi*) to (*xiii*) of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court shall determine if the offense is a violation of a law of this state or a local ordinance of a municipality of this state that by its nature constitutes a sexual offense against an individual who is less than 18 years of age. If so, the conviction is for a listed offense as defined in section 2(d)(*x*) of the sex offenders registration act, 1994 PA 295, MCL 28.722, and the court shall include the basis for that determination on the record and include the determination in the judgment of sentence.

(14) When sentencing a person convicted of a misdemeanor involving the illegal delivery, possession, or use of alcohol or a controlled substance or a felony, the court shall examine the presentence investigation report and determine if the person being sentenced is licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838. The court shall also examine the court file and determine if a report of the conviction upon which the person is being sentenced has been forwarded to the department of consumer and industry services as provided in section 16a. If the report has not been forwarded to the department of consumer and industry services, the court shall order the clerk of the court to immediately prepare and forward the report as provided in section 16a.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17329;—CL 1948, 769.1;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—

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Am. 1986, Act 232, Eff. June 1, 1987;—Am. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1989, Act 113, Imd. Eff. June 23, 1989;—Am. 1993, Act 85, Eff. Apr. 1, 1994;—Am. 1996, Act 247, Eff. Jan. 1, 1997;—Am. 1996, Act 248, Eff. Jan. 1, 1997;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999;—Am. 1999, Act 87, Eff. Sept. 1, 1999.

Compiler's note: Section 3 of Act 78 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was amended by Act 181 of 1988 to read as follows: “This amendatory act shall take effect October 1, 1988.”

Former law: See section 3 of Act 162 of 1850, being CL 1857, § 6113; CL 1871, § 7997; How., § 9613; CL 1897, § 11983; CL 1915, § 15856; and Act 166 of 1851.

769.1a Order of restitution.

Sec. 1a. (1) As used in this section:

(a) "Crime victim services commission" means that term as described in section 2 of 1976 PA 223, MCL 18.352.

(b) "Victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a felony, misdemeanor, or ordinance violation. For purposes of subsections (2), (3), (6), (8), (9), and (13), victim includes a sole proprietorship, partnership, corporation, association, governmental entity, or any other legal entity that suffers direct physical or financial harm as a result of a felony, misdemeanor, or ordinance violation.

(2) Except as provided in subsection (8), when sentencing a defendant convicted of a felony, misdemeanor, or ordinance violation, the court shall order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make full restitution to any victim of the defendant's course of conduct that gives rise to the conviction or to the victim's estate.

(3) If a felony, misdemeanor, or ordinance violation results in damage to or loss or destruction of property of a victim of the felony, misdemeanor, or ordinance violation or results in the seizure or impoundment of property of a victim of the felony, misdemeanor, or ordinance violation, the order of restitution may require that the defendant do 1 or more of the following, as applicable:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraph (*i*) or (*ii*), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(*i*) The fair market value of the property on the date of the damage, loss, or destruction. However, if the fair market value of the property cannot be determined or is impractical to ascertain, then the replacement value of the property shall be utilized in lieu of the fair market value.

(*ii*) The fair market value of the property on the date of sentencing. However, if the fair market value of the property cannot be determined or is impractical to ascertain, then the replacement value of the property shall be utilized in lieu of the fair market value.

(c) Pay the cost of the seizure or impoundment, or both.

(4) If a felony, misdemeanor, or ordinance violation results in physical or psychological injury to a victim, the order of restitution may require that the defendant do 1 or more of the following, as applicable:

(a) Pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care.

(b) Pay an amount equal to the cost of actual physical and occupational therapy and rehabilitation.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the felony, misdemeanor, or ordinance violation.

(d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family that has been incurred as a result of the felony, misdemeanor, or ordinance violation.

(e) Pay an amount equal to the cost of actual homemaking and child care expenses incurred as a result of the felony, misdemeanor, or ordinance violation.

(5) If a felony, misdemeanor, or ordinance violation resulting in bodily injury also results in the death of a victim, the order of restitution may require that the defendant pay an amount equal to the cost of actual funeral and related services.

(6) If the victim or the victim's estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money.

(7) If the victim is deceased, the court shall order that the restitution be made to the victim's estate.

(8) The court shall order restitution to the crime victim services commission or to any individuals, partnerships, corporations, associations, governmental entities, or other legal entities that have compensated the victim or the victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. The court shall also order restitution for the costs of services provided to persons or entities that have provided services to the victim as a result of the felony, misdemeanor, or ordinance violation. Services

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that are subject to restitution under this subsection include, but are not limited to, shelter, food, clothing, and transportation. However, an order of restitution shall require that all restitution to a victim or a victim's estate under the order be made before any restitution to any other person or entity under that order is made. The court shall not order restitution to be paid to a victim or victim's estate if the victim or victim's estate has received or is to receive compensation for that loss, and the court shall state on the record with specificity the reasons for its action. If an entity entitled to restitution under this subsection for compensating the victim or the victim's estate cannot or refuses to be reimbursed for that compensation, the restitution paid for that entity shall be deposited by the state treasurer in the crime victim's rights fund created under section 4 of 1989 PA 196, MCL 780.904, or its successor fund.

(9) Any amount paid to a victim or a victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victim services commission made after an order of restitution under this section.

(10) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments.

(11) If the defendant is placed on probation or paroled or the court imposes a conditional sentence under section 3 of this chapter, any restitution ordered under this section shall be a condition of that probation, parole, or sentence. The court may revoke probation or impose imprisonment under the conditional sentence and the parole board may revoke parole if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole or impose imprisonment, the court or parole board shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

(12) A defendant who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant or his or her immediate family, the court may modify the method of payment.

(13) An order of restitution entered under this section remains effective until it is satisfied in full. An order of restitution is a judgment and lien against all property of the defendant for the amount specified in the order of restitution. The lien may be recorded as provided by law. An order of restitution may be enforced by the prosecuting attorney, a victim, a victim's estate, or any other person or entity named in the order to receive the restitution in the same manner as a judgment in a civil action or a lien.

(14) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court or parole board determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

(15) In each case in which payment of restitution is ordered as a condition of probation, the probation officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. The final review shall be conducted not less than 60 days before the probationary period expires. If the probation officer determines that restitution is not being paid as ordered, the probation officer shall file a written report of the violation with the court on a form prescribed by the state court administrative office. The report shall include a statement of the amount of the arrearage and any reasons for the arrearage known by the probation officer. The probation officer shall immediately provide a copy of the report to the prosecuting attorney. If a motion is filed or other proceedings are initiated to enforce payment of restitution and the court determines that restitution is not being paid or has not been paid as ordered by the court, the court shall promptly take action necessary to compel compliance.

(16) If a defendant who is ordered to pay restitution under this section is remanded to the jurisdiction of the department of corrections, the court shall provide a copy of the order of restitution to the department of corrections when the defendant is ordered remanded to the department's jurisdiction.

History: Add. 1985, Act 89, Imd. Eff. July 10, 1985;—Am. 1993, Act 343, Eff. May 1, 1994;—Am. 1996, Act 122, Eff. May 1, 1996 ;—Am. 1996, Act 560, Eff. June 1, 1997;—Am. 1998, Act 231, Imd. Eff. July 3, 1998;—Am. 2009, Act 27, Eff. July 1, 2009.

Compiler's note: For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

Effective date: Enacting section 1 of Act 27 of 2009 provides:
"Enacting section 1. This amendatory act takes effect July 1, 2009, and applies only to crimes committed on or after that date."

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769.1b Review hearing for juvenile placed on probation and committed; determination; considerations; time of review hearing; notice; legal counsel; costs; commitment reports; final review; imposition of sentence for adult offender; notice; cost of appointed counsel; credit for time served.

Sec. 1b. (1) If a juvenile is placed on probation and committed under section 1(3) or (4) of this chapter to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, the court shall conduct a review hearing to determine whether the juvenile has been rehabilitated and whether the juvenile presents a serious risk to public safety. If the court determines that the juvenile has not been rehabilitated or that the juvenile presents a serious risk to public safety, jurisdiction over the juvenile shall be continued or the court may commit the juvenile to the department of corrections as provided in this section. In making this determination, the court shall consider the following:

(a) The extent and nature of the juvenile's participation in education, counseling, or work programs.

(b) The juvenile's willingness to accept responsibility for prior behavior.

(c) The juvenile's behavior in his or her current placement.

(d) The juvenile's prior record and character and his or her physical and mental maturity.

(e) The juvenile's potential for violent conduct as demonstrated by prior behavior.

(f) The recommendations of the institution or agency charged with the juvenile's care for the juvenile's release or continued custody.

(g) Other information the prosecuting attorney or juvenile may submit.

(2) A review hearing shall be scheduled and held unless adjourned for good cause as near as possible to, but before, the juvenile's nineteenth birthday. If the institution or agency to which the juvenile was committed believes that the juvenile has been rehabilitated and that the juvenile does not present a serious risk to public safety, that institution or agency may petition the court to conduct a review hearing at any time before the juvenile becomes 19 years of age or, if the court has continued jurisdiction under subsection (1), at any time before the juvenile becomes 21 years of age.

(3) Not less than 14 days before a review hearing is to be conducted, the prosecuting attorney, juvenile, and, if addresses are known, the juvenile's parent or guardian shall be notified. The notice shall state that the court may extend jurisdiction over the juvenile and shall advise the juvenile and the juvenile's parent or guardian of the right to legal counsel. If legal counsel has not been retained or appointed to represent the juvenile, the court shall appoint legal counsel and may assess the cost of providing counsel as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.

(4) The institution or agency charged with the care of the juvenile shall prepare commitment reports as provided in section 5 of the juvenile facilities act, 1988 PA 73, MCL 803.225, for use by the court at a review hearing held under this section.

(5) The court shall conduct a final review of the juvenile's probation and commitment under section 1(3) or (4) of this chapter not less than 3 months before the end of the period that the juvenile is on probation and committed to the institution or agency. If the court determines at this review that the best interests of the public would be served by imposing any other sentence provided by law for an adult offender, the court may impose the sentence. In making its determination, the court shall consider the criteria specified in subsection (1) and all of the following criteria:

(a) The effect of treatment on the juvenile's rehabilitation.

(b) Whether the juvenile is likely to be dangerous to the public if released.

(c) The best interests of the public welfare and the protection of public security.

(6) Not less than 14 days before a final review hearing under subsection (5) is to be conducted, the prosecuting attorney, juvenile, and, if addresses are known, the juvenile's parent or guardian shall be notified. The notice shall state that the court may impose a sentence upon the juvenile under subsection (5) and shall advise the juvenile and the juvenile's parent or guardian of the right to legal counsel. If legal counsel has not been retained or appointed to represent the juvenile, the court shall appoint legal counsel and may assess the cost of providing counsel as costs against the juvenile or those responsible for the juvenile's support, or both, if the persons to be assessed are financially able to comply.

(7) After a sentence is imposed under subsection (1) or (5), the juvenile shall receive credit for the period of time served on probation and committed to an agency or institution under section 1(3) or (4) of this chapter.

History: Add. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1996, Act 247, Eff. Jan. 1, 1997;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 3 of Act 78 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was amended by Act 181 of 1988 to read as follows: “This amendatory act shall take effect October 1, 1988.”

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769.1c Psychiatrist; definition; aid from state hospitals.

Sec. 1c. A psychiatrist under the meaning of the foregoing sections and sections 22-a and 22-b of chapter 14 of this act is a physician, duly licensed to practice in the state of Michigan, who has had at least 5 years experience in actual practice, including either (a) 3 years' full time practice since January 1, 1933, in the care and treatment of persons suffering from nervous or mental disease or mental defect, in an institution provided for the care of such persons, or (b) has devoted 5 years prior to the case in which his services are requested, to a practice confined wholly or substantially to the diagnosis, care or treatment of persons suffering from nervous and mental disease or mental defect. If no qualified psychiatrist is immediately available for the purposes of aiding the court in any investigation under the foregoing sections or sections 22-a and 22-b of chapter 14 of this act, the nearest state hospital shall be required to furnish, upon request of the court, without charge, a competent psychiatrist within the meaning of this act.

History: Add. 1937, Act 196, Imd. Eff. July 14, 1937;—CL 1948, 769.1c.

Compiler's note: For provisions of sections 22a and 22b of chapter 14, referred to in this section, see MCL 774.22a and 774.22b.

769.1d Expense of confinement in state institutions.

Sec. 1d. The expenses of confinement of any person confined to a state hospital or other state institution as provided for in the foregoing sections and sections 22-a and 22-b of chapter 14 of this act, shall be defrayed by the state and may be recovered from such person or his estate.

History: Add. 1937, Act 196, Imd. Eff. July 14, 1937;—CL 1948, 769.1d.

Compiler's note: For provisions of sections 22a and 22b of chapter 14, referred to in this section, see MCL 774.22a and 774.22b.

769.1e Violations of criminal law; licensing sanctions; report of finding to secretary of state; “license” defined.

Sec. 1e. (1) If a law of this state requires the court to deny the issuance of a license to a person, or revoke, suspend, or restrict the license of a person, for a violation of a criminal law of this state or a local ordinance substantially corresponding to a criminal law of this state, the court shall impose the licensing sanctions as provided by law for the violation.

(2) The licensing sanctions referred to in subsection (1) include, but are not limited to, the licensing sanctions required under section 7408a of the public health code, 1978 PA 368, MCL 333.7408a.

(3) A court shall report a finding made by a jury or the court to the secretary of state as required under section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(4) As used in this section, “license” means that term as defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

History: Add. 1993, Act 360, Eff. Sept. 1, 1994;—Am. 2000, Act 220, Eff. Oct. 1, 2000.

769.1f Expenses for which court may order person convicted to reimburse state or local unit of government; payment; reimbursement as condition of probation or parole; enforcement of order; expenses for emergency response; definitions.

Sec. 1f. (1) As part of the sentence for a conviction of any of the following offenses, in addition to any other penalty authorized by law, the court may order the person convicted to reimburse the state or a local unit of government for expenses incurred in relation to that incident including, but not limited to, expenses for an emergency response and expenses for prosecuting the person, as provided in this section:

(a) A violation or attempted violation of section 601d, 625(1), (3), (4), (5), (6), or (7), section 625m, or section 626(3) or (4) of the Michigan vehicle code, 1949 PA 300, MCL 257.601d, 257.625, 257.625m, and 257.626, or of a local ordinance substantially corresponding to section 601d(1), 625(1), (3), or (6) or section 625m or 626 of the Michigan vehicle code, 1949 PA 300, MCL 257.601d, 257.625, 257.625m, and 257.626.

(b) Felonious driving, negligent homicide, manslaughter, or murder, or attempted felonious driving, negligent homicide, manslaughter, or murder, resulting from the operation of a motor vehicle, snowmobile, ORV, aircraft, vessel, or locomotive engine while the person was impaired by or under the influence of intoxicating liquor or a controlled substance, as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, or a combination of intoxicating liquor and a controlled substance, or had an unlawful blood alcohol content.

(c) A violation or attempted violation of section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127.

(d) A violation or attempted violation of section 81134 or former section 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134.

(e) A violation or attempted violation of section 185 of the aeronautics code of the state of Michigan, 1945

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PA 327, MCL 259.185.

(f) A violation or attempted violation of section 80176(1), (3), (4), or (5) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, or a local ordinance substantially corresponding to section 80176(1) or (3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176.

(g) A violation or attempted violation of section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353.

(h) A violation or attempted violation of section 411a(1), (2), or (4) of the Michigan penal code, 1931 PA 328, MCL 750.411a.

(i) A finding of guilt for criminal contempt for a violation of a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

(j) A violation or attempted violation of section 4(1) of the public threat alert act, MCL 28.674.

(2) The expenses for which reimbursement may be ordered under this section include all of the following:

(a) The salaries or wages, including overtime pay, of law enforcement personnel for time spent responding to the incident from which the conviction arose, arresting the person convicted, processing the person after the arrest, preparing reports on the incident, investigating the incident, and collecting and analyzing evidence, including, but not limited to, determining bodily alcohol content and determining the presence of and identifying controlled substances in the blood, breath, or urine.

(b) The salaries, wages, or other compensation, including overtime pay, of fire department and emergency medical service personnel, including volunteer fire fighters or volunteer emergency medical service personnel, for time spent in responding to and providing fire fighting, rescue, and emergency medical services in relation to the incident from which the conviction arose.

(c) The cost of medical supplies lost or expended by fire department and emergency medical service personnel, including volunteer fire fighters or volunteer emergency medical service personnel, in providing services in relation to the incident from which the conviction arose.

(d) The salaries, wages, or other compensation, including, but not limited to, overtime pay of prosecution personnel for time spent investigating and prosecuting the crime or crimes resulting in conviction.

(e) The cost of extraditing a person from another state to this state including, but not limited to, all of the following:

(*i*) Transportation costs.

(*ii*) The salaries or wages of law enforcement and prosecution personnel, including overtime pay, for processing the extradition and returning the person to this state.

(3) If police, fire department, or emergency medical service personnel from more than 1 unit of government incurred expenses as described in subsection (2), the court may order the person convicted to reimburse each unit of government for the expenses it incurred.

(4) The amount ordered to be paid under this section shall be paid to the clerk of the court, who shall transmit the appropriate amount to the unit or units of government named in the order to receive reimbursement. If not otherwise provided by the court under this subsection, the reimbursement ordered under this section shall be made immediately. However, the court may require that the person make the reimbursement ordered under this section within a specified period or in specified installments.

(5) If the person convicted is placed on probation or paroled, any reimbursement ordered under this section shall be a condition of that probation or parole. The court may revoke probation and the parole board may revoke parole if the person fails to comply with the order and if the person has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole, the court or parole board shall consider the person's employment status, earning ability, number of dependents, and financial resources, the willfulness of the person's failure to pay, and any other special circumstances that may have a bearing on the person's ability to pay.

(6) An order for reimbursement under this section may be enforced by the prosecuting attorney or the state or local unit of government named in the order to receive the reimbursement in the same manner as a judgment in a civil action.

(7) Notwithstanding any other provision of this section, a person shall not be imprisoned, jailed, or incarcerated for a violation of parole or probation, or otherwise, for failure to make a reimbursement as ordered under this section unless the court determines that the person has the resources to pay the ordered reimbursement and has not made a good faith effort to do so.

(8) A local unit of government may elect to be reimbursed for expenses under this section or a local ordinance, or a combination of this section and a local ordinance. This subsection does not allow a local unit

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of government to be fully reimbursed more than once for any expense incurred by that local unit of government.

(9) As part of the sentence for a conviction of any violation or attempted violation of chapter XXXIII, section 327, 327a, 328, or 436, or chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a, 750.327, 750.327a, 750.328, and 750.436, and 750.543a to 750.543z, in addition to any other penalty authorized by law, the court shall order the person convicted to reimburse any government entity for expenses incurred in relation to that incident including, but not limited to, expenses for an emergency response and expenses for prosecuting the person, as provided in subsections (2) to (8). As used in this subsection, "government entity" means this state, a local unit of government, or the United States government.

(10) As used in this section:

(a) "Aircraft" means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(b) "Local unit of government" means any of the following:

(*i*) A city, village, township, or county.

(*ii*) A local or intermediate school district.

(*iii*) A public school academy.

(*iv*) A community college.

(c) "Motor vehicle" means that term as defined in section 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33.

(d) "ORV" means that term as defined in section 81101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101.

(e) "Snowmobile" means that term as defined in section 82101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101.

(f) "State" includes a state institution of higher education.

(g) "Vessel" means that term as defined in section 80104 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80104.

History: Add. 1998, Act 345, Eff. Oct. 1, 1999;—Am. 2000, Act 372, Eff. Apr. 1, 2001;—Am. 2001, Act 208, Eff. Apr. 1, 2002;—Am. 2002, Act 120, Eff. Apr. 22, 2002;—Am. 2008, Act 466, Eff. Oct. 31, 2010;—Am. 2012, Act 331, Eff. Jan. 1, 2013;—Am. 2016, Act 236, Eff. Sept. 22, 2016.

Compiler's note: For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

769.1g Offense relating to riot, incitement to riot, unlawful assembly or civil disorder within public community college, college, or university campus.

Sec. 1g. (1) As part of the sentence for a conviction for any offense that the court determines was directly related to a riot, incitement to riot, unlawful assembly or civil disorder on or within 2,500 feet of a public community college, public college, or public university campus in this state, the following apply:

(a) The court may order the individual not to enter upon any public community college, public college, or public university campus in this state as follows:

(*i*) If the offense is a felony, for 2 years following the imposition of sentence or, if the person is ordered imprisoned for the violation, the completion of the term of imprisonment.

(*ii*) If the offense is a misdemeanor, for 1 year following the imposition of sentence or, if the person is ordered incarcerated for the violation, the completion of the term of incarceration.

(b) The court may order the individual to reimburse the public community college, public college, or public university, or this state, or a local unit of government of this state for expenses incurred as a result of the riot, incitement to riot, unlawful assembly, or civil disorder. The amount shall be reasonable and shall not exceed the individual's pro rata share of the costs. Reimbursement under this section shall otherwise be made in the same manner as reimbursement is made under section 1f of this chapter.

(2) If the prosecuting attorney or the attorney for a city, village, or township intends to seek an order under subsection (1), the prosecuting attorney or the attorney for that city, village, or township shall include on the complaint or information the following statement:

“Take notice that if convicted, the defendant may be subject to the provisions of MCL 769.1g.”.

(3) The existence of the facts resulting in the issuance of an order under this section shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing.

(4) If a complaint or amended complaint is filed under this section after a plea but before sentencing, the defendant shall be given an opportunity to withdraw his or her plea before sentencing.

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(5) An order issued under this section shall not apply to any of the following:

(a) Entering onto a public community college, public college, or public university campus to obtain medical treatment.

(b) Traveling on a public highway situated on a public community college, public college, or public university campus for purposes of traveling to a location other than that public community college, public college, or public university.

(6) If the individual is placed in the jurisdiction of the department of corrections for the violation, the court may request the parole board to prohibit the individual from entering onto a public community college, public college, or public university campus in this state for 2 years as provided in subsection (1) as a condition of parole.

(7) An order imposed under subsection (1) may be in addition to any other penalty or condition of probation imposed for the violation.

(8) This section does not require any person to be convicted of riot, incitement to riot, unlawful assembly, or civil disorder.

(9) As used in this section:

(a) “Civil disorder” means conduct proscribed under section 528 or 528a of the Michigan penal code, 1931 PA 328, MCL 750.528 and 750.528a.

(b) “Felony” means that term as defined in section 1 of chapter I.

(c) “Incitement to riot” means conduct proscribed under section 2 of 1968 PA 302, MCL 752.542.

(d) “Misdemeanor” means that term as defined in section 1 of chapter I.

(e) “Riot” means conduct proscribed under section 1 of 1968 PA 302, MCL 752.541.

(f) “Unlawful assembly” means conduct proscribed under section 3 of 1968 PA 302, MCL 752.543.

History: Add. 2000, Act 51, Eff. June 1, 2000.

Compiler's note: For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

769.1h Consecutive or concurrent sentence.

Sec. 1h. (1) A judgment of sentence committing an individual to the jurisdiction of the department of corrections shall specify whether the sentence is to run consecutively to or concurrently with any other sentence the defendant is or will be serving, as provided by law.

(2) Upon sentencing a defendant, the court shall provide a copy of the judgment of sentence to the prosecuting attorney, the defendant, and the defendant's counsel.

(3) The prosecuting attorney or the defendant's counsel, or the defendant if he or she is not represented, may file an objection to the judgment of sentence on the issue of whether the sentence is to run consecutively to or concurrent with any other sentence the defendant is or will be serving. The court shall promptly hold a hearing on any objection filed. The procedure for reviewing a judgment of sentence provided in this subsection is in addition to any other review procedure authorized by statute or court rule.

History: Add. 2000, Act 220, Eff. Oct. 1, 2000.

769.1j Court ordered fine, costs, or assessments; minimum amounts; definitions.

Sec. 1j. (1) Beginning October 1, 2003, if the court orders a person convicted of an offense to pay any combination of a fine, costs, or applicable assessments, the court shall order that the person pay costs of not less than the following amount, as applicable:

(a) $68.00, if the defendant is convicted of a felony.

(b) $50.00, if the defendant is convicted of a misdemeanor or ordinance violation.

(2) Of the costs ordered to be paid by a person convicted of an offense, the clerk shall pay to the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181, the applicable amount specified as a minimum cost under subsection (1).

(3) Payment of the minimum state cost is a condition of probation under chapter XI of this act.

(4) If a defendant who is ordered to pay a minimum state cost under subsection (1) posts a cash bond or bail deposit in connection with the case, the court shall order that the minimum state cost be collected out of the bond or deposit as provided in section 15 of chapter V of this act or section 6 or 7 of 1966 PA 257, MCL 780.66 and 780.67.

(5) If a defendant who is ordered to pay a minimum state cost under this section is subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal prosecution, money collected from that person for the payment of fines, costs, restitution, assessments, or other payments shall be allocated as provided in section 22 of chapter XV. A fine imposed for a felony, misdemeanor, or

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ordinance violation shall not be waived unless costs, other than the minimum cost ordered under subsection (2), are waived.

(6) On the last day of each month, the clerk of the court shall transmit the minimum state cost or portions of minimum state cost collected under this section to the department of treasury for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(7) As used in this section:

(a) "Felony" means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(b) "Minimum state cost" means the applicable minimum cost to be ordered for a conviction under subsection (1).

History: Add. 2003, Act 70, Eff. Oct. 1, 2003;—Am. 2008, Act 547, Eff. Apr. 1, 2009;—Am. 2011, Act 293, Eff. Apr. 1, 2012.

769.1k Imposition of fine, cost, or assessment; availability of information to defendant; reports; nonpayment of costs.

Sec. 1k. (1) If a defendant enters a plea of guilty or nolo contendere or if the court determines after a hearing or trial that the defendant is guilty, both of the following apply at the time of the sentencing or at the time entry of judgment of guilt is deferred pursuant to statute or sentencing is delayed pursuant to statute:

(a) The court shall impose the minimum state costs as set forth in section 1j of this chapter.

(b) The court may impose any or all of the following:

(*i*) Any fine authorized by the statute for a violation of which the defendant entered a plea of guilty or nolo contendere or the court determined that the defendant was guilty.

(*ii*) Any cost authorized by the statute for a violation of which the defendant entered a plea of guilty or nolo contendere or the court determined that the defendant was guilty.

(*iii*) Until 36 months after the date the amendatory act that added subsection (7) is enacted into law, any cost reasonably related to the actual costs incurred by the trial court without separately calculating those costs involved in the particular case, including, but not limited to, the following:

(A) Salaries and benefits for relevant court personnel.

(B) Goods and services necessary for the operation of the court.

(C) Necessary expenses for the operation and maintenance of court buildings and facilities.

(*iv*) The expenses of providing legal assistance to the defendant.

(*v*) Any assessment authorized by law.

(*vi*) Reimbursement under section 1f of this chapter.

(2) In addition to any fine, cost, or assessment imposed under subsection (1), the court may order the defendant to pay any additional costs incurred in compelling the defendant's appearance.

(3) Subsections (1) and (2) apply even if the defendant is placed on probation, probation is revoked, or the defendant is discharged from probation.

(4) The court may require the defendant to pay any fine, cost, or assessment ordered to be paid under this section by wage assignment.

(5) The court may provide for the amounts imposed under this section to be collected at any time.

(6) Except as otherwise provided by law, the court may apply payments received on behalf of a defendant that exceed the total of any fine, cost, fee, or other assessment imposed in the case to any fine, cost, fee, or assessment that the same defendant owes in any other case.

(7) Beginning January 1, 2015, the court shall make available to a defendant information about any fine, cost, or assessment imposed under subsection (1), including information about any cost imposed under subsection (1)(b)(*iii*). However, the information is not required to include the calculation of the costs involved in a particular case.

(8) If the court imposes any cost under subsection (1)(b)(*iii*), no later than March 31 of each year the clerk of the court shall transmit a report to the state court administrative office in a manner prescribed by the state court administrative office that contains all of the following information for the previous calendar year:

(a) The name of the court.

(b) The total number of cases in which costs under subsection (1)(b)(*iii*) were imposed by that court.

(c) The total amount of costs that were imposed by that court under subsection (1)(b)(*iii*).

(d) The total amount of costs imposed under subsection (1)(b)(*iii*) that were collected by that court.

(9) No later than July 1 of each year, the state court administrative office shall compile all data submitted under subsection (8) during the preceding calendar year and submit a written report to the governor, the secretary of the senate, and the clerk of the house of representatives. The report described in this subsection shall be made available to the public by the secretary of the senate and the clerk of the house of representatives.

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(10) A defendant shall not be imprisoned, jailed, or incarcerated for the nonpayment of costs ordered under this section unless the court determines that the defendant has the resources to pay the ordered costs and has not made a good-faith effort to do so.

History: Add. 2005, Act 316, Eff. Jan. 1, 2006;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007;—Am. 2014, Act 352, Imd. Eff. Oct. 17, 2014.

Compiler's note: Enacting section 1 of Act 352 of 2014 provides:

"Enacting section 1. This amendatory act applies to all fines, costs, and assessments ordered or assessed under section 1k of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1k, before June 18, 2014, and after the effective date of this amendatory act."

Enacting section 2 of Act 352 of 2014 provides:

"Enacting section 2. This amendatory act is a curative measure that addresses the authority of courts to impose costs under section 1k of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1k, before the issuance of the supreme court opinion in People v Cunningham, 496 Mich 145 (2014)."

769.1*l* Order of restitution; deduction; payment to court; priority.

Sec. 1*l*. If a prisoner under the jurisdiction of the department of corrections has been ordered to pay any sum of money as described in section 1k and the department of corrections receives an order from the court on a form prescribed by the state court administrative office, the department of corrections shall deduct 50% of the funds received by the prisoner in a month over $50.00 and promptly forward a payment to the court as provided in the order when the amount exceeds $100.00, or the entire amount if the prisoner is paroled, is transferred to community programs, or is discharged on the maximum sentence. The department of corrections shall give an order of restitution under section 20h of the corrections code of 1953, 1953 PA 232, MCL 791.220h, or the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, priority over an order received under this section.

History: Add. 2005, Act 325, Eff. Jan. 1, 2006.

***** *769.2 THIS SECTION IS REPEALED BY ACT 216 OF 2015 EFFECTIVE MARCH 14, 2016* *****

769.2 Sentence; solitary confinement or hard labor.

Sec. 2. Whenever any person shall be lawfully sentenced by any court to imprisonment in the state prison or in any county jail, it shall be competent for the court awarding the sentence, to incorporate therein a provision that the person so sentenced shall be kept in solitary confinement or at hard labor, or both, during the term of such imprisonment, or any specific portion thereof.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17330;—CL 1948, 769.2.

Former law: See section 1 of Ch. 163 of R.S. 1846, being CL 1857, § 6100; CL 1871, § 7984; How., § 9600; CL 1897, § 11970; and CL 1915, § 15843.

769.2a Persons sentenced for certain crimes not eligible for custodial incarceration outside state correctional facility or county jail; "state correctional facility" defined; effect of security classification waiver.

Sec. 2a. (1) If a person is sentenced by a court to imprisonment, or is serving a sentence of imprisonment, for any of the following crimes, the person shall not be eligible for custodial incarceration outside a state correctional facility or a county jail:

(a) Sections 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g of the Michigan Compiled Laws.

(b) Former section 520 of Act No. 328 of the Public Acts of 1931.

(c) Murder in connection with sexual misconduct.

(d) An attempt to commit a crime described in subdivision (a), (b), or (c).

(2) As used in this section, "state correctional facility" means a facility or institution which is maintained and operated, or contracted for, by the department of corrections, other than a community corrections center, halfway house, resident home, prison farm housing unit, camp, the Cassidy lake technical school, or the Michigan reformatory trustee division, located at Ionia.

(3) A prisoner who receives a security classification waiver shall not be housed in a prison farm housing unit, or the Michigan reformatory trustee division located at Ionia.

History: Add. 1953, Act 130, Eff. Oct. 2, 1953;—Am. 1986, Act 110, Imd. Eff. May 23, 1986.

769.3 Conditional sentence; payment of fine; probation.

Sec. 3. (1) If a person is convicted of an offense punishable by a fine or imprisonment, or both, the court may impose a conditional sentence and order the person to pay a fine, with or without the costs of

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prosecution, and restitution as provided under section 1a of this chapter or the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, within a limited time stated in the sentence and, in default of payment, sentence the person as provided by law.

(2) Except for a person who is convicted of criminal sexual conduct in the first or third degree, the court may also place the offender on probation with the condition that the offender pay a fine, costs, damages, restitution, or any combination in installments with any limited time and may, upon default in any of those payments, impose sentence as provided by law.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17331;—CL 1948, 769.3;—Am. 1982, Act 470, Eff. Mar. 30, 1983;—Am. 1998, Act 231, Imd. Eff. July 3, 1998.

Former law: See section 2 of Ch. 163 of R.S. 1846, being CL 1857, § 6101; CL 1871, § 7985; How., § 9601; CL 1897, § 11971; and CL 1915, § 15844.

769.4 Conditional sentence; execution.

Sec. 4. The person against whom any such conditional sentence shall be awarded, shall be forthwith committed to the custody of an officer in court or to the county jail, to be detained until the sentence be complied with; and if he shall not pay the fine within the time limited, the sheriff shall cause the other part of the sentence to be executed forthwith.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17332;—CL 1948, 769.4.

Former law: See section 3 of Ch. 163 of R.S. 1846, being CL 1857, § 6102; CL 1871, § 7986; How., § 9602; CL 1897, § 11972; and CL 1915, § 15845.

769.4a Assault on spouse, former spouse, individual with child in common, dating relationship, or household resident; plea or finding of guilty; deferral of proceedings; order of probation; previous convictions; adjudication of guilt upon violation of probation; mandatory counseling program; costs; circumstances for entering adjudication of guilt; discharge and dismissal; limitation; court proceedings open to public; retention of nonpublic record by department of state police; definitions.

Sec. 4a. (1) When an individual who has not been convicted previously of an assaultive crime pleads guilty to, or is found guilty of, a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, and the victim of the assault is the offender's spouse or former spouse, an individual who has had a child in common with the offender, an individual who has or has had a dating relationship with the offender, or an individual residing or having resided in the same household as the offender, the court, without entering a judgment of guilt and with the consent of the accused and of the prosecuting attorney in consultation with the victim, may defer further proceedings and place the accused on probation as provided in this section. However, before deferring proceedings under this subsection, the court shall contact the department of state police and determine whether, according to the records of the department of state police, the accused has previously been convicted of an assaultive crime or has previously availed himself or herself of this section. If the search of the records reveals an arrest for an assaultive crime but no disposition, the court shall contact the arresting agency and the court that had jurisdiction over the violation to determine the disposition of that arrest for purposes of this section.

(2) Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided in this chapter.

(3) An order of probation entered under subsection (1) may include any condition of probation authorized under section 3 of chapter XI, including, but not limited to, requiring the accused to participate in a mandatory counseling program. The court may order the accused to pay the reasonable costs of the mandatory counseling program. The court also may order the accused to participate in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1084. The court may order the defendant to be imprisoned for not more than 12 months at the time or intervals, which may be consecutive or nonconsecutive and within the period of probation, as the court determines. However, the period of imprisonment shall not exceed the maximum period of imprisonment authorized for the offense if the maximum period is less than 12 months. The court may permit day parole as authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may permit a work or school release from jail.

(4) The court shall enter an adjudication of guilt and proceed as otherwise provided in this chapter if any of the following circumstances exist:

(a) The accused commits an assaultive crime during the period of probation.

(b) The accused violates an order of the court that he or she receive counseling regarding his or her violent behavior.

(c) The accused violates an order of the court that he or she have no contact with a named individual.

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(5) Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, but it is a prior conviction in a prosecution under sections 81(3) and (4) and 81a(3) of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a. There shall be only 1 discharge and dismissal under this section with respect to any individual.

(6) All court proceedings under this section shall be open to the public. Except as provided in subsection (7), if the record of proceedings as to the defendant is deferred under this section, the record of proceedings during the period of deferral shall be closed to public inspection.

(7) Unless the court enters a judgment of guilt under this section, the department of state police shall retain a nonpublic record of the arrest, court proceedings, and disposition of the criminal charge under this section. However, the nonpublic record shall be open to the following individuals and entities for the purposes noted:

(a) The courts of this state, law enforcement personnel, the department of corrections, and prosecuting attorneys for use only in the performance of their duties or to determine whether an employee of the court, law enforcement agency, department of corrections, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, law enforcement agency, department of corrections, or prosecutor's office.

(b) The courts of this state, law enforcement personnel, and prosecuting attorneys for either of the following purposes:

(*i*) Showing that a defendant in a criminal action under section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a local ordinance substantially corresponding to section 81 of that act has already once availed himself or herself of this section.

(*ii*) Determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under section 1076(5) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(c) The department of human services for enforcing child protection laws and vulnerable adult protection laws or ascertaining the preemployment criminal history of any individual who will be engaged in the enforcement of child protection laws or vulnerable adult protection laws.

(8) As used in this section:

(a) "Assaultive crime" means 1 or more of the following:

(*i*) That term as defined in section 9a of chapter X.

(*ii*) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90h.

(*iii*) A violation of a law of another state or of a local ordinance of a political subdivision of this state or of another state substantially corresponding to a violation described in subparagraph (*i*) or (*ii*).

(b) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

History: Add. 1978, Act 353, Imd. Eff. July 14, 1978;—Am. 1980, Act 471, Eff. Mar. 31, 1981;—Am. 1994, Act 68, Eff. July 1, 1994;—Am. 2001, Act 208, Eff. Apr. 1, 2002;—Am. 2004, Act 220, Eff. Jan. 1, 2005;—Am. 2006, Act 663, Imd. Eff. Jan. 10, 2007;—Am. 2012, Act 364, Eff. Apr. 1, 2013;—Am. 2012, Act 550, Eff. Apr. 1, 2013;—Am. 2013, Act 222, Eff. Jan. 1, 2014.

769.5 Alternative or combined penalties; power of court.

Sec. 5. (1) If a statute provides that an offense is punishable by imprisonment and a fine, the court may impose imprisonment without the fine or the fine without imprisonment.

(2) If a statute provides that an offense is punishable by fine or imprisonment, the court may impose both the fine and imprisonment in its discretion.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17333;—CL 1948, 769.5;—Am. 2015, Act 216, Eff. Mar. 14, 2016.

Former law: See Act 115 of 1839; and Sec. 4 of Ch. 163 of R.S. 1846, being CL 1857, § 6103; CL 1871, § 7987; How., § 9603; CL 1897, § 11973; CL 1915, § 15846.

769.6 Recognizance to keep peace; court option.

Sec. 6. Every court before whom any person shall be convicted upon an indictment for any offense not punishable with death or by imprisonment in the state prison may, in addition to the punishment prescribed by law, require such person to recognize with sufficient sureties in a reasonable sum, to keep the peace or to be of good behavior, or both, for any time not exceeding 2 years and to stand committed until he shall so recognize.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17334;—CL 1948, 769.6.

Former law: See section 5 of Ch. 163 of R.S. 1846, being 1857, § 6104; CL 1871, § 7988; How., § 9604; CL 1897, § 11974; and CL

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1915, § 15847.

769.7 Recognizance to keep peace; breach of condition; procedure.

Sec. 7. In case of a breach of the condition of any such recognizance the same proceedings shall be had as are prescribed in relation to recognizances to keep the peace in other cases.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17335;—CL 1948, 769.7.

Former law: See section 6 of Ch. 163 of R.S. 1846, being CL 1857, § 6105; CL 1871, § 7989; How., § 9605; CL 1897, § 11975; and CL 1915, § 15848.

769.8 Definite term prohibited for conviction for first time for felony; fixing minimum term; stating maximum term; examination of convict; entering facts in minutes of court.

Sec. 8. (1) When a person is convicted for the first time for committing a felony and the punishment prescribed by law for that offense may be imprisonment in a state prison, the court imposing sentence shall not fix a definite term of imprisonment, but shall fix a minimum term, except as otherwise provided in this chapter. The maximum penalty provided by law shall be the maximum sentence in all cases except as provided in this chapter and shall be stated by the judge in imposing the sentence.

(2) Before or at the time of imposing sentence, the judge shall ascertain by examining the defendant under oath, or otherwise, and by other evidence as can be obtained tending to indicate briefly the causes of the defendant's criminal character or conduct, which facts and other facts that appear to be pertinent in the case the judge shall cause to be entered upon the minutes of the court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17336;—CL 1948, 769.8;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1994, Act 322, Eff. (pending);—Am. 1998, Act 317, Eff. Dec. 15, 1998.

Former law: See section 1 of Act 184 of 1905, being CL 1915, § 15859; and Act 259 of 1921.

769.9 Indeterminate sentence inapplicable where only punishment is life imprisonment; indeterminate sentence in cases where imprisonment for life discretionary; indeterminate sentence in cases involving major controlled substance offense.

Sec. 9. (1) The provisions of this chapter relative to indeterminate sentences shall not apply to a person convicted for the commission of an offense for which the only punishment prescribed by law is imprisonment for life.

(2) In all cases where the maximum sentence in the discretion of the court may be imprisonment for life or any number or term of years, the court may impose a sentence for life or may impose a sentence for any term of years. If the sentence imposed by the court is for any term of years, the court shall fix both the minimum and the maximum of that sentence in terms of years or fraction thereof, and sentences so imposed shall be considered indeterminate sentences. The court shall not impose a sentence in which the maximum penalty is life imprisonment with a minimum for a term of years included in the same sentence.

(3) In cases involving a major controlled substance offense for which the court is directed by law to impose a sentence which cannot be less than a specified term of years nor more than a specified term of years, the court in imposing the sentence shall fix the length of both the minimum and maximum sentence within those specified limits, in terms of years or fraction thereof, and the sentence so imposed shall be considered an indeterminate sentence.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17337;—CL 1948, 769.9;—Am. 1957, Act 193, Eff. Sept. 27, 1957;—Am. 1978, Act 77, Eff. Sept. 1, 1978.

Former law: See section 3 of Act 184 of 1905, being CL 1915, § 15861; and Act 259 of 1921.

769.10 Punishment for subsequent felony; sentence imposed for term of years considered indeterminate sentence; use of conviction to enhance sentence prohibited.

Sec. 10. (1) If a person has been convicted of a felony or an attempt to commit a felony, whether the conviction occurred in this state or would have been for a felony or attempt to commit a felony in this state if obtained in this state, and that person commits a subsequent felony within this state, the person shall be punished upon conviction of the subsequent felony and sentencing under section 13 of this chapter as follows:

(a) If the subsequent felony is punishable upon a first conviction by imprisonment for a term less than life, the court, except as otherwise provided in this section or section 1 of chapter XI, may place the person on probation or sentence the person to imprisonment for a maximum term that is not more than 1-1/2 times the longest term prescribed for a first conviction of that offense or for a lesser term.

(b) If the subsequent felony is punishable upon a first conviction by imprisonment for life, the court, except as otherwise provided in this section or section 1 of chapter XI, may place the person on probation or sentence the person to imprisonment for life or for a lesser term.

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(c) If the subsequent felony is a major controlled substance offense, the person shall be punished as provided by part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461.

(2) If the court pursuant to this section imposes a sentence of imprisonment for any term of years, the court shall fix the length of both the minimum and maximum sentence within any specified limits in terms of years or a fraction of a year and the sentence so imposed shall be considered an indeterminate sentence. The court shall not fix a maximum sentence that is less than the maximum term for a first conviction.

(3) A conviction shall not be used to enhance a sentence under this section if that conviction is used to enhance a sentence under a statute that prohibits use of the conviction for further enhancement under this section.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1929, Act 24, Imd. Eff. Apr. 2, 1929;—CL 1929, 17338;—CL 1948, 769.10;—Am. 1949, Act 56, Eff. Sept. 23, 1949;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1988, Act 90, Imd. Eff. Mar. 30, 1988;—Am. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

Former law: See section 12 of Ch. 161 of R.S. 1846, being CL 1857, § 5948; CL 1871, § 7814; How., § 9424; CL 1897, § 11785; and CL 1915, § 15612.

769.11 Punishment for subsequent felony following conviction of 2 or more felonies; sentence for term of years considered indeterminate sentence; use of conviction to enhance sentence prohibited.

Sec. 11. (1) If a person has been convicted of any combination of 2 or more felonies or attempts to commit felonies, whether the convictions occurred in this state or would have been for felonies or attempts to commit felonies in this state if obtained in this state, and that person commits a subsequent felony within this state, the person shall be punished upon conviction of the subsequent felony and sentencing under section 13 of this chapter as follows:

(a) If the subsequent felony is punishable upon a first conviction by imprisonment for a term less than life, the court, except as otherwise provided in this section or section 1 of chapter XI, may sentence the person to imprisonment for a maximum term that is not more than twice the longest term prescribed by law for a first conviction of that offense or for a lesser term.

(b) If the subsequent felony is punishable upon a first conviction by imprisonment for life, the court, except as otherwise provided in this section or section 1 of chapter XI, may sentence the person to imprisonment for life or for a lesser term.

(c) If the subsequent felony is a major controlled substance offense, the person shall be punished as provided by part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461.

(2) If the court pursuant to this section imposes a sentence of imprisonment for any term of years, the court shall fix the length of both the minimum and maximum sentence within any specified limits in terms of years or a fraction of a year, and the sentence so imposed shall be considered an indeterminate sentence. The court shall not fix a maximum sentence that is less than the maximum term for a first conviction.

(3) A conviction shall not be used to enhance a sentence under this section if that conviction is used to enhance a sentence under a statute that prohibits use of the conviction for further enhancement under this section.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1929, Act 24, Imd. Eff. Apr. 2, 1929;—CL 1929, 17339;—CL 1948, 769.11;—Am. 1949, Act 56, Eff. Sept. 23, 1949;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1988, Act 90, Imd. Eff. Mar. 30, 1988;—Am. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

Compiler's note: Act 196 of 1971, referred to in this section, was repealed by Act 368 of 1978.

Former law: See section 13 of Ch. 161 of R.S. 1846, being CL 1857, § 5949; CL 1871, § 7815; How., § 9425; CL 1897, § 11786; and CL 1915, § 15613.

769.11a Void sentence; trial judge to credit time served.

Sec. 11a. Whenever any person has been heretofore or hereafter convicted of any crime within this state and has served any time upon a void sentence, the trial court, in imposing sentence upon conviction or acceptance of a plea of guilty based upon facts arising out of the earlier void conviction, shall in imposing the sentence specifically grant or allow the defendant credit against and by reduction of the statutory maximum by the time already served by such defendant on the sentence imposed for the prior erroneous conviction. Failure of the corrections commission to carry out the terms of said sentence shall be cause for the issuance of a writ of habeas corpus to have the prisoner brought before the court for the taking of such further action as the court may again determine.

History: Add. 1954, Act 205, Eff. Aug. 13, 1954;—Am. 1965, Act 67, Imd. Eff. June 22, 1965.

769.11b Credit time served prior to sentence; lack of bond.

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Sec. 11b. Whenever any person is hereafter convicted of any crime within this state and has served any time in jail prior to sentencing because of being denied or unable to furnish bond for the offense of which he is convicted, the trial court in imposing sentence shall specifically grant credit against the sentence for such time served in jail prior to sentencing.

History: Add. 1965, Act 73, Eff. Mar. 31, 1966.

769.12 Punishment for subsequent felony following conviction of 3 or more felonies; sentence for term of years considered indeterminate sentence; use of conviction to enhance sentence prohibited; eligibility for parole; provisions not in derogation of consecutive sentence; definitions.

Sec. 12. (1) If a person has been convicted of any combination of 3 or more felonies or attempts to commit felonies, whether the convictions occurred in this state or would have been for felonies or attempts to commit felonies in this state if obtained in this state, and that person commits a subsequent felony within this state, the person shall be punished upon conviction of the subsequent felony and sentencing under section 13 of this chapter as follows:

(a) If the subsequent felony is a serious crime or a conspiracy to commit a serious crime, and 1 or more of the prior felony convictions are listed prior felonies, the court shall sentence the person to imprisonment for not less than 25 years. Not more than 1 conviction arising out of the same transaction shall be considered a prior felony conviction for the purposes of this subsection only.

(b) If the subsequent felony is punishable upon a first conviction by imprisonment for a maximum term of 5 years or more or for life, the court, except as otherwise provided in this section or section 1 of chapter XI, may sentence the person to imprisonment for life or for a lesser term.

(c) If the subsequent felony is punishable upon a first conviction by imprisonment for a maximum term that is less than 5 years, the court, except as otherwise provided in this section or section 1 of chapter XI, may sentence the person to imprisonment for a maximum term of not more than 15 years.

(d) If the subsequent felony is a major controlled substance offense, the person shall be punished as provided by part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461.

(2) If the court imposes a sentence of imprisonment for any term of years under this section, the court shall fix the length of both the minimum and maximum sentence within any specified limits in terms of years or a fraction of a year, and the sentence so imposed shall be considered an indeterminate sentence. The court shall not fix a maximum sentence that is less than the maximum term for a first conviction.

(3) A conviction shall not be used to enhance a sentence under this section if that conviction is used to enhance a sentence under a statute that prohibits use of the conviction for further enhancement under this section.

(4) An offender sentenced under this section or section 10 or 11 of this chapter for an offense other than a major controlled substance offense is not eligible for parole until expiration of the following:

(a) For a prisoner other than a prisoner subject to disciplinary time, the minimum term fixed by the sentencing judge at the time of sentence unless the sentencing judge or a successor gives written approval for parole at an earlier date authorized by law.

(b) For a prisoner subject to disciplinary time, the minimum term fixed by the sentencing judge.

(5) This section and sections 10 and 11 of this chapter are not in derogation of other provisions of law that permit or direct the imposition of a consecutive sentence for a subsequent felony.

(6) As used in this section:

(a) "Listed prior felony" means a violation or attempted violation of any of the following:

(*i*) Section 602a(4) or (5) or 625(4) of the Michigan vehicle code, 1949 PA 300, MCL 257.602a and 257.625.

(*ii*) Article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, that is punishable by imprisonment for more than 4 years.

(*iii*) Section 72, 82, 83, 84, 85, 86, 87, 88, 89, 91, 110a(2) or (3), 136b(2) or (3), 145n(1) or (2), 157b, 197c, 226, 227, 234a, 234b, 234c, 317, 321, 329, 349, 349a, 350, 397, 411h(2)(b), 411i, 479a(4) or (5), 520b, 520c, 520d, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.82, 750.83, 750.84, 750.85, 750.86, 750.87, 750.88, 750.89, 750.91, 750.110a, 750.136b, 750.145n, 750.157b, 750.197c, 750.226, 750.227, 750.234a, 750.234b, 750.234c, 750.317, 750.321, 750.329, 750.349, 750.349a, 750.350, 750.397, 750.411h, 750.411i, 750.479a, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

(*iv*) A second or subsequent violation or attempted violation of section 227b of the Michigan penal code, 1931 PA 328, MCL 750.227b.

(*v*) Section 2a of 1968 PA 302, MCL 752.542a.

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(b) "Prisoner subject to disciplinary time" means that term as defined in section 34 of 1893 PA 118, MCL 800.34.

(c) "Serious crime" means an offense against a person in violation of section 83, 84, 86, 88, 89, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d, 520g(1), 529, or 529a of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.88, 750.89, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, and 750.529a.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1929, Act 24, Imd. Eff. Apr. 2, 1929;—CL 1929, 17340;—CL 1948, 769.12;—Am. 1949, Act 56, Eff. Sept. 23, 1949;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1988, Act 90, Imd. Eff. Mar. 30, 1988;—Am. 1994, Act 445, Imd. Eff. Jan. 10, 1995;—Am. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007;—Am. 2012, Act 319, Eff. Oct. 1, 2012.

769.13 Notice of intent to seek enhanced sentence; filing by prosecuting attorney; challenge to accuracy or constitutional validity; evidence of existence of prior conviction; determination by court; burden of proof.

Sec. 13. (1) In a criminal action, the prosecuting attorney may seek to enhance the sentence of the defendant as provided under section 10, 11, or 12 of this chapter, by filing a written notice of his or her intent to do so within 21 days after the defendant's arraignment on the information charging the underlying offense or, if arraignment is waived, within 21 days after the filing of the information charging the underlying offense.

(2) A notice of intent to seek an enhanced sentence filed under subsection (1) shall list the prior conviction or convictions that will or may be relied upon for purposes of sentence enhancement. The notice shall be filed with the court and served upon the defendant or his or her attorney within the time provided in subsection (1). The notice may be personally served upon the defendant or his or her attorney at the arraignment on the information charging the underlying offense, or may be served in the manner provided by law or court rule for service of written pleadings. The prosecuting attorney shall file a written proof of service with the clerk of the court.

(3) The prosecuting attorney may file notice of intent to seek an enhanced sentence after the defendant has been convicted of the underlying offense or a lesser offense, upon his or her plea of guilty or nolo contendere if the defendant pleads guilty or nolo contendere at the arraignment on the information charging the underlying offense, or within the time allowed for filing of the notice under subsection (1).

(4) A defendant who has been given notice that the prosecuting attorney will seek to enhance his or her sentence as provided under section 10, 11, or 12 of this chapter, may challenge the accuracy or constitutional validity of 1 or more of the prior convictions listed in the notice by filing a written motion with the court and by serving a copy of the motion upon the prosecuting attorney in accordance with rules of the supreme court.

(5) The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing, or at a separate hearing scheduled for that purpose before sentencing. The existence of a prior conviction may be established by any evidence that is relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of a judgment of conviction.

(b) A transcript of a prior trial or a plea-taking or sentencing proceeding.

(c) A copy of a court register of actions.

(d) Information contained in a presentence report.

(e) A statement of the defendant.

(6) The court shall resolve any challenges to the accuracy or constitutional validity of a prior conviction or convictions that have been raised in a motion filed under subsection (4) at sentencing or at a separate hearing scheduled for that purpose before sentencing. The defendant, or his or her attorney, shall be given an opportunity to deny, explain, or refute any evidence or information pertaining to the defendant's prior conviction or convictions before sentence is imposed, and shall be permitted to present relevant evidence for that purpose. The defendant shall bear the burden of establishing a prima facie showing that an alleged prior conviction is inaccurate or constitutionally invalid. If the defendant establishes a prima facie showing that information or evidence concerning an alleged prior conviction is inaccurate, the prosecuting attorney shall bear the burden of proving, by a preponderance of the evidence, that the information or evidence is accurate. If the defendant establishes a prima facie showing that an alleged prior conviction is constitutionally invalid, the prosecuting attorney shall bear the burden of proving, by a preponderance of the evidence, that the prior conviction is constitutionally valid.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17341;—Am. 1941, Act 310, Eff. Jan. 10, 1942;—CL 1948, 769.13;—Am. 1949, Act 56, Eff. Sept. 23, 1949;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1994, Act 110, Eff. May 1, 1994;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

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769.14 Review of sentence of prisoner or parolee; application; rights of prisoner.

Sec. 14. Any person now incarcerated in any state prison, or on parole from a sentence thereto, who was sentenced under the terms of sections 10, 11, 12 or 13 of this chapter as in effect prior to the effective date of Act No. 56 of the Public Acts of 1949, shall be entitled to a review of sentence upon application to the court in which he was sentenced. Upon such application any judge of such court may vacate the previous sentence and impose any lesser sentence which in his judgment might have been imposed under sections 10, 11, 12 or 13 of this chapter, as amended by Act No. 56 of the Public Acts of 1949, had such sections as amended been in force at the date of the previous sentence imposed upon said prisoner: Provided, That any sentence so imposed shall be deemed to have begun as of the date of the previous sentence, and the rights of such prisoner under the laws shall be governed by the lesser sentence as then imposed.

History: Add. 1951, Act 159, Eff. Sept. 28, 1951.

Constitutionality: This section violates Const 1963, art V, § 14, which, by implication, forbids the judiciary from commuting a sentence and restricts the legislature from passing a law which infringes upon the exclusive power of the governor to commute a sentence. People v Freleigh, 334 Mich 306; 54 NW2d 599 (1952).

Former law: See section 14 of Chapter IX of Act 175 of 1927; and Act 328 of 1931.

769.16 Clerk of court and sheriff; duty in executing sentence; fine or imprisonment in county jail; transcript.

Sec. 16. When any person convicted of an offense shall be sentenced to pay a fine or costs, or to be imprisoned in the county jail, the clerk of the court shall, as soon as may be, make out and deliver to the sheriff of the county or some officer in court, a transcript from the minutes of the court, of the conviction and sentence duly certified by such clerk, which shall be sufficient authority for the sheriff to execute such sentence, and he shall execute the same accordingly.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17344;—CL 1948, 769.16.

Former law: See section 7 of Ch. 168 of R.S. 1846, being CL 1857, § 6106; CL 1871, § 7990; How., § 9606; CL 1897, § 11976; and CL 1915, § 15849.

769.16a Report by clerk of final disposition to department of state police; forms; fingerprints; reporting conviction; report of vacated judgment; entry of disposition into database.

Sec. 16a. (1) Except as otherwise provided in subsection (3), upon final disposition of an original charge against a person of a felony or a misdemeanor for which the maximum possible penalty exceeds 92 days' imprisonment or a local ordinance for which the maximum possible penalty is 93 days' imprisonment and that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum possible penalty is 93 days' imprisonment, or a misdemeanor in a case in which the appropriate court was notified that fingerprints were forwarded to the department of state police, or upon final disposition of a charge of criminal contempt under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or final disposition of a charge of criminal contempt for violating a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, the clerk of the court entering the disposition shall immediately report to the department of state police the final disposition of the charge on forms approved by the state court administrator and in a manner consistent with section 3 of 1925 PA 289, MCL 28.243. The report to the department of state police shall include the finding of the judge or jury, including a finding of guilty, guilty but mentally ill, not guilty, or not guilty by reason of insanity, or the person's plea of guilty, nolo contendere, or guilty but mentally ill; if the person was convicted, the offense of which the person was convicted; and a summary of any sentence imposed. The summary of the sentence shall include any probationary term; any minimum, maximum, or alternative term of imprisonment; the total of all fines, costs, and restitution ordered; and any modification of sentence. The report shall include the sentence if imposed under any of the following:

(a) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(b) Section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(c) Section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a.

(d) Section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(e) Sections 11 to 15 of chapter II.

(f) Section 4a of chapter IX.

(2) Upon sentencing a person convicted of a misdemeanor or of a violation of a local ordinance, other than a misdemeanor or local ordinance described in subsection (1), the clerk of the court imposing sentence immediately shall, if ordered by the court, advise the department of state police of the conviction on forms approved by the state court administrator.

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(3) Except as otherwise provided in subsections (4) and (6), the clerk of a court shall not report a conviction of a misdemeanor offense under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local ordinance substantially corresponding to a provision of that act unless 1 or more of the following apply:

(a) The offense is punishable by imprisonment for more than 92 days.

(b) The offense is an offense that would be punishable by more than 92 days as a second conviction.

(c) A judge of the court orders the clerk to report the conviction.

(4) Unless ordered by the court, the clerk of a court is not required to report a conviction of a misdemeanor offense for a violation of section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904, or a local ordinance substantially corresponding to section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904.

(5) As part of the sentence for a conviction of an offense described in this section, if fingerprints have not already been taken, the court shall order that the fingerprints of the person convicted be taken and forwarded to the department of state police.

(6) As part of the sentence for a conviction of a listed offense as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court shall order that the fingerprints of the person convicted be taken and forwarded as provided in the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, if fingerprints have not already been taken and forwarded as provided in that act.

(7) Within 21 days after the date a person licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, is convicted of a misdemeanor involving the illegal delivery, possession, or use of alcohol or a controlled substance or a felony, the clerk of the court entering the conviction shall report the conviction to the department of community health on a form prescribed and furnished by that department.

(8) For any conviction that was reported as provided in this section, the clerk of the court entering a subsequent final disposition in the case shall immediately report to the department of state police and the department of corrections if the judgment of conviction is vacated and either the accusatory instrument is dismissed or upon retrial or by court finding, whether appellate or otherwise, the defendant is determined to be not guilty. The final disposition shall be reported on forms approved by the state court administrator. The department of state police and department of corrections shall immediately enter the disposition into each database they maintain concerning criminal convictions and shall remove all information indicating that the person was convicted of the offense from each of those databases that is available to the public.

History: Add. 1986, Act 232, Eff. June 1, 1987;—Am. 1993, Act 85, Eff. Apr. 1, 1994;—Am. 1999, Act 87, Eff. Sept. 1, 1999;—Am. 2000, Act 220, Eff. Oct. 1, 2000;—Am. 2001, Act 188, Eff. Apr. 1, 2002;—Am. 2001, Act 204, Eff. Oct. 1, 2002;—Am. 2004, Act 220, Eff. Jan. 1, 2005;—Am. 2005, Act 106, Imd. Eff. Sept. 14, 2005;—Am. 2008, Act 508, Imd. Eff. Jan. 13, 2009.

769.16b Finding of not guilty by reason of insanity; entering order into Law Enforcement Information Network.

Sec. 16b. (1) If a person charged with any offense is found not guilty by reason of insanity, the court entering the disposition shall immediately order the department of state police to enter the disposition into the law enforcement information network.

(2) The department of state police shall immediately enter a disposition into the law enforcement information network as ordered by the court under this section.

History: Add. 1994, Act 335, Eff. Apr. 1, 1996.

769.17 Clerk of court and sheriff; duty in executing sentence; imprisonment in state prison; warrant, abstract of conviction.

Sec. 17. When any convict shall be sentenced to imprisonment in the state prison, the clerk of the court before whom such conviction was had, shall make out a warrant, under the seal of the court, directed to the sheriff of the county, requiring him to cause such convict, without needless delay, to be removed from the county jail to the state prison, which warrant shall be delivered to such sheriff and be obeyed by him and shall be accompanied by a certified abstract from the minutes of the court, of such conviction and sentence as aforesaid.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17345;—CL 1948, 769.17.

Former law: See section 8 of Ch. 168 of R.S. 1846, being CL 1857, § 6107; CL 1871, § 7991; How., § 9607; CL 1897, § 11977; and CL 1915, § 15850.

769.18 Record after sentence of imprisonment; duty of clerk; contents, forwarding, fee.

Sec. 18. Whenever a person shall be convicted of crime and sentenced to imprisonment pursuant to the

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provisions of this act, or for life, the clerk of the court shall make and forward to the warden or superintendent of the institution to which the convict is sentenced, and also to the governor, a record containing a copy of the information or complaint, the sentence pronounced by the court, the name and residence of the judge presiding at the trial, prosecuting attorney and sheriff, and the names and postoffice addresses of the jurors and witnesses sworn on the trial, together with a statement of any fact or facts which the presiding judge may deem important or necessary for a full comprehension of the case, and a reference to the statute under which the sentence was imposed. One copy of the said record shall be delivered to the warden or superintendent at the time the prisoner is received into the institution, and 1 copy shall be forwarded to the governor within 10 days thereafter. In each case in which he shall perform the duties required by this act, the clerk of the court shall be entitled to such compensation as shall be certified to be just by the presiding judge at the trial not to exceed 3 dollars for any 1 case, which shall be paid by the county in which the trial is had, as a part of the expenses of such trial.

History: 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1929, Act 188, Imd. Eff. May 20, 1929;—CL 1929, 17346;—CL 1948, 769.18.

Former law: See section 4 of Act 184 of 1905, being CL 1915, § 15862.

769.19-769.23 Repealed. 1972, Act 179, Imd. Eff. June 16, 1972.

Compiler's note: The repealed sections pertained to the death penalty.

769.24 Excessive sentence; validity.

Sec. 24. Whenever, in any criminal case, the defendant shall be adjudged guilty and a punishment by fine or imprisonment shall be imposed in excess of that allowed by law, the judgment shall not for that reason alone be judged altogether void, nor be wholly reversed and annulled by any court of review, but the same shall be valid and effectual to the extent of the lawful penalty, and shall only be reversed or annulled on writ of error or otherwise, in respect to the unlawful excess.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17352;—CL 1948, 769.24.

Former law: See Act 170 of 1867, being CL 1871, § 7998; How., § 9614; CL 1897, § 11984; and CL 1915, § 15857.

769.25 Criminal defendant less than 18 years; circumstances; imprisonment for life without possibility of parole; violations; motion; response; hearing; record; sentence.

Sec. 25. (1) This section applies to a criminal defendant who was less than 18 years of age at the time he or she committed an offense described in subsection (2) if either of the following circumstances exists:

(a) The defendant is convicted of the offense on or after the effective date of the amendatory act that added this section.

(b) The defendant was convicted of the offense before the effective date of the amendatory act that added this section and either of the following applies:

(*i*) The case is still pending in the trial court or the applicable time periods for direct appellate review by state or federal courts have not expired.

(*ii*) On June 25, 2012 the case was pending in the trial court or the applicable time periods for direct appellate review by state or federal courts had not expired.

(2) The prosecuting attorney may file a motion under this section to sentence a defendant described in subsection (1) to imprisonment for life without the possibility of parole if the individual is or was convicted of any of the following violations:

(a) A violation of section 17764(7) of the public health code, 1978 PA 368, MCL 333.17764.

(b) A violation of section 16(5), 18(7), 316, 436(2)(e), or 543f of the Michigan penal code, 1931 PA 328, MCL 750.16, 750.18, 750.316, 750.436, and 750.543f.

(c) A violation of chapter XXXIII of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a.

(d) Any violation of law involving the death of another person for which parole eligibility is expressly denied under state law.

(3) If the prosecuting attorney intends to seek a sentence of imprisonment for life without the possibility of parole for a case described in subsection (1)(a), the prosecuting attorney shall file the motion within 21 days after the defendant is convicted of that violation. If the prosecuting attorney intends to seek a sentence of imprisonment for life without the possibility of parole for a case described under subsection (1)(b), the prosecuting attorney shall file the motion within 90 days after the effective date of the amendatory act that added this section. The motion shall specify the grounds on which the prosecuting attorney is requesting the court to impose a sentence of imprisonment for life without the possibility of parole.

(4) If the prosecuting attorney does not file a motion under subsection (3) within the time periods provided for in that subsection, the court shall sentence the defendant to a term of years as provided in subsection (9).

(5) If the prosecuting attorney files a motion under subsection (2) requesting that the individual be

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sentenced to imprisonment for life without parole eligibility, the individual shall file a response to the prosecution's motion within 14 days after receiving notice of the motion.

(6) If the prosecuting attorney files a motion under subsection (2), the court shall conduct a hearing on the motion as part of the sentencing process. At the hearing, the trial court shall consider the factors listed in Miller v Alabama, 576 US_____; 183 L Ed 2d 407; 132 S Ct 2455 (2012), and may consider any other criteria relevant to its decision, including the individual's record while incarcerated.

(7) At the hearing under subsection (6), the court shall specify on the record the aggravating and mitigating circumstances considered by the court and the court's reasons supporting the sentence imposed. The court may consider evidence presented at trial together with any evidence presented at the sentencing hearing.

(8) Each victim shall be afforded the right under section 15 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.765, to appear before the court and make an oral impact statement at any sentencing or resentencing of the defendant under this section.

(9) If the court decides not to sentence the individual to imprisonment for life without parole eligibility, the court shall sentence the individual to a term of imprisonment for which the maximum term shall be not less than 60 years and the minimum term shall be not less than 25 years or more than 40 years.

(10) A defendant who is sentenced under this section shall be given credit for time already served but shall not receive any good time credits, special good time credits, disciplinary credits, or any other credits that reduce the defendant's minimum or maximum sentence.

History: Add. 2014, Act 22, Imd. Eff. Mar. 4, 2014.

Compiler's note: Former MCL 769.25, which pertained to authorized imprisonment in reformatory at Ionia or Detroit house of correction instead of state prison of any male person convicted for first time of any offense other than rape, murder, or treason, was repealed by Act 256 of 1964, Eff. Aug. 28, 1964.

769.25a Case as final on or before June 24, 2012; effect of state supreme court or United States supreme court decision; procedures; resentencing hearings; priority; credit for time served.

Sec. 25a. (1) Except as otherwise provided in subsections (2) and (3), the procedures set forth in section 25 of this chapter do not apply to any case that is final for purposes of appeal on or before June 24, 2012. A case is final for purposes of appeal under this section if any of the following apply:

(a) The time for filing an appeal in the state court of appeals has expired.

(b) The application for leave to appeal is filed in the state supreme court and is denied or a timely filed motion for rehearing is denied.

(c) If the state supreme court has granted leave to appeal, after the court renders its decision or after a timely filed motion for rehearing is denied.

(2) If the state supreme court or the United States supreme court finds that the decision of the United States supreme court in Miller v Alabama, 576 US ___; 183 L Ed 2d 407; 132 S Ct 2455 (2012), applies retroactively to all defendants who were under the age of 18 at the time of their crimes, and that decision is final for appellate purposes, the determination of whether a sentence of imprisonment for a violation set forth in section 25(2) of this chapter shall be imprisonment for life without parole eligibility or a term of years as set forth in section 25(9) of this chapter shall be made by the sentencing judge or his or her successor as provided in this section. For purposes of this subsection, a decision of the state supreme court is final when either the United States supreme court denies a petition for certiorari challenging the decision or the time for filing that petition passes without a petition being filed.

(3) If the state supreme court or the United States supreme court finds that the decision of the United States supreme court in Miller v Alabama, 576 US ___; 183 L Ed 2d 407; 132 S Ct 2455 (2012), applies retroactively to all defendants who were convicted of felony murder under section 316(1)(b) of the Michigan penal code, 1931 PA 328, MCL 750.316, and who were under the age of 18 at the time of their crimes, and that the decision is final for appellate purposes, the determination of whether a sentence of imprisonment shall be imprisonment for life without parole eligibility or a term of years as set forth in section 25(9) of this chapter shall be made by the sentencing judge or his or her successor as provided in this section. For purposes of this subsection, a decision of the state supreme court is final when either the United States supreme court denies a petition for certiorari challenging the decision with regard to the retroactive application of Miller v Alabama, 576 US___; 183 L Ed 2d 407; 132 S Ct 2455 (2012), to defendants who committed felony murder and who were under the age of 18 at the time of their crimes, or when the time for filing that petition passes without a petition being filed.

(4) The following procedures apply to cases described in subsections (2) and (3):

(a) Within 30 days after the date the supreme court's decision becomes final, the prosecuting attorney shall provide a list of names to the chief circuit judge of that county of all defendants who are subject to the

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jurisdiction of that court and who must be resentenced under that decision.

(b) Within 180 days after the date the supreme court's decision becomes final, the prosecuting attorney shall file motions for resentencing in all cases in which the prosecuting attorney will be requesting the court to impose a sentence of imprisonment for life without the possibility of parole. A hearing on the motion shall be conducted as provided in section 25 of this chapter.

(c) If the prosecuting attorney does not file a motion under subdivision (b), the court shall sentence the individual to a term of imprisonment for which the maximum term shall be 60 years and the minimum term shall be not less than 25 years or more than 40 years. Each victim shall be afforded the right under section 15 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.765, to appear before the court and make an oral impact statement at any resentencing of the defendant under this subdivision.

(5) Resentencing hearings under subsection (4) shall be held in the following order of priority:

(a) Cases involving defendants who have served 20 or more years of imprisonment shall be held first.

(b) Cases in which the prosecuting attorney has filed a motion requesting a sentence of imprisonment for life without the possibility of parole shall be held after cases described in subdivision (a) are held.

(c) Cases other than those described in subdivisions (a) and (b) shall be held after the cases described in subdivisions (a) and (b) are held.

(6) A defendant who is resentenced under subsection (4) shall be given credit for time already served, but shall not receive any good time credits, special good time credits, disciplinary credits, or any other credits that reduce the defendant's minimum or maximum sentence.

History: Add. 2014, Act 22, Imd. Eff. Mar. 4, 2014.

769.26 Error in pleading or procedure; effect.

Sec. 26. No judgment or verdict shall be set aside or reversed or a new trial be granted by any court of this state in any criminal case, on the ground of misdirection of the jury, or the improper admission or rejection of evidence, or for error as to any matter of pleading or procedure, unless in the opinion of the court, after an examination of the entire cause, it shall affirmatively appear that the error complained of has resulted in a miscarriage of justice.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17354;—CL 1948, 769.26.

Former law: See Act 89 of 1915, being CL 1915, § 14565.

769.27 Change of sentence by court; notice to prosecuting attorney, defendant, and defendant's counsel; objection; hearing.

Sec. 27. If the court changes any sentence imposed under this act in any respect, the clerk of the court shall give written notice of the change to the prosecuting attorney, the defendant, and the defendant's counsel. The prosecuting attorney, the defendant's counsel, or the defendant may file an objection to the change. The court shall promptly hold a hearing on any objection filed.

History: Add. 1935, Act 144, Eff. Sept. 21, 1935;—CL 1948, 769.27;—Am. 2000, Act 220, Eff. Oct. 1, 2000.

769.28 Commitment or sentence for maximum of 1 year; place; section inapplicable to certain juveniles.

Sec. 28. Notwithstanding any provision of law to the contrary, if a person convicted of a crime or contempt of court is committed or sentenced to imprisonment for a maximum of 1 year or less, the commitment or sentence shall be to the county jail of the county in which the person was convicted and not to a state penal institution. This section does not apply to a juvenile placed on probation and committed to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, under section 1(3) or (4) of this chapter.

History: Add. 1953, Act 119, Imd. Eff. May 25, 1953;—Am. 1954, Act 32, Imd. Eff. Mar. 31, 1954;—Am. 1955, Act 202, Imd. Eff. June 17, 1955;—Am. 1985, Act 47, Imd. Eff. June 14, 1985;—Am. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 3 of Act 78 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was amended by Act 181 of 1988 to read as follows: “This amendatory act shall take effect October 1, 1988.”

769.31 Definitions.

Sec. 31. As used in this section and section 34 of this chapter:

(a) “Departure” means a sentence imposed that is not within the appropriate minimum sentence range established under the sentencing guidelines set forth in chapter XVII.

(b) “Intermediate sanction” means probation or any sanction, other than imprisonment in a state prison or state reformatory, that may lawfully be imposed. Intermediate sanction includes, but is not limited to, 1 or

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more of the following:

(*i*) Inpatient or outpatient drug treatment or participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082.

(*ii*) Probation with any probation conditions required or authorized by law.

(*iii*) Residential probation.

(*iv*) Probation with jail.

(*v*) Probation with special alternative incarceration.

(*vi*) Mental health treatment.

(*vii*) Mental health or substance abuse counseling.

(*viii*) Jail.

(*ix*) Jail with work or school release.

(*x*) Jail, with or without authorization for day parole under 1962 PA 60, MCL 801.251 to 801.258.

(*xi*) Participation in a community corrections program.

(*xii*) Community service.

(*xiii*) Payment of a fine.

(*xiv*) House arrest.

(*xv*) Electronic monitoring.

(c) "Offender characteristics" means only the prior criminal record of an offender.

(d) "Offense characteristics" means the elements of the crime and the aggravating and mitigating factors relating to the offense that the legislature determines are appropriate. For purposes of this subdivision, an offense described in section 33b of the corrections code of 1953, 1953 PA 232, MCL 791.233b, that resulted in a conviction and that arose out of the same transaction as the offense for which the sentencing guidelines are being scored shall be considered as an aggravating factor.

(e) "Prior criminal record" means all of the following:

(*i*) Misdemeanor and felony convictions.

(*ii*) Probation and parole violations involving criminal activity.

(*iii*) Dispositions entered under section 18 of chapter XIIA of 1939 PA 288, MCL 712A.18, for acts that would have been crimes if committed by an adult.

(*iv*) Assignment to youthful trainee status under sections 11 to 15 of chapter II.

(*v*) A conviction set aside under 1965 PA 213, MCL 780.621 to 780.624.

(*vi*) Dispositions described in subparagraph (*iii*) that have been set aside under section 18e of chapter XIIA of 1939 PA 288, MCL 712A.18e, or expunged.

History: Add. 1994, Act 445, Imd. Eff. Jan. 10, 1995;—Am. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2002, Act 31, Eff. Apr. 1, 2002;—Am. 2004, Act 220, Eff. Jan. 1, 2005.

769.32, 769.33 Repealed. 2002, Act 31, Eff. Apr. 1, 2002.

Compiler's note: The repealed sections pertained to creation and duties of the sentencing commission.

***** *769.32a THIS SECTION IS REPEALED BY ACT 465 OF 2014 EFFECTIVE JANUARY 12, 2019* *****

769.32a Criminal justice policy commission; creation; appointment; membership; chairperson; terms; vacancy; salary; expenses; subcommittees; conduct of business at public meetings; quorum; writing available to public; office space, staff, and equipment.

Sec. 32a. (1) A criminal justice policy commission is created in the legislative council. Before March 1, 2015, the governor shall appoint the commission members described in subdivisions (d) to (o). The commission consists of all of the following members:

(a) Two individuals who are members of the senate submitted by the senate majority leader, 1 individual from each caucus.

(b) Two individuals who are members of the house of representatives submitted by the speaker of the house of representatives, 1 individual from each caucus.

(c) The attorney general, or his or her designee.

(d) One individual who is a circuit court judge, appointed from a list of 3 names submitted by the Michigan judges association.

(e) One individual who is a district court judge, appointed from a list of 3 names submitted by the Michigan district judges association.

(f) One individual who represents the prosecuting attorneys of this state, appointed from a list of 3 names submitted by the prosecuting attorneys association of Michigan.

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(g) One individual who represents criminal defense attorneys, appointed from a list of 3 names submitted by the criminal defense attorneys of Michigan.

(h) One individual appointed from a list of 3 names submitted by the Michigan sheriff's association.

(i) One individual appointed from a list of 3 names submitted by the director of the Michigan department of corrections.

(j) One individual who represents advocates of alternatives to incarceration.

(k) One individual who works in the mental or behavioral health care field.

(*l*) One individual appointed from a list of 3 names submitted by the Michigan association of counties.

(m) One individual who represents Michigan association of community corrections advisory boards.

(n) One individual appointed from a list of 3 names submitted by the Michigan coalition to end domestic and sexual violence.

(o) One member of the public who is neither affiliated with nor employed by a department, office, or entity described in this subsection, by the commission created under this subsection, or by any entity employed or hired by the commission created under this subsection.

(2) The member of the public appointed by the governor under subsection (1)(o) shall serve as the chairperson of the criminal justice policy commission.

(3) Except as otherwise provided in this subsection, the commission members shall be appointed for terms of 4 years. Of the members first appointed under subsection (1)(d) to (o), 4 members shall serve for 2 years, 4 members shall serve for 3 years, and 4 members shall serve for 4 years. The members of the commission appointed under subsection (1)(a) and (b) shall be appointed for terms of 2 years.

(4) A vacancy on the commission caused by the expiration of a term or a resignation or death shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy caused by a resignation or death shall be appointed for the balance of the unexpired term.

(5) A commission member shall not receive a salary for being a commission member but shall be reimbursed for his or her reasonable, actual, and necessary expenses incurred in the performance of his or her duties as a commission member.

(6) The commission may establish subcommittees that may consist of individuals who are not members of the commission, including, but not limited to, experts in matters of interest to the commission.

(7) The commission's business shall be conducted at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) A quorum consists of a majority of the members of the sentencing commission. All commission business shall be conducted by not less than a quorum. A vote of the majority of the members of the commission present and serving is required for the official action of the commission.

(9) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) The legislative council shall provide the commission with suitable office space, staff, and necessary equipment.

History: Add. 2014, Act 465, Imd. Eff. Jan. 12, 2015.

***** *769.33a THIS SECTION IS REPEALED BY ACT 465 OF 2014 EFFECTIVE JANUARY 12, 2019* *****

769.33a Criminal justice policy commission; duties; prison and jail impact report; recommended intermediate sanctions; recommended modifications to law, administrative rule, policy, or sentencing guidelines; repeal of section and MCL 769.32a.

Sec. 33a. (1) The criminal justice policy commission shall do all of the following:

(a) Collect, prepare, analyze, and disseminate information regarding state and local sentencing and proposed release policies and practices for felonies and the use of prisons and jails.

(b) Collect and analyze information concerning how misdemeanor sentences and the detention of defendants pending trial affect local jails.

(c) Conduct ongoing research regarding the effectiveness of the sentencing guidelines in achieving the purposes set forth in subdivision (f).

(d) In cooperation with the department of corrections, collect, analyze, and compile data and make projections regarding the populations and capacities of state and local correctional facilities, the impact of the sentencing guidelines and other laws, rules, and policies on those populations and capacities, and the effectiveness of efforts to reduce recidivism. Measurement of recidivism shall include, as applicable, analysis of all of the following:

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(*i*) Rearrest rates, resentence rates, and return to prison rates.

(*ii*) One-, 2-, and 3-year intervals after exiting prison or jail and after entering probation.

(*iii*) The statewide level, and by locality and discrete program, to the extent practicable.

(e) In cooperation with the state court administrator, collect, analyze, and compile data regarding the effect of sentencing guidelines on the caseload, docket flow, and case backlog of the trial and appellate courts of this state.

(f) Develop modifications to the sentencing guidelines for recommendation to the legislature. Any modifications to the sentencing guidelines shall accomplish all of the following:

(*i*) Provide for the protection of the public.

(*ii*) Consider offenses involving violence against a person or serious and substantial pecuniary loss as more severe than other offenses.

(*iii*) Be proportionate to the seriousness of the offense and the offender's prior criminal record.

(*iv*) Reduce sentencing disparities based on factors other than offense characteristics and offender characteristics and ensure that offenders with similar offense and offender characteristics receive substantially similar sentences.

(*v*) Specify the circumstances under which a term of imprisonment is proper and the circumstances under which intermediate sanctions are proper.

(*vi*) Establish sentence ranges for imprisonment that are within the minimum and maximum sentences allowed by law for the offenses to which the ranges apply.

(*vii*) Maintain separate sentence ranges for convictions under the habitual offender provisions in sections 10, 11, 12, and 13 of this chapter, which may include as an aggravating factor, among other relevant considerations, that the accused has engaged in a pattern of proven or admitted criminal behavior.

(*viii*) Establish sentence ranges that the commission considers appropriate.

(*ix*) Recognize the availability of beds in the local corrections system and that the local corrections system is an equal partner in corrections policy, and preserve its funding mechanisms.

(g) Consider the suitability and impact of offense variable scoring with regard to physical and psychological injury to victims and victims' families.

(2) In developing proposed modifications to the sentencing guidelines, the commission shall submit to the legislature a prison and jail impact report relating to any modifications to the sentencing guidelines. The report shall include the projected impact on total capacity of state and local correctional facilities.

(3) Proposed modifications to sentencing guidelines shall include recommended intermediate sanctions for each case in which the upper limit of the recommended minimum sentence range is 18 months or less.

(4) The commission may recommend modifications for submission to the legislature to any law, administrative rule, or policy that affects sentencing or the use and length of incarceration. The recommendations shall reflect all of the following policies:

(a) To render sentences in all cases within a range of severity proportionate to the gravity of offenses, the harms done to crime victims, and the blameworthiness of offenders.

(b) When reasonably feasible, to achieve offender rehabilitation, general deterrence, incapacitation of dangerous offenders, restoration of crime victims and communities, and reintegration of offenders into the law-abiding community.

(c) To render sentences no more severe than necessary to achieve the applicable purposes in subdivisions (a) and (b).

(d) To preserve judicial discretion to individualize sentences within a framework of law.

(e) To produce sentences that are uniform in their reasoned pursuit of the objectives described in subsection (1).

(f) To eliminate inequities in sentencing and length of incarceration across population groups.

(g) To encourage the use of intermediate sanctions.

(h) To ensure that adequate resources are available for carrying out sentences imposed and that rational priorities are established for the use of those resources.

(i) To promote research on sentencing policy and practices, including assessments of the effectiveness of criminal sanctions as measured against their purposes.

(j) To increase the transparency of the sentencing and corrections system, its accountability to the public, and the legitimacy of its operations.

(5) The commission shall submit any recommended modifications to the sentencing guidelines or to other laws, administrative rules, or policies to the senate majority leader, the speaker of the house of representatives, and the governor.

(6) This section and section 32a of this chapter are repealed 4 years after the effective date of the amendatory act that added this section.

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History: Add. 2014, Act 465, Imd. Eff. Jan. 12, 2015.

769.34 Sentencing guidelines; duties of court.

Sec. 34. (1) The sentencing guidelines promulgated by order of the Michigan supreme court do not apply to felonies enumerated in part 2 of chapter XVII committed on or after January 1, 1999.

(2) Except as otherwise provided in this subsection or for a departure from the appropriate minimum sentence range provided for under subsection (3), the minimum sentence imposed by a court of this state for a felony enumerated in part 2 of chapter XVII committed on or after January 1, 1999 shall be within the appropriate sentence range under the version of those sentencing guidelines in effect on the date the crime was committed. Both of the following apply to minimum sentences under this subsection:

(a) If a statute mandates a minimum sentence for an individual sentenced to the jurisdiction of the department of corrections, the court shall impose sentence in accordance with that statute. Imposing a mandatory minimum sentence is not a departure under this section. If a statute mandates a minimum sentence for an individual sentenced to the jurisdiction of the department of corrections and the statute authorizes the sentencing judge to depart from that minimum sentence, imposing a sentence that exceeds the recommended sentence range but is less than the mandatory minimum sentence is not a departure under this section. If the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, mandates a minimum sentence for an individual sentenced to the jurisdiction of the department of corrections and the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, authorizes the sentencing judge to impose a sentence that is less than that minimum sentence, imposing a sentence that exceeds the recommended sentence range but is less than the mandatory minimum sentence is not a departure under this section.

(b) The court shall not impose a minimum sentence, including a departure, that exceeds 2/3 of the statutory maximum sentence.

(3) A court may depart from the appropriate sentence range established under the sentencing guidelines set forth in chapter XVII if the court has a substantial and compelling reason for that departure and states on the record the reasons for departure. All of the following apply to a departure:

(a) The court shall not use an individual's gender, race, ethnicity, alienage, national origin, legal occupation, lack of employment, representation by appointed legal counsel, representation by retained legal counsel, appearance in propria persona, or religion to depart from the appropriate sentence range.

(b) The court shall not base a departure on an offense characteristic or offender characteristic already taken into account in determining the appropriate sentence range unless the court finds from the facts contained in the court record, including the presentence investigation report, that the characteristic has been given inadequate or disproportionate weight.

(4) Intermediate sanctions shall be imposed under this chapter as follows:

(a) If the upper limit of the recommended minimum sentence range for a defendant determined under the sentencing guidelines set forth in chapter XVII is 18 months or less, the court shall impose an intermediate sanction unless the court states on the record a substantial and compelling reason to sentence the individual to the jurisdiction of the department of corrections. An intermediate sanction may include a jail term that does not exceed the upper limit of the recommended minimum sentence range or 12 months, whichever is less.

(b) If an attempt to commit a felony designated in offense class H in part 2 of chapter XVII is punishable by imprisonment for more than 1 year, the court shall impose an intermediate sanction upon conviction of that offense absent a departure.

(c) If the upper limit of the recommended minimum sentence exceeds 18 months and the lower limit of the recommended minimum sentence is 12 months or less, the court shall sentence the offender as follows absent a departure:

(*i*) To imprisonment with a minimum term within that range.

(*ii*) To an intermediate sanction that may include a term of imprisonment of not more than 12 months.

(5) If a crime has a mandatory determinant penalty or a mandatory penalty of life imprisonment, the court shall impose that penalty. This section does not apply to sentencing for that crime.

(6) As part of the sentence, the court may also order the defendant to pay any combination of a fine, costs, or applicable assessments. The court shall order payment of restitution as provided by law.

(7) If the trial court imposes on a defendant a minimum sentence that is longer or more severe than the appropriate sentence range, as part of the court's advice of the defendant's rights concerning appeal, the court shall advise the defendant orally and in writing that he or she may appeal the sentence as provided by law on grounds that it is longer or more severe than the appropriate sentence range.

(8) All of the following shall be part of the record filed for an appeal of a sentence under this section:

(a) An entire record of the sentencing proceedings.

(b) The presentence investigation report. Any portion of the presentence investigation report exempt from

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disclosure by law shall not be a public record.

(c) Any other reports or documents the sentencing court used in imposing sentence.

(9) An appeal of a sentence under this section does not stay execution of the sentence.

(10) If a minimum sentence is within the appropriate guidelines sentence range, the court of appeals shall affirm that sentence and shall not remand for resentencing absent an error in scoring the sentencing guidelines or inaccurate information relied upon in determining the defendant's sentence. A party shall not raise on appeal an issue challenging the scoring of the sentencing guidelines or challenging the accuracy of information relied upon in determining a sentence that is within the appropriate guidelines sentence range unless the party has raised the issue at sentencing, in a proper motion for resentencing, or in a proper motion to remand filed in the court of appeals.

(11) If, upon a review of the record, the court of appeals finds the trial court did not have a substantial and compelling reason for departing from the appropriate sentence range, the court shall remand the matter to the sentencing judge or another trial court judge for resentencing under this chapter.

(12) Time served on the sentence appealed under this section is considered time served on any sentence imposed after remand.

History: Add. 1994, Act 445, Eff. Dec. 15, 1998;—Am. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2002, Act 666, Eff. Mar. 1, 2003.

769.35 Jail reimbursement program; operation; criteria.

Sec. 35. The department of corrections shall operate a jail reimbursement program that provides funding to counties for housing offenders in county jails who otherwise would have been sentenced to prison. The criteria for reimbursement, including but not limited to criteria for determining those offenders who otherwise would have been sentenced to prison, and the rate of reimbursement shall be established in the annual appropriations acts for the department of corrections.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

769.36 Deaths arising out of same criminal transaction; crimes to which person may be charged and convicted; consecutive terms; definitions.

Sec. 36. (1) A person may be charged with and convicted of any of the following for each death arising out of the same criminal transaction, and the court may order the terms of imprisonment to be served consecutively to each other:

(a) Section 602a(5), 617(3), 625(4), or 904(4) of the Michigan vehicle code, 1949 PA 300, MCL 257.602a, 257.617, 257.625, and 257.904.

(b) Section 317 or 321 of the Michigan penal code, 1931 PA 328, MCL 750.317 and 750.321, where death results from the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive, or section 479a(5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

(c) Section 80176(4), 81134(7), or 82127(4) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, 324.81134, and 324.82127.

(d) Section 185(4) of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185.

(e) Section 353(6) of the railroad code of 1993, 1993 PA 354, MCL 462.353.

(2) As used in this section:

(a) “Aircraft” means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(b) “ORV” means that term as defined in section 81101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101.

(c) “Snowmobile” means that term as defined in section 82101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101.

(d) “Vehicle” means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

(e) “Vessel” means that term as defined in section 80104 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80104.

History: Add. 2001, Act 246, Eff. Mar. 1, 2002;—Am. 2002, Act 659, Eff. Apr. 1, 2003.

CHAPTER X

NEW TRIALS, WRITS OF ERROR AND BILLS OF EXCEPTIONS

770.1 Granting new trial to defendant.

Sec. 1. The judge of a court in which the trial of an offense is held may grant a new trial to the defendant,

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for any cause for which by law a new trial may be granted, or when it appears to the court that justice has not been done, and on the terms or conditions as the court directs.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17355;—CL 1948, 770.1;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 1 of Ch. 166 of R.S. 1846, being CL 1857, § 6082; CL 1871, § 7963; How., § 9576; CL 1897, § 11963; and CL 1915, § 15836.

770.2 Motion for new trial.

Sec. 2. (1) Except as provided in section 16, in a case appealable as of right to the court of appeals, a motion for a new trial shall be made within 60 days after entry of the judgment or within any further time allowed by the trial court during the 60-day period.

(2) In a misdemeanor or ordinance violation case appealable as of right from a municipal court in a city that adopts a resolution of approval under section 23a of the Michigan uniform municipal court act, 1956 PA 5, MCL 730.523a, or from a court of record to the circuit court, a motion for a new trial shall be made within 20 days after entry of the judgment.

(3) In a misdemeanor or ordinance violation case appealable de novo to the circuit court, a motion for a new trial shall be made within 20 days after entry of the judgment.

(4) If the applicable period of time prescribed in subsection (1) or (2) has expired, a court of record may grant a motion for a new trial for good cause shown. If the applicable time period prescribed in subsection (3) has expired and the defendant has not appealed, a municipal court may grant a motion for new trial for good cause shown.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17356;—CL 1948, 770.2;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1981, Act 205, Eff. Jan. 1, 1982;—Am. 1998, Act 407, Eff. Jan. 1, 1999;—Am. 2000, Act 402, Imd. Eff. Jan. 8, 2001.

770.3 Appeal by aggrieved party.

Sec. 3. (1) Subject to the limitations imposed by section 12 of this chapter and except as provided in section 16, an aggrieved party shall have a right of appeal from a final judgment or trial order as follows:

(a) Except as otherwise provided in subdivision (d), in a felony or misdemeanor case tried in the circuit court, there shall be a right of appeal to the court of appeals.

(b) Except as otherwise provided in subdivision (d), in a misdemeanor or ordinance violation case tried in a municipal court in a city that adopts a resolution of approval under section 23a of the Michigan uniform municipal court act, 1956 PA 5, MCL 730.523a, or tried in the district court, there shall be a right of appeal to the circuit court in the county in which the misdemeanor or ordinance violation was committed.

(c) In a misdemeanor or ordinance violation case tried in a municipal court in a city that does not adopt a resolution of approval under section 23a of the Michigan uniform municipal court act, 1956 PA 5, MCL 730.523a, there shall be a right of appeal as provided in chapter XIV.

(d) All appeals from final orders and judgments based upon pleas of guilty or nolo contendere shall be by application for leave to appeal.

(2) An appeal from an interlocutory judgment or order in a felony, misdemeanor, or ordinance violation may be taken, in the manner provided by court rules, by application for leave to appeal to the same court of which a final judgment in that case would be appealable as a matter of right under subsection (1).

(3) After expiration of the period prescribed for timely appeal, the appellate court may grant leave to appeal from any order or judgment from which timely appeal would have been available as of right, or by leave, upon conditions prescribed by court rules.

(4) Further appellate review of matters appealed to the circuit court under subsection (1)(b), (1)(d), or (2) may be had only upon application for leave to appeal granted by the court of appeals.

(5) Further appellate review of matters appealed to the recorder's court under subsection (1)(c) may be had only upon application for leave to appeal granted by the court of appeals.

(6) Further review of any matter appealed to the court of appeals under this section may be had only upon application for leave to appeal granted by the supreme court.

(7) An appeal as of right and an appeal by application for leave to appeal provided for in this section shall be taken pursuant to and within the time prescribed by court rules.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17357;—CL 1948, 770.3;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1981, Act 205, Eff. Jan. 1, 1982;—Am. 1994, Act 374, Imd. Eff. Dec. 27, 1994;—Am. 1998, Act 407, Eff. Jan. 1, 1999;—Am. 2000, Act 402, Imd. Eff. Jan. 8, 2001.

Former law: See sections 1, 6, and 7 of Ch. 138 of R.S. 1846, being CL 1857, §§ 5332, 5337, and 5338; CL 1871, §§ 7119, 7124, and 7125; How., §§ 8678, 8683, and 8684; CL 1897, §§ 10484, 10489, and 10490; and CL 1915, §§ 14587, 14592, and 14593.

770.3a Repealed. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

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Compiler's note: The repealed section pertained to defendant pleading guilty, guilty but mentally ill, or nolo contendere, and to appointment of appellate counsel.

770.4-770.7 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to writs of error.

770.8 Bail between trial court judgment and decision of appellate court.

Sec. 8. During the time between the trial court judgment and the decision of the court to which an appeal is taken, the trial judge may admit the defendant to bail, if the offense charged is bailable and if the offense is not an assaultive crime as defined in section 9a of this chapter.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17362;—CL 1948, 770.8;—Am. 1977, Act 34, Eff. Mar. 30, 1978.

Former law: See section 3 of Act 159 of 1917.

770.9 Bail during pendency of appeal or application for leave to appeal.

Sec. 9. During the pendency of an appeal or application for leave to appeal, a justice or judge of the court in which the appeal or application is filed may admit the defendant to bail, if the offense charged is bailable and if the offense is not an assaultive crime as defined in section 9a of this chapter or sexual assault of a minor as described in section 9b of this chapter.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17363;—CL 1948, 770.9;—Am. 1977, Act 34, Eff. Mar. 30, 1978;—Am. 2004, Act 32, Eff. June 30, 2004.

Former law: See section 8 of Ch. 138 of R.S. 1846, being CL 1857, § 5339; CL 1871, § 7126; How., § 8685; CL 1897, § 10491; CL 1915, § 14590; Secs. 5 to 7 of Ch. 166 of R.S. 1846, being CL 1857, §§ 6086 to 6088; CL 1871, §§ 7967 to 7969; How., §§ 9580 to 9582; CL 1897, §§ 11967 to 11969; CL 1915, §§ 15840 to 15842; and section 3 of Act 159 of 1917.

770.9a Detention and denial of bail where defendant convicted of assaultive crime; "assaultive crime" defined; expediting appeal or application for leave to appeal.

Sec. 9a. (1) A defendant convicted of an assaultive crime and awaiting sentence shall be detained and shall not be admitted to bail unless the trial court finds by clear and convincing evidence that the defendant is not likely to pose a danger to other persons and that section 9b of this chapter does not apply.

(2) A defendant convicted of an assaultive crime and sentenced to a term of imprisonment who has filed an appeal or an application for leave to appeal shall be detained and shall not be admitted to bail unless the trial court or the court to which the appeal is taken finds by clear and convincing evidence that section 9b of this chapter does not apply and that both of the following exist:

(a) The defendant is not likely to pose a danger to other persons.

(b) The appeal or application raises a substantial question of law or fact.

(3) As used in this section, "assaultive crime" means an offense against a person described in section 81c(3), 82, 83, 84, 86, 87, 88, 89, 90a, 90b(a) or (b), 91, 200 to 212a, 316, 317, 321, 349, 349a, 350, 397, 411h(2)(b) or (3), 411i, 520b, 520c, 520d, 520e, 520g, 529, 529a, 530, or 543a to 543z of the Michigan penal code, 1931 PA 328, MCL 750.81c, 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.90a, 750.90b, 750.91, 750.200 to 750.212a, 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.411h, 750.411i, 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529, 750.529a, 750.530, and 750.543a to 750.543z.

(4) The appeal or application for leave to appeal filed by a person denied bail under this section shall be expedited pursuant to rules adopted for that purpose by the supreme court.

History: Add. 1977, Act 34, Eff. Mar. 30, 1978;—Am. 1994, Act 195, Eff. Oct. 1, 1994;—Am. 2001, Act 208, Eff. Apr. 1, 2002;—Am. 2002, Act 483, Eff. Oct. 1, 2002;—Am. 2004, Act 32, Eff. June 30, 2004.

770.9b Detention and denial of bail where defendant convicted of sexual assault of minor; definitions.

Sec. 9b. (1) A defendant convicted of sexual assault of a minor and awaiting sentence shall be detained and shall not be admitted to bail.

(2) A defendant convicted of sexual assault of a minor sentenced to a term of imprisonment who has filed an appeal or an application for leave to appeal shall be detained and shall not be admitted to bail.

(3) As used in this section:

(a) "Minor" means an individual less than 16 years of age.

(b) "Sexual assault of a minor" means a violation of any of the following:

(*i*) Section 520b, 520c, 520d(1)(b), (c), (d), or (e) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, in which the victim of the offense is a minor.

(*ii*) Section 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d, if the actor is 5 or more

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years older than the victim.

(*iii*) Section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g, for assaulting an individual with the intent to commit criminal sexual conduct described in subparagraphs (*i*) and (*ii*).

History: Add. 2004, Act 32, Eff. June 30, 2004.

Compiler's note: In subsection (3)(b)(*i*), the phrase "Section 520b, 520c, 520d(1)(b), (c), (d), or (e) of the Michigan penal code" evidently should read "Section 520b, 520c, or 520d(1)(b), (c), (d), or (e) of the Michigan penal code."

770.10, 770.11 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to bills of exception.

770.12 Appeal by people; right of defendant to bail upon appeal; provisions governing section.

Sec. 12. (1) Except as provided in subsection (2), the people of this state may take an appeal of right in a criminal case, if the protection against double jeopardy under section 15 of article I of the state constitution of 1963 and amendment V of the constitution of the United States would not bar further proceedings against the defendant, from either of the following:

(a) A final judgment or final order of the circuit court or recorder's court, except a judgment or order of the circuit court or recorder's court on appeal from any other court.

(b) A final judgment or order of a court or tribunal from which appeal of right has been established by law.

(2) The people of this state may take an appeal by leave in a criminal case, if the protection against double jeopardy under section 15 of article I of the state constitution of 1963 and amendment V of the constitution of the United States would not bar further proceedings against the defendant, from any of the following:

(a) A judgment or order of the circuit court or recorder's court that is not a final judgment appealable of right.

(b) A final judgment entered by the circuit court or the recorder's court on appeal from any other court.

(c) Any other judgment or order appealable by law or rule.

(d) A judgment or order when an appeal of right could have been taken but was not timely filed.

(e) A final order or judgment based upon a defendant's plea of guilty or nolo contendere.

(3) The right of the defendant to bail upon appeal under this section shall be governed by section 9a of this chapter and section 7 of chapter V.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17366;—Am. 1941, Act 132, Eff. Jan. 10, 1942;—CL 1948, 770.12;—Am. 1977, Act 34, Eff. Mar. 30, 1978;—Am. 1988, Act 66, Eff. Mar. 30, 1988;—Am. 1994, Act 374, Imd. Eff. Dec. 27, 1994.

Compiler's note: For provisions of chapter 5, referred to in this section, see MCL 765.7.

Former law: See section 1 of Act 159 of 1917.

770.13-770.15 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to writ of error in criminal cases, rules of practice, and the repeal of inconsistent provisions.

770.16 DNA testing; petition; filing; availability of biological material; court order; findings; costs; results; granting or denying request for new trial; notice of petition to victim; preservation of biological material identified.

Sec. 16. (1) Notwithstanding the limitations of section 2 of this chapter, a defendant convicted of a felony at trial before January 8, 2001 who is serving a prison sentence for the felony conviction may petition the circuit court to order DNA testing of biological material identified during the investigation leading to his or her conviction, and for a new trial based on the results of that testing. Notwithstanding the limitations of section 2 of this chapter, a defendant convicted of a felony at trial on or after January 8, 2001 who establishes that all of the following apply may petition the circuit court to order DNA testing of biological material identified during the investigation leading to his or her conviction, and for a new trial based on the results of that testing:

(a) That DNA testing was done in the case or under this act.

(b) That the results of the testing were inconclusive.

(c) That testing with current DNA technology is likely to result in conclusive results.

(2) A petition under this section shall be filed in the circuit court for the county in which the defendant was sentenced and shall be assigned to the sentencing judge or his or her successor. The petition shall be served on the prosecuting attorney of the county in which the defendant was sentenced.

(3) A petition under this section shall allege that biological material was collected and identified during the investigation of the defendant's case. If the defendant, after diligent investigation, is unable to discover the

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location of the identified biological material or to determine whether the biological material is no longer available, the defendant may petition the court for a hearing to determine whether the identified biological material is available. If the court determines that identified biological material was collected during the investigation, the court shall order appropriate police agencies, hospitals, or the medical examiner to search for the material and to report the results of the search to the court.

(4) The court shall order DNA testing if the defendant does all of the following:

(a) Presents prima facie proof that the evidence sought to be tested is material to the issue of the convicted person's identity as the perpetrator of, or accomplice to, the crime that resulted in the conviction.

(b) Establishes all of the following by clear and convincing evidence:

(*i*) A sample of identified biological material described in subsection (1) is available for DNA testing.

(*ii*) The identified biological material described in subsection (1) was not previously subjected to DNA testing or, if previously tested, will be subject to DNA testing technology that was not available when the defendant was convicted.

(*iii*) The identity of the defendant as the perpetrator of the crime was at issue during his or her trial.

(5) The court shall state its findings of fact on the record or shall make written findings of fact supporting its decision to grant or deny a petition brought under this section.

(6) If the court grants a petition for DNA testing under this section, the identified biological material and a biological sample obtained from the defendant shall be subjected to DNA testing by a laboratory approved by the court. If the court determines that the applicant is indigent, the cost of DNA testing ordered under this section shall be borne by the state. The results of the DNA testing shall be provided to the court and to the defendant and the prosecuting attorney. Upon motion by either party, the court may order that copies of the testing protocols, laboratory procedures, laboratory notes, and other relevant records compiled by the testing laboratory be provided to the court and to all parties.

(7) If the results of the DNA testing are inconclusive or show that the defendant is the source of the identified biological material, both of the following apply:

(a) The court shall deny the motion for new trial.

(b) The defendant's DNA profile shall be provided to the department of state police for inclusion under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(8) If the results of the DNA testing show that the defendant is not the source of the identified biological material, the court shall appoint counsel pursuant to MCR 6.505(A) and hold a hearing to determine by clear and convincing evidence all of the following:

(a) That only the perpetrator of the crime or crimes for which the defendant was convicted could be the source of the identified biological material.

(b) That the identified biological material was collected, handled, and preserved by procedures that allow the court to find that the identified biological material is not contaminated or is not so degraded that the DNA profile of the tested sample of the identified biological material cannot be determined to be identical to the DNA profile of the sample initially collected during the investigation described in subsection (1).

(c) That the defendant's purported exclusion as the source of the identified biological material, balanced against the other evidence in the case, is sufficient to justify the grant of a new trial.

(9) Upon motion of the prosecutor, the court shall order retesting of the identified biological material and shall stay the defendant's motion for new trial pending the results of the DNA retesting.

(10) The court shall state its findings of fact on the record or make written findings of fact supporting its decision to grant or deny the defendant a new trial under this section. Notwithstanding section 3 of this chapter, an aggrieved party may appeal the court's decision to grant or deny the petition for DNA testing and for new trial by application for leave granted by the court of appeals.

(11) If the name of the victim of the felony conviction described in subsection (1) is known, the prosecuting attorney shall give written notice of a petition under this section to the victim. The notice shall be by first-class mail to the victim's last known address. Upon the victim's request, the prosecuting attorney shall give the victim notice of the time and place of any hearing on the petition and shall inform the victim of the court's grant or denial of a new trial to the defendant.

(12) The investigating law enforcement agency shall preserve any biological material identified during the investigation of a crime or crimes for which any person may file a petition for DNA testing under this section. The identified biological material shall be preserved for the period of time that any person is incarcerated in connection with that case.

History: Add. 2000, Act 402, Imd. Eff. Jan. 8, 2001;—Am. 2005, Act 4, Imd. Eff. Apr. 1, 2005;—Am. 2008, Act 410, Imd. Eff. Jan. 6, 2009;—Am. 2011, Act 212, Imd. Eff. Nov. 8, 2011;—Am. 2015, Act 229, Imd. Eff. Dec. 17, 2015.

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771.1 Requirements for probation; delayed sentence; fee; applicability of section to certain juveniles.

Sec. 1. (1) In all prosecutions for felonies, misdemeanors, or ordinance violations other than murder, treason, criminal sexual conduct in the first or third degree, armed robbery, or major controlled substance offenses, if the defendant has been found guilty upon verdict or plea and the court determines that the defendant is not likely again to engage in an offensive or criminal course of conduct and that the public good does not require that the defendant suffer the penalty imposed by law, the court may place the defendant on probation under the charge and supervision of a probation officer.

(2) In an action in which the court may place the defendant on probation, the court may delay sentencing the defendant for not more than 1 year to give the defendant an opportunity to prove to the court his or her eligibility for probation or other leniency compatible with the ends of justice and the defendant's rehabilitation, such as participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082. When sentencing is delayed, the court shall enter an order stating the reason for the delay upon the court's records. The delay in passing sentence does not deprive the court of jurisdiction to sentence the defendant at any time during the period of delay.

(3) If a defendant is before the circuit court and the court delays imposing sentence under subsection (2), the court shall include in the delayed sentence order that the department of corrections shall collect a supervision fee of not more than $135.00 multiplied by the number of months of delay ordered, but not more than 12 months. The fee is payable when the delayed sentence order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that defendant. In determining the amount of the fee, the court shall consider the defendant's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

Projected Monthly Income	Amount of Fee
$ 0-249.99	$ 0.00
$ 250.00-499.99	$10.00
$ 500.00-749.99	$25.00
$ 750.00-999.99	$40.00
$1,000.00 or more	5% of projected monthly income, but not more than $135.00

The court may order a higher amount than indicated by the table, up to the maximum of $135.00 multiplied by the number of months of delay ordered but not more than 12 months, if the court determines that the defendant has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person shall not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(4) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17371;—Am. 1931, Act 308, Eff. Sept. 18, 1931;—Am. 1945, Act 5, Eff. Sept. 6, 1945;—CL 1948, 771.1;—Am. 1961, Act 185, Eff. Sept. 8, 1961;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1982, Act 470, Eff. Mar. 30, 1983;—Am. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1988, Act 90, Imd. Eff. Mar. 30, 1988;—Am. 1993, Act 185, Eff. Oct. 1, 1993;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999;—Am. 2002, Act 483, Eff. Oct. 1, 2002;—Am. 2002, Act 666, Eff. Mar. 1, 2003;—Am. 2004, Act 219, Eff. Jan. 1, 2005;—Am. 2006, Act 631, Imd. Eff. Jan. 3, 2007.

Former law: See section 1 of Act 105 of 1913, being CL 1915, § 2029.

771.2 Probation period; order fixing period and conditions of probation; registration pursuant to sex offenders registration act; reduction in probation period; subsection (1) inapplicable to certain juveniles.

Sec. 2. (1) Except as provided in section 2a of this chapter, if the defendant is convicted for an offense that is not a felony, the probation period shall not exceed 2 years. Except as provided in section 2a of this chapter, if the defendant is convicted of a felony, the probation period shall not exceed 5 years.

(2) The court shall by order, to be filed or entered in the cause as the court may direct by general rule or in each case, fix and determine the period and conditions of probation. The order is part of the record in the

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cause. The court may amend the order in form or substance at any time.

(3) A defendant who was placed on probation under section 1(4) of this chapter as it existed before March 1, 2003 for an offense committed before March 1, 2003 is subject to the conditions of probation specified in section 3 of this chapter, including payment of a probation supervision fee as prescribed in section 3c of this chapter, and to revocation for violation of these conditions, but the probation period shall not be reduced other than by a revocation that results in imprisonment or as otherwise provided by law.

(4) If an individual is placed on probation for a listed offense enumerated in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the individual's probation officer shall register the individual or accept the individual's registration as provided in that act.

(5) Subsection (1) does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17372;—CL 1948, 771.2;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1992, Act 251, Eff. Jan. 1, 1993;—Am. 1993, Act 185, Eff. Oct. 1, 1993;—Am. 1994, Act 286, Eff. Oct. 1, 1995;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999;—Am. 2002, Act 666, Eff. Mar. 1, 2003;—Am. 2010, Act 351, Imd. Eff. Dec. 22, 2010.

Compiler's note: Section 3 of Act 78 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 181 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

Former law: See section 2 of Act 105 of 1913, being CL 1915, § 2030; and Act 203 of 1925.

771.2a Probation for not more than 5 years; probation for term of years; order fixing period and conditions of probation; applicability of section to certain juveniles; probation for not less than 5 years; conditions; residing or working within school safety zone; exemption; definitions.

Sec. 2a. (1) The court may place an individual convicted of violating section 411h of the Michigan penal code, 1931 PA 328, MCL 750.411h, on probation for not more than 5 years. The sentence is subject to the conditions of probation set forth in section 411h(3) of the Michigan penal code, 1931 PA 328, MCL 750.411h, and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(2) The court may place an individual convicted of violating section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i, on probation for any term of years, but not less than 5 years. The sentence is subject to the conditions of probation set forth in section 411i(4) of the Michigan penal code, 1931 PA 328, MCL 750.411i, and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(3) The court may place an individual convicted of a violation of section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, that is designated as a misdemeanor on probation for not more than 5 years.

(4) The court shall by order, to be filed or entered in the cause as the court directs by general rule or in each case, fix and determine the period and conditions of probation. The order is part of the record in the cause. The court may amend the order in form or substance at any time.

(5) Subsections (1), (2), (3), and (4) do not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(6) Except as otherwise provided by law, the court may place an individual convicted of a listed offense on probation subject to the requirements of this subsection and subsections (7) through (12) for any term of years but not less than 5 years.

(7) Except as otherwise provided in subsections (8) to (12), if an individual is placed on probation under subsection (6), the court shall order the individual not to do any of the following:

(a) Reside within a student safety zone.

(b) Work within a student safety zone.

(c) Loiter within a student safety zone.

(8) The court shall not impose a condition of probation described in subsection (7)(a) if any of the following apply:

(a) The individual is not more than 19 years of age and attends secondary school or postsecondary school, and resides with his or her parent or guardian. However, an individual described in this subdivision shall be ordered not to initiate or maintain contact with a minor within that student safety zone. The individual shall be permitted to initiate or maintain contact with a minor with whom he or she attends secondary school or postsecondary school in conjunction with that school attendance.

(b) The individual is not more than 26 years of age, attends a special education program, and resides with

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his or her parent or guardian or in a group home or assisted living facility. However, an individual described in this subdivision shall be ordered not to initiate or maintain contact with a minor within that student safety zone. The individual shall be permitted to initiate or maintain contact with a minor with whom he or she attends a special education program in conjunction with that attendance.

(c) The individual was residing within that student safety zone at the time the amendatory act that added this subdivision was enacted into law. However, if the individual was residing within the student safety zone at the time the amendatory act that added this subdivision was enacted into law, the court shall order the individual not to initiate or maintain contact with any minors within that student safety zone. This subdivision does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(9) An order issued under subsection (7)(a) shall not prohibit an individual from being a patient in a hospital or hospice that is located within a student safety zone. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(10) The court shall not impose a condition of probation described in subsection (7)(b) if the individual was working within the student safety zone at the time the amendatory act that added this subsection was enacted into law. However, if the individual was working within the student safety zone at the time the amendatory act that added this subsection was enacted into law, the court shall order the individual not to initiate or maintain contact with any minors in the course of his or her employment within that student safety zone. This subsection does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(11) The court shall not impose a condition of probation described in subsection (7)(b) if the individual only intermittently or sporadically enters a student safety zone for purposes of work. If the individual intermittently or sporadically works within a student safety zone, the court shall order the individual not to initiate or maintain contact with any minors in the course of his or her employment within that safety zone. This subsection does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(12) The court may exempt an individual from probation under subsection (6) if any of the following apply:

(a) The individual has successfully completed his or her probationary period under sections 11 to 15 of chapter II for committing a listed offense and has been discharged from youthful trainee status.

(b) The individual was convicted of committing or attempting to commit a violation solely described in section 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520e, and at the time of the violation was 17 years of age or older but less than 21 years of age and is not more than 5 years older than the victim.

(13) As used in this section:

(a) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) "Loiter" means to remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors.

(c) "Minor" means an individual less than 18 years of age.

(d) "School" means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12. School does not include a home school.

(e) "School property" means a building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

(*i*) It is used to impart educational instruction.

(*ii*) It is for use by students not more than 19 years of age for sports or other recreational activities.

(f) "Student safety zone" means the area that lies 1,000 feet or less from school property.

History: Add. 1992, Act 251, Eff. Jan. 1, 1993;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999;—Am. 2005, Act 126, Eff. Jan. 1, 2006 ;—Am. 2006, Act 507, Imd. Eff. Dec. 29, 2006.

771.3 Probation; conditions; entry of order into LEIN; costs as part of sentence of probation; compliance as condition of probation; revocation of probation; fees in delayed or deferred entry of judgment or sentencing.

Sec. 3. (1) The sentence of probation shall include all of the following conditions:

(a) During the term of his or her probation, the probationer shall not violate any criminal law of this state, the United States, or another state or any ordinance of any municipality in this state or another state.

(b) During the term of his or her probation, the probationer shall not leave the state without the consent of the court granting his or her application for probation.

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(c) The probationer shall report to the probation officer, either in person or in writing, monthly or as often as the probation officer requires. This subdivision does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(d) If sentenced in circuit court, the probationer shall pay a probation supervision fee as prescribed in section 3c of this chapter.

(e) The probationer shall pay restitution to the victim of the defendant's course of conduct giving rise to the conviction or to the victim's estate as provided in chapter IX. An order for payment of restitution may be modified and shall be enforced as provided in chapter IX.

(f) The probationer shall pay an assessment ordered under section 5 of 1989 PA 196, MCL 780.905.

(g) The probationer shall pay the minimum state cost prescribed by section 1j of chapter IX.

(h) If the probationer is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the probationer shall comply with that act.

(2) As a condition of probation, the court may require the probationer to do 1 or more of the following:

(a) Be imprisoned in the county jail for not more than 12 months at the time or intervals that may be consecutive or nonconsecutive, within the probation as the court determines. However, the period of confinement shall not exceed the maximum period of imprisonment provided for the offense charged if the maximum period is less than 12 months. The court may permit day parole as authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may, subject to sections 3d and 3e of this chapter, permit the individual to be released from jail to work at his or her existing job or to attend a school in which he or she is enrolled as a student. This subdivision does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(b) Pay immediately or within the period of his or her probation a fine imposed when placed on probation.

(c) Pay costs pursuant to subsection (5).

(d) Pay any assessment ordered by the court other than an assessment described in subsection (1)(f).

(e) Engage in community service.

(f) Agree to pay by wage assignment any restitution, assessment, fine, or cost imposed by the court.

(g) Participate in inpatient or outpatient drug treatment or, beginning January 1, 2005, participate in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1084.

(h) Participate in mental health treatment.

(i) Participate in mental health or substance abuse counseling.

(j) Participate in a community corrections program.

(k) Be under house arrest.

(*l*) Be subject to electronic monitoring.

(m) Participate in a residential probation program.

(n) Satisfactorily complete a program of incarceration in a special alternative incarceration unit as provided in section 3b of this chapter.

(o) Be subject to conditions reasonably necessary for the protection of 1 or more named persons.

(p) Reimburse the county for expenses incurred by the county in connection with the conviction for which probation was ordered as provided in the prisoner reimbursement to the county act, 1984 PA 118, MCL 801.81 to 801.93.

(q) Complete his or her high school education or obtain the equivalency of a high school education in the form of a general education development (GED) certificate.

(3) The court may impose other lawful conditions of probation as the circumstances of the case require or warrant or as in its judgment are proper.

(4) If an order or amended order of probation contains a condition for the protection of 1 or more named persons as provided in subsection (2)(o), the court or a law enforcement agency within the court's jurisdiction shall enter the order or amended order into the law enforcement information network. If the court rescinds the order or amended order or the condition, the court shall remove the order or amended order or the condition from the law enforcement information network or notify that law enforcement agency and the law enforcement agency shall remove the order or amended order or the condition from the law enforcement information network.

(5) If the court requires the probationer to pay costs under subsection (2), the costs shall be limited to expenses specifically incurred in prosecuting the defendant or providing legal assistance to the defendant and supervision of the probationer.

(6) If the court imposes costs under subsection (2) as part of a sentence of probation, all of the following

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apply:

(a) The court shall not require a probationer to pay costs under subsection (2) unless the probationer is or will be able to pay them during the term of probation. In determining the amount and method of payment of costs under subsection (2), the court shall take into account the probationer's financial resources and the nature of the burden that payment of costs will impose, with due regard to his or her other obligations.

(b) A probationer who is required to pay costs under subsection (1)(g) or (2)(c) and who is not in willful default of the payment of the costs may petition the sentencing judge or his or her successor at any time for a remission of the payment of any unpaid portion of those costs. If the court determines that payment of the amount due will impose a manifest hardship on the probationer or his or her immediate family, the court may remit all or part of the amount due in costs or modify the method of payment.

(7) If a probationer is required to pay costs as part of a sentence of probation, the court may require payment to be made immediately or the court may provide for payment to be made within a specified period of time or in specified installments.

(8) If a probationer is ordered to pay costs as part of a sentence of probation, compliance with that order shall be a condition of probation. The court may revoke probation if the probationer fails to comply with the order and if the probationer has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the probationer's employment status, earning ability, and financial resources, the willfulness of the probationer's failure to pay, and any other special circumstances that may have a bearing on the probationer's ability to pay. The proceedings provided for in this subsection are in addition to those provided in section 4 of this chapter.

(9) If entry of judgment is deferred in the circuit court, the court shall require the individual to pay a supervision fee in the same manner as is prescribed for a delayed sentence under section 1(3) of this chapter, shall require the individual to pay the minimum state costs prescribed by section 1j of chapter IX, and may impose, as applicable, the conditions of probation described in subsections (1), (2), and (3).

(10) If sentencing is delayed or entry of judgment is deferred in the district court or in a municipal court, the court shall require the individual to pay the minimum state costs prescribed by section 1j of chapter IX and may impose, as applicable, the conditions of probation described in subsections (1), (2), and (3).

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17373;—Am. 1931, Act 308, Eff. Sept. 18, 1931;—CL 1948, 771.3;—Am. 1957, Act 72, Eff. Sept. 27, 1957;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1980, Act 514, Eff. Mar. 31, 1981;—Am. 1982, Act 137, Imd. Eff. Apr. 27, 1982;—Am. 1985, Act 89, Imd. Eff. July 10, 1985;—Am. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1989, Act 184, Eff. Oct. 1, 1989;—Am. 1993, Act 185, Eff. Oct. 1, 1993;—Am. 1993, Act 343, Eff. May 1, 1994;—Am. 1994, Act 286, Eff. Oct. 1, 1995;—Am. 1994, Act 445, Eff. Feb. 1, 1995;—Am. 1998, Act 449, Eff. Aug. 1, 1999;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999;—Am. 2003, Act 101, Eff. Oct. 1, 2003;—Am. 2004, Act 116, Imd. Eff. May 26, 2004;—Am. 2004, Act 219, Eff. Jan. 1, 2005;—Am. 2004, Act 330, Imd. Eff. Sept. 23, 2004;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007;—Am. 2012, Act 612, Eff. Mar. 1, 2013.

Compiler's note: Section 3 of Act 78 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was amended by Act 181 of 1988 to read as follows: “This amendatory act shall take effect October 1, 1988.”

Former law: See section 3 of Act 105 of 1913, being CL 1915, § 2031; and Act 203 of 1925.

771.3a Probation camp.

Sec. 3a. (1) A person under 22 years of age who is convicted of a crime in this state for which a sentence in a state prison may be imposed may be required under a probation order to spend not more than 1 year of the probation period, as the court directs, in a probation camp made available to the court by the department of corrections. Admission to a probation camp under this section shall be made only with the prior consent of the department of corrections. The department shall have custody of the probationer for the period the court directs. A probationer fleeing the department's custody may be pursued and recaptured as if the probationer had been regularly committed to a penal institution and had escaped from the institution. A violation by the probationer of the department's rules constitutes sufficient grounds for the court to revoke its probation order and to sentence the probationer for the offense for which he or she was originally convicted and placed on probation. This section does not restrict or limit the court's jurisdiction to place a person on probation in another facility suitable and available to the court. The expense of transporting a probationer to and from the probation camp shall be borne by the county from which the probationer was committed to the department of corrections.

(2) This section does not apply to a person placed on probation under sections 1(3) and 2(3) of this chapter or to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

History: Add. 1955, Act 154, Imd. Eff. June 7, 1955;—Am. 1958, Act 106, Eff. Sept. 13, 1958;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 3 of Act 78 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was

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amended by Act 181 of 1988 to read as follows: “This amendatory act shall take effect October 1, 1988.”

771.3b Special alternative incarceration program.

Sec. 3b. (1) In addition to any other terms or conditions of probation provided for under this chapter, the court may require under a probation order that a person convicted of a crime, except a crime specified in subsection (17), for which a sentence in a state correctional facility may be imposed shall satisfactorily complete a program of incarceration in a special alternative incarceration unit, and a period of not less than 120 days of probation under intensive supervision. The special alternative incarceration program shall be established and operated by the department of corrections as provided in the special alternative incarceration act, 1988 PA 287, MCL 798.11 to 798.18. The court also may require the person to satisfactorily complete a local residential program of vocational training, education, and substance abuse treatment, pursuant to subsection (9) or (10).

(2) In order for a person to be placed in a special alternative incarceration program, the person shall meet all of the following requirements:

(a) The person has never served a sentence of imprisonment in a state correctional facility.

(b) The person would likely be sentenced to imprisonment in a state correctional facility.

(c) The felony sentencing guidelines upper limit for the recommended minimum sentence for the person's offense is 12 months or more, as determined by the department. This subdivision does not apply in either of the following circumstances:

(*i*) The person's offense is not covered by the felony sentencing guidelines.

(*ii*) The reason for the person being considered for placement is that he or she violated the conditions of his or her probation.

(d) The person is physically able to participate in the special alternative incarceration program.

(e) The person does not appear to have any mental disability that would prevent participation in the special alternative incarceration program.

(3) Subsection (2)(b) and (c) do not prevent the department of corrections from entering into contracts with counties for participation in the county jail special alternative incarceration program. The county jail special alternative program is a program in which convicted felons who would have been sentenced to a county jail with a sentence of 6 to 12 months can participate.

(4) Before a court may place a person pursuant to this section, an initial investigation shall be completed by the probation officer. The initial investigation shall establish that the person meets the requirements of subsection (2)(a) and (b).

(5) After a person is placed in a special alternative incarceration program, the department shall establish that the person meets the requirements of subsection (2). If the person does not meet the requirements of subsection (2), the person shall be returned to the court for sentencing. The placement of a person in a special alternative incarceration program is conditioned upon the person meeting the requirements of subsection (2). If a person does not meet the requirements of subsection (2), the probation order is rescinded, and the person shall be sentenced in the manner provided by law.

(6) A person shall not be placed in a program of special alternative incarceration unless the person consents to the placement.

(7) In every case in which a person is placed in a special alternative incarceration program, the clerk of the sentencing court shall, within 5 working days after the placement, mail to the department of corrections a certified copy of the judgment of sentence and the presentence investigation report of the person being placed.

(8) Except as provided in subsections (9) to (12), a person shall be placed in a special alternative incarceration program for a period of not more than 120 days. If, during that period, the person misses more than 5 days of program participation due to medical excuse for illness or injury occurring after he or she was placed in the program, the period of placement shall be increased by the number of days missed, beginning with the sixth day of medical excuse, up to a maximum of 20 days. A medical excuse shall be verified by a physician's statement, a copy of which shall be provided to the sentencing court. A person who is medically unable to participate in the program for more than 25 days shall be returned to the court for sentencing pursuant to subsection (5).

(9) The order of probation under subsection (1) may require that a person who successfully completes a special alternative incarceration program also successfully complete an additional period of not more than 120 days of residential treatment in the local governmental jurisdiction from which the person was committed, beginning immediately upon completion of the special alternative incarceration program, if the local unit of government has created a residential program providing vocational training, education, and substance abuse treatment, designed in whole or in part for persons who complete a program of special alternative incarceration.

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(10) The order of probation under subsection (1) may authorize the department of corrections to require a person who successfully completes a special alternative incarceration program to also successfully complete an additional period of not more than 120 days of residential treatment in a program operated by the department of corrections pursuant to section 4(2) of the special alternative incarceration act, 1988 PA 287, MCL 798.14. A probationer sentenced pursuant to subsection (9) is not eligible for residential treatment pursuant to this subsection.

(11) An order of probation under subsection (1) that requires an additional period of residential treatment upon completion of the special alternative incarceration program shall be considered to be entered pursuant to subsection (9).

(12) A person who successfully completes a program of special alternative incarceration shall be placed on probation under intensive supervision for a period of not less than 120 days. The period of probation under intensive supervision shall begin upon the completion of the program of special alternative incarceration, unless the person has been ordered to complete an additional program of residential treatment as described in subsection (9) or (10), in which case the period of probation under intensive supervision shall begin upon completion of the program of residential treatment.

(13) Upon receiving a satisfactory report of performance in the program from the department of corrections, the court shall authorize the release of the person from confinement in the special alternative incarceration unit. The receipt of an unsatisfactory report shall be grounds for revocation of probation as would any other violation of a condition or term of probation.

(14) A term of special alternative incarceration shall be served in the manner provided in the special alternative incarceration act, 1988 PA 287, MCL 798.11 to 798.18.

(15) Except as provided in subsection (16), a person shall not be incarcerated in a special alternative incarceration unit more than once.

(16) If a person was placed in a special alternative incarceration program but was returned to the court for sentencing because of a medical condition existing at the time of the placement, the person may be placed again in a special alternative incarceration program after the medical condition is corrected.

(17) A person who is convicted of any of the following crimes shall not be eligible for placement in the special alternative incarceration program:

(a) A crime described in section 145c, 520b, 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c, 750.520b, 750.520c, 750.520d, and 750.520g.

(b) Section 72, 73, or 75 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.73, and 750.75.

(c) An attempt to commit a crime described in subdivision (a) or (b).

History: Add. 1988, Act 286, Imd. Eff. Aug. 1, 1988;—Am. 1989, Act 304, Imd. Eff. Jan. 3, 1990;—Am. 1992, Act 21, Imd. Eff. Mar. 19, 1992;—Am. 1994, Act 426, Imd. Eff. Jan. 6, 1995;—Am. 1998, Act 49, Imd. Eff. Mar. 30, 1998.

771.3c Probation supervision fee; enforcement of probation oversight fee; person subject to other obligations arising out of criminal proceeding; applicability of section to certain juveniles.

Sec. 3c. (1) The circuit court shall include in each order of probation for a defendant convicted of a crime that the department of corrections shall collect a probation supervision fee of not more than $135.00 multiplied by the number of months of probation ordered, but not more than 60 months. The fee is payable when the probation order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that probationer. In determining the amount of the fee, the court shall consider the probationer's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

Projected Monthly Income	Amount of Fee
$ 0-249.99	$ 0.00
$ 250.00-499.99	$10.00
$ 500.00-749.99	$25.00
$ 750.00-999.99	$40.00
$1,000.00 or more	5% of projected monthly income, but not more than $135.00

The court may order a higher amount than indicated by the table, up to the maximum of $135.00 multiplied by the number of months of probation ordered, but not more than 60 months, if the court determines that the probationer has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL

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791.225a. A person shall not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(2) If a person who is subject to a probation supervision fee is also subject to any combination of fines, costs, restitution orders, assessments, or payments arising out of the same criminal proceeding, the allocation of money collected for those obligations shall be as otherwise provided in section 22 of chapter XV.

(3) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

History: Add. 1989, Act 184, Eff. Oct. 1, 1989;—Am. 1993, Act 185, Eff. Oct. 1, 1993;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999;—Am. 2002, Act 483, Eff. Oct. 1, 2002.

771.3d Verification of employment or school enrollment; order of release contingent upon county sheriff approval; "school" defined.

Sec. 3d. (1) Before an individual convicted of a felony is released from jail under section 3 of this chapter to attend work or school, the court, at the time of sentencing, shall order the department of corrections to verify that the individual is currently employed or currently enrolled in school, as applicable. However, the requirement for verification of employment or school enrollment by the department of corrections does not apply if the county sheriff has provided or will provide that verification. If required, the department of corrections shall provide this verification to the court within 7 days after the order is issued. The court shall not order the individual to be released to attend work or school unless the county sheriff or the department has determined that the individual is currently employed or currently enrolled in school, as applicable. The order of release shall provide that release is contingent at all times upon the approval of the county sheriff.

(2) As used in this section, "school" means any of the following:

(a) A school of secondary education.

(b) A community college, college, or university.

(c) A state-licensed technical or vocational school or program.

(d) A program that prepares the person for the general education development (GED) test.

History: Add. 2012, Act 612, Eff. Mar. 1, 2013.

771.3e Release to attend work or school; electronic monitoring; order; payment of installation, maintenance, monitoring, and removal costs; program.

Sec. 3e. (1) If the court permits an individual convicted of a felony to be released from jail under section 3 of this chapter for purposes of attending work or school, the court shall order the individual to wear an electronic monitoring device on his or her person that will provide a signal to the county sheriff through the use of the global positioning satellite system or by other means of the individual's movement and location at all times while he or she is on that release. The device shall be an ankle-worn device approved by the court that provides information to the county sheriff if it is tampered with or removed. The information provided by the electronic monitoring device shall be recorded and monitored by the county sheriff to ensure the individual's compliance with his or her work release requirements. The installation, maintenance, monitoring, and removal costs of the electronic monitoring device shall be paid for by the individual.

(2) This section applies only if the court has in place a program to provide for the electronic monitoring of individuals placed on probation that complies with the requirements of this section.

History: Add. 2012, Act 610, Eff. Mar. 28, 2013.

771.3f Electronic monitoring device; removal, destruction, or circumvention prohibited; interference with signal, impulse, or data prohibited; exceptions; violation as felony; penalties; "electronic monitoring device" defined.

Sec. 3f. (1) A person shall not knowingly and without authority remove, destroy, or circumvent the operation of an electronic monitoring device or knowingly interfere with a signal, impulse, or data that is being transmitted by or stored within an electronic monitoring device worn or otherwise used by an individual as a condition for any of the following:

(a) Work release or house arrest.

(b) Bond or other pretrial release.

(c) Probation.

(d) Parole.

(e) Postrelease supervision or postconviction bond.

(f) Release under section 3e.

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(2) A person shall not knowingly and without authority request or solicit any other person to remove, destroy, or circumvent the operation of an electronic monitoring device or knowingly interfere with a signal, impulse, or data that is being transmitted by or stored within an electronic monitoring device worn or otherwise used by an individual as described in subsection (1).

(3) Subsections (1) and (2) do not apply to either of the following:

(a) The owner of the electronic monitoring device or his or her agent while performing proper maintenance and repairs on that device.

(b) A person who removes the electronic monitoring device at the direction of a physician due to an immediate medical necessity.

(4) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $4,000.00, or both.

(5) As used in this section, "electronic monitoring device" includes any electronic device or instrument that is used to track the location of a person or detect the presence of alcohol.

History: Add. 2012, Act 612, Eff. Mar. 1, 2013.

771.4 Legislative intent; revocation of probation; procedure; sentence; section inapplicable to certain juveniles.

Sec. 4. It is the intent of the legislature that the granting of probation is a matter of grace conferring no vested right to its continuance. If during the probation period the sentencing court determines that the probationer is likely again to engage in an offensive or criminal course of conduct or that the public good requires revocation of probation, the court may revoke probation. All probation orders are revocable in any manner the court that imposed probation considers applicable either for a violation or attempted violation of a probation condition or for any other type of antisocial conduct or action on the probationer's part for which the court determines that revocation is proper in the public interest. Hearings on the revocation shall be summary and informal and not subject to the rules of evidence or of pleadings applicable in criminal trials. In its probation order or by general rule, the court may provide for the apprehension, detention, and confinement of a probationer accused of violating a probation condition or conduct inconsistent with the public good. The method of hearing and presentation of charges are within the court's discretion, except that the probationer is entitled to a written copy of the charges constituting the claim that he or she violated probation and to a probation revocation hearing. The court may investigate and enter a disposition of the probationer as the court determines best serves the public interest. If a probation order is revoked, the court may sentence the probationer in the same manner and to the same penalty as the court might have done if the probation order had never been made. This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17374;—Am. 1947, Act 246, Imd. Eff. June 20, 1947;—CL 1948, 771.4;—Am. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 3 of Act 78 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was amended by Act 181 of 1988 to read as follows: “This amendatory act shall take effect October 1, 1988.”

Former law: See section 4 of Act 105 of 1913, being CL 1915, § 2032; and Act 203 of 1925.

771.4a Violation of sex offenders registration act; probation revocation.

Sec. 4a. The court shall revoke probation pursuant to section 4 of this chapter if the individual willfully violates the sex offenders registration act.

History: Add. 1994, Act 286, Eff. Oct. 1, 1995.

771.5 Termination of probation period; report; discharge of probationer from supervision; suspension of sentence; extension of probation; section inapplicable to certain juveniles.

Sec. 5. (1) When the probation period terminates, the probation officer shall report that fact and the probationer's conduct during the probation period to the court. Upon receiving the report, the court may discharge the probationer from further supervision and enter a judgment of suspended sentence or extend the probation period as the circumstances require, so long as the maximum probation period is not exceeded.

(2) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17375;—CL 1948, 771.5;—Am. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 3 of Act 78 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was

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amended by Act 181 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

Former law: See section 5 of Act 105 of 1913, being CL 1915, § 2033.

771.6 Probation; record of discharge.

Sec. 6. When a probationer is discharged upon the expiration of the probation period, or upon its earlier termination by order of the court, entry of the discharge shall be made in the records of the court, and the probationer shall be entitled to a certified copy thereof.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17376;—CL 1948, 771.6.

Former law: See section 6 of Act 105 of 1913, being CL 1915, § 2034.

771.7 Revoking probation of juvenile for conviction of felony or misdemeanor; commitment of juvenile to department of corrections; violation of probation; order.

Sec. 7. (1) If the court finds that a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, violated probation by being convicted of a felony or a misdemeanor punishable by imprisonment for more than 1 year, the court shall revoke probation and order the juvenile committed to the department of corrections for a term of years that does not exceed the penalty that could have been imposed for the offense for which the juvenile was originally convicted and placed on probation. The court shall grant credit against the sentence for the period of time the juvenile served on probation.

(2) If the court finds that a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, violated probation other than as provided in subsection (1), the court may order the juvenile committed to the department of corrections or may order any of the following for the juvenile:

(a) A change of placement.

(b) Community service.

(c) Substance abuse counseling.

(d) Mental health counseling.

(e) Participation in a vocational-technical education program.

(f) Incarceration in a county jail for not more than 30 days. If a juvenile is under 17 years of age, the juvenile shall be placed in a room or ward out of sight and sound from adult prisoners.

(g) Other participation or performance as the court considers necessary.

History: Add. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1993, Act 343, Eff. May 1, 1994;—Am. 1996, Act 247, Eff. Jan. 1, 1997;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Former MCL 771.7, which pertained to discharge of accused, was repealed by Act 81 of 1979, Eff. Dec. 31, 1979.

Section 3 of Act 78 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 181 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

771.8-771.13 Repealed. 1979, Act 81, Eff. Dec. 31, 1979.

Compiler's note: The repealed sections pertained to payment of costs, appeal to circuit court, discharge of person, and recognizance.

771.14 Presentence investigation report; contents; information related to victim prohibited from inclusion; information exempted from disclosure; amendment or alteration; review of report; challenge; findings; copies.

Sec. 14. (1) Before the court sentences a person charged with a felony or a person who is a licensee or registrant under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, as described in section 1(14) of chapter IX, and, if directed by the court, in any other case in which a person is charged with a misdemeanor within the jurisdiction of the court, the probation officer shall inquire into the antecedents, character, and circumstances of the person, and shall report in writing to the court.

(2) A presentence investigation report prepared under subsection (1) shall not include any address or telephone number for the home, workplace, school, or place of worship of any victim or witness, or a family member of any victim or witness, unless an address is used to identify the place of the crime or to impose conditions of release from custody that are necessary for the protection of a named individual. Upon request, any other address or telephone number that would reveal the location of a victim or witness or a family member of a victim or witness shall be exempted from disclosure unless an address is used to identify the place of the crime or to impose conditions of release from custody that are necessary for the protection of a named individual. A presentence investigation report prepared under subsection (1) shall include all of the following:

(a) An evaluation of and a prognosis for the person's adjustment in the community based on factual information contained in the report.

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(b) If requested by a victim, any written impact statement submitted by the victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(c) A specific written recommendation for disposition based on the evaluation and other information as prescribed by the assistant director of the department of corrections in charge of probation.

(d) A statement prepared by the prosecuting attorney as to whether consecutive sentencing is required or authorized by law.

(e) For a person to be sentenced under the sentencing guidelines set forth in chapter XVII, all of the following:

(*i*) For each conviction for which a consecutive sentence is authorized or required, the sentence grid in part 6 of chapter XVII that contains the recommended minimum sentence range.

(*ii*) Unless otherwise provided in subparagraph (*i*), for each crime having the highest crime class, the sentence grid in part 6 of chapter XVII that contains the recommended minimum sentence range.

(*iii*) Unless otherwise provided in subparagraph (*i*), the computation that determines the recommended minimum sentence range for the crime having the highest crime class.

(*iv*) A specific statement as to the applicability of intermediate sanctions, as defined in section 31 of chapter IX.

(*v*) The recommended sentence.

(f) If a person is to be sentenced for a felony or for a misdemeanor involving the illegal delivery, possession, or use of alcohol or a controlled substance, a statement that the person is licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, if applicable.

(g) Diagnostic opinions that are available and not exempted from disclosure under subsection (3).

(h) A statement as to whether the person has provided the identification documents referenced in subsection (9)(b).

(3) The court may exempt from disclosure in the presentence investigation report information or a diagnostic opinion that might seriously disrupt a program of rehabilitation or sources of information obtained on a promise of confidentiality. If a part of the presentence investigation report is not disclosed, the court shall state on the record the reasons for its action and inform the defendant and his or her attorney that information has not been disclosed. The action of the court in exempting information from disclosure is subject to appellate review. Information or a diagnostic opinion exempted from disclosure under this subsection shall be specifically noted in the presentence investigation report.

(4) If a prepared presentence investigation report is amended or altered before sentencing by the supervisor of the probation officer who prepared the report or by any other person who has the authority to amend or alter a presentence investigation report, the probation officer may request that the court strike his or her name from the report and the court shall comply with that request.

(5) The court shall permit the prosecutor, the defendant's attorney, and the defendant to review the presentence investigation report before sentencing.

(6) At the time of sentencing, either party may challenge, on the record, the accuracy or relevancy of any information contained in the presentence investigation report. The court may order an adjournment to permit the parties to prepare a challenge or a response to a challenge. If the court finds on the record that the challenged information is inaccurate or irrelevant, that finding shall be made a part of the record, the presentence investigation report shall be amended, and the inaccurate or irrelevant information shall be stricken accordingly before the report is transmitted to the department of corrections.

(7) A copy of the report described under subsection (5) and the amended report described under subsection (6) shall be provided to the prosecutor and the defendant's attorney or the defendant if he or she is not represented by an attorney. The copy of the report described under subsection (5) shall be provided not less than 2 business days before sentencing unless that period is waived by the defendant. The prosecutor and the defendant's attorney or the defendant if he or she is not represented by an attorney have the right to retain a copy of the report and the amended report provided under this subsection.

(8) On appeal, the defendant's attorney, or the defendant if proceeding pro se, shall be provided with a copy of the presentence investigation report and any attachments to the report with the exception of any information exempted from disclosure by the court under subsection (3).

(9) If the person is committed to a state correctional facility, both of the following apply:

(a) A copy or amended copy of the presentence investigation report and, if a psychiatric examination of the person has been made for the court, a copy of the psychiatric report shall accompany the commitment papers. If the person is sentenced by fine or imprisonment or placed on probation or other disposition of his or her case is made by the court, a copy or amended copy of the presentence investigation report, including a psychiatric examination report made in the case, shall be filed with the department of corrections.

(b) The person shall be provided notification that provides an explanation of the importance of obtaining

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an operator's license or state personal identification card upon release from incarceration and lists the personal identification documents described in section 34c of the corrections code of 1953, 1953 PA 232, MCL 791.234c, necessary for obtaining an operator's license or state personal identification card. The notification also shall contain a request that the person obtain and provide those documents to the department of corrections. The notification also shall state that the department of corrections will retain in the file maintained for the person any identification documents provided by the person until he or she is released from secure confinement. Any identification documents previously provided by the person shall accompany the commitment papers.

(10) A prisoner under the jurisdiction of the department of corrections shall be provided with a copy of any presentence investigation report in the department's possession about that prisoner, except for information exempted from disclosure under subsection (3), not less than 30 days before a parole interview is conducted under section 35 of the corrections code of 1953, 1953 PA 232, MCL 791.235.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17384;—Am. 1931, Act 308, Eff. Sept. 18, 1931;—Am. 1937, Act 256, Imd. Eff. July 22, 1937;—Am. 1939, Act 286, Eff. Sept. 29, 1939;—CL 1948, 771.14;—Am. 1979, Act 81, Eff. Dec. 31, 1979;—Am. 1982, Act 61, Eff. Mar. 30, 1983;—Am. 1985, Act 88, Imd. Eff. July 10, 1985;—Am. 1993, Act 85, Eff. Apr. 1, 1994;—Am. 1994, Act 445, Eff. Feb. 1, 1995;—Am. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2010, Act 247, Imd. Eff. Dec. 14, 2010;—Am. 2012, Act 27, Imd. Eff. Feb. 23, 2012.

Constitutionality: A postconviction presentence psychiatric examination of a defendant, ordered by the trial court in the presence of defense counsel without objection and conducted two weeks later outside the presence of counsel, which was referred to by the trial court in imposing sentence, did not violate the defendant's Fifth Amendment right against self-incrimination or his Sixth Amendment right to counsel. People v Wright, 431 Mich 282; 430 NW2d 133 (1988).

Compiler's note: Section 3 of Act 210 of 1979 provides:

"The provisions of Act Nos. 81 and 89 of the Public Acts of 1979 shall not take effect in a county with a population of 1.5 million or more prior to a majority vote of the elected members of the county's board of commissioners to place the question of the creation of a charter commission under the terms of enacted Senate Bill No. 652 before the county electorate. Subsequent to the above action by the board of commissioners, funds appropriated for probation services for a county with a population of 1.5 million or more shall become immediately effective, and shall be retroactive to the extent of the funds provided."

Section 4 of Act 210 of 1979 provides:

"Implementation of Act Nos. 81 and 89 of the Public Acts of 1979 shall not be effective in counties which refuse to provide probation support costs as required in those acts."

Former law: See section 14 of Act 105 of 1913, being CL 1915, § 2042.

771.14a Inquiry and report before sentencing juvenile; disclosures; exemptions; review of report; challenges or responses to challenges; finding; amendment of report; copy of report and attachments; report additional to presentence investigation report.

Sec. 14a. (1) Before the court sentences a juvenile under section 1(3) or (4) of chapter IX, the family independence agency or county juvenile agency, as applicable, shall inquire into the juvenile's antecedents, character, and circumstances and shall report in writing to the court as provided in section 4 of the juvenile facilities act, 1988 PA 73, MCL 803.224.

(2) The court may exempt from disclosure in a report under this section information or a diagnostic opinion that might seriously disrupt a program of rehabilitation or sources of information obtained on a promise of confidentiality. If a part of the report is not disclosed, the court shall state on the record the reasons for its action and inform the juvenile and his or her attorney that information has not been disclosed. The action of the court in exempting information from disclosure is subject to appellate review. Information or a diagnostic opinion exempted from disclosure under this subsection shall be specifically noted in the report.

(3) The court shall permit the prosecutor, the juvenile's attorney, and the juvenile to review the report before sentencing.

(4) At the time of sentencing, either party may challenge on the record the accuracy or relevancy of any information contained in the report. The court may order an adjournment to permit the parties to prepare a challenge or a response to a challenge. If the court finds that the challenged information is inaccurate or irrelevant, that finding shall be made a part of the record and the report shall be amended by striking the inaccurate or irrelevant information.

(5) The juvenile and, on appeal, the juvenile's attorney shall be provided with a copy of the report and any attachments to the report, with the exception of any information exempted from disclosure under subsection (2).

(6) If the juvenile is committed to a state penal institution or is placed on probation and committed to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, a copy of the report and any attachments to it shall accompany the commitment papers. If the juvenile is sentenced by fine or imprisonment or placed on probation but not committed to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, a copy of

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the report and any attachments to it shall be filed with the department of corrections.

(7) A report under this section is in addition to, and not in lieu of, a presentence investigation report required by section 14 of this chapter.

History: Add. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 3 of Act 78 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was amended by Act 181 of 1988 to read as follows: “This amendatory act shall take effect October 1, 1988.”

771.15-771.24 Repealed. 1979, Act 81, Eff. Dec. 31, 1979.

Compiler's note: The repealed sections pertained to probation officers.

CHAPTER XIA

771A.1 Chapter short title.

Sec. 1. This chapter shall be known and may be cited as the "probation swift and sure sanctions act".

History: Add. 2012, Act 616, Imd. Eff. Jan. 9, 2013.

771A.2 Definitions.

Sec. 2. As used in this chapter:

(a) "Circuit court" includes a unified trial court having jurisdiction over probationers.

(b) "Probationer" means an individual placed on probation for committing a felony.

History: Add. 2012, Act 616, Imd. Eff. Jan. 9, 2013.

771A.3 State swift and sure sanctions program; intent to create; objectives.

Sec. 3. It is the intent of the legislature to create a voluntary state program to fund swift and sure probation supervision at the local level based upon the immediate detection of probation violations and prompt the imposition of sanctions and remedies to address those violations. In furtherance of this intent, the state swift and sure sanctions program is created with the following objectives:

(a) Probationers are to be sentenced with prescribed terms of probation meeting the objectives of this chapter. Probationers are to be aware of their probation terms as well as the consequences for violating the terms of their probation.

(b) Probationers are to be closely monitored and every detected violation is to be promptly addressed by the court.

(c) Probationers are to be arrested as soon as a violation has been detected and are to be promptly taken before a judge for a hearing on the violation.

(d) Continued violations are to be addressed by increasing sanctions and remedies as necessary to achieve results.

(e) To the extent possible and considering local resources, probationers subject to swift and sure probation under this chapter shall be treated uniformly throughout the state.

History: Add. 2012, Act 616, Imd. Eff. Jan. 9, 2013.

771A.4 Swift and sure probation supervision; program grants.

Sec. 4. (1) Beginning January 1, 2013, the state court administrative office shall, under the supervision of the supreme court, provide grants under this chapter to fund programs of swift and sure probation supervision in the circuit court that meet the objectives set forth in section 3 and the requirements of section 5.

(2) A court may apply for a grant to fund a program of swift and sure probation supervision under this chapter by filing a written application with the state court administrative office in the manner required by that office. The funding of all grants under this chapter is subject to appropriation.

History: Add. 2012, Act 616, Imd. Eff. Jan. 9, 2013.

771A.5 Swift and sure probation supervision; powers and authority of program.

Sec. 5. (1) A program of swift and sure probation supervision funded under section 4 shall do all of the following:

(a) Require the court to inform the probationer in person of the requirements of his or her probation and the sanctions and remedies that may apply to probation violations.

(b) Require the probationer to initially meet in person with a probation agent or probation officer and as otherwise required by the court.

(c) Provide for an appearance before the judge for any probation violation as soon as possible but within 72 hours after the violation is reported to the court unless a departure from the 72-hour requirement is authorized for good cause as determined by criteria established by the state court administrative office.

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(d) Provide for the immediate imposition of sanctions and remedies approved by the state court administrative office to effectively address probation violations. The sanctions and remedies approved under this subdivision may include, but need not be limited to, 1 or more of the following:

(*i*) Temporary incarceration in a jail or other facility authorized by law to hold probation violators.

(*ii*) Extension of the period of supervision within the period provided by law.

(*iii*) Additional reporting and compliance requirements.

(*iv*) Testing for the use of drugs and alcohol.

(*v*) Counseling and treatment for emotional or other mental health problems, including for substance abuse.

(*vi*) Probation revocation.

(2) The state court administrative office may, under the supervision of the supreme court, do any of the following regarding programs funded under this chapter:

(a) Establish general eligibility requirements for offender participation.

(b) Require courts and offenders to enter into written participation agreements.

(c) Create recommended and mandatory sanctions and remedies for use by participating courts.

(d) Establish criteria for deviating from recommended and mandatory sanctions and remedies when necessary to address special circumstances.

(e) Establish a system for determining sanctions and remedies that should or may be imposed under subdivision (c) and for alternative sanctions and remedies under subdivision (d).

History: Add. 2012, Act 616, Imd. Eff. Jan. 9, 2013.

771A.6 Programming and eligibility requirements; consultation.

Sec. 6. The state court administrative office may, under the supervision of the supreme court, consult with the department of corrections when establishing initial programming and eligibility requirements under this chapter.

History: Add. 2012, Act 616, Imd. Eff. Jan. 9, 2013.

771A.7 Grant-funded programs; review; report.

Sec. 7. The state court administrative office shall, under the supervision of the supreme court, review programs funded by grants under this chapter on an annual basis for effectiveness and for compliance with the requirements of this chapter. The state court administrative office shall, under the supervision of the supreme court, report its findings under this section in writing to the secretary of the senate and to the clerk of the house of representatives not later than March 1, 2013, and not later than March 1 annually thereafter. The report shall also identify each court that has applied for a grant under this chapter, the amount requested, and the amount received.

History: Add. 2012, Act 616, Imd. Eff. Jan. 9, 2013.

771A.8 Audit.

Sec. 8. Programs funded under this chapter shall be subject to audit by the state court administrative office.

History: Add. 2012, Act 616, Imd. Eff. Jan. 9, 2013.

CHAPTER XII
PROCEEDINGS TO PREVENT CRIME

772.1 Power of district or municipal judge to cause laws for preservation of public peace to be kept; requiring security to keep peace.

Sec. 1. A district or municipal judge may cause all the laws made for the preservation of the public peace to be kept and, in the execution of this authority, may require a person to give security to keep the peace in the manner provided in this chapter.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17388;—CL 1948, 772.1;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 1 of Ch. 162 of R.S. 1846, being CL 1857, § 5959; CL 1871, § 7825; How., § 9435; CL 1897, § 11800; CL 1915, § 15627; and Act 4 of 1858.

772.2 Complaint; examination of complainant and witnesses.

Sec. 2. If a complaint is made in writing and on oath to the district court or a municipal court that a person has threatened to commit an offense against the person or property of another, the judge shall examine on oath the complainant and any witnesses who may be produced.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17389;—CL 1948, 772.2;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

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Former law: See section 2 of Ch. 162 of R.S. 1846, being CL 1857, § 5960; CL 1871, § 7826; How., § 9436; CL 1897, § 11801; and CL 1915, § 15628.

772.3 Warrant; issuance.

Sec. 3. If the judge determines from the examination that there is just reason to believe the person will commit an offense described in section 2 of this chapter, the judge may enter an order directing the person to appear on a date certain within 7 days. If the person fails to appear as ordered, the court shall issue a warrant. Alternatively, the court may issue a warrant directed to the sheriff or any peace officer, reciting the substance of the complaint and commanding that the person be promptly apprehended and brought before the court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17390;—CL 1948, 772.3;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 3 of Ch. 162 of R.S. 1846, being CL 1857, § 5961; CL 1871, § 7827; How., § 9437; CL 1897, § 11802; and CL 1915, § 15629.

772.4 Trial by jury or before court without jury; conduct of trial and selection of jury; recognizance to keep peace; special verdict.

Sec. 4. (1) If a person is brought before the court by a complaint made under section 2 of this chapter and does not consent to post a recognizance, the court shall conduct a trial and shall determine if a recognizance is required. The person has a right to a trial by jury. The person may, with the consent of the complainant and approval of the court, waive a determination of the facts by a jury and elect to be tried before a judge without a jury. The trial and the selection of a jury shall be conducted in the same manner as a trial and selection of a jury in the same court for a minor offense.

(2) If the judge or jury finds the accused is likely to breach the peace, the court shall require the accused to enter into a recognizance with sufficient sureties approved by the court to keep the peace towards all the people of this state, and especially towards the person or persons named in the complaint. The recognizance shall be in a sum set by the court, for a period as the court directs, but not exceeding 5 years. In determining the amount of the recognizance, the court shall consider the person's employment status, earning ability, and financial resources, and any other special circumstances that may have a bearing on the person's ability to provide that recognizance. The person ordered to post the recognizance may, at any time pursuant to the rules of the court, petition the court to reduce the recognizance or eliminate the requirement of a recognizance. The court may require specific conditions to be a requirement of the recognizance.

(3) The judge or the jury may return a special verdict that the complaint and accusation is groundless or malicious.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17391;—CL 1948, 772.4;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1988, Act 89, Eff. June 1, 1988;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 4 of Ch. 162 of R.S. 1846, being CL 1857, § 5962; CL 1871, § 7828; How., § 9438; CL 1897, § 11803; CL 1915, § 15630; and Act 17 of 1867.

772.5 Compliance with order of court; discharge of accused.

Sec. 5. Upon complying with the order of the court, the party complained of shall be discharged.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17392;—CL 1948, 772.5;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 5 of Ch. 162 of R.S. 1846, being CL 1857, § 5963; CL 1871, § 7829; How., § 9439; CL 1897, § 11804; and CL 1915, § 15631.

772.6 Failure to pay recognizance; commitment to county jail; hearing.

Sec. 6. If the person so ordered to recognize refuses or neglects to provide that recognizance, the court shall commit the person to the county jail during the period for which security was required, or until the person provides that recognizance. A person shall not be incarcerated for failure to pay the recognizance unless the court conducts a hearing and determines that the person has the resources to pay the recognizance and has not made a good faith effort to do so. In determining whether to incarcerate the person, the court shall also consider the person's employment status, earning ability, and financial resources; the willfulness of the person's failure to pay the recognizance; and any other special circumstances that may have a bearing on the person's ability to pay the recognizance. The court shall state in the warrant the cause of commitment with the sum and the time for which the security was required.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17393;—CL 1948, 772.6;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 6 of Ch. 162 of R.S. 1846, being CL 1857, § 5964; CL 1871, § 7830; How., § 9440; CL 1897, § 11805; and CL 1915, § 15632.

772.7 Discharge of accused; unfounded, frivolous, or malicious complaint; payment of cost.

Sec. 7. If upon examination the court determines there is not just cause to believe that an offense will be

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committed by the person against whom the complaint is made, the person shall promptly be discharged. If the court finds the complaint unfounded, frivolous, or malicious, the court shall order the complainant to pay the costs of the prosecution.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17394;—CL 1948, 772.7;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 4 and 7 of Ch. 162 of R.S. 1846, being CL 1857, §§ 5962 and 5965; CL 1871, §§ 7828 and 7831; How., §§ 9438 and 9441; CL 1897, §§ 11803 and 11806; CL 1915, §§ 15630 and 15633; and Act 17 of 1867.

772.8 Allowance and payment of costs.

Sec. 8. If an order respecting costs is not made by the court, costs shall be allowed and paid in the same manner as costs in a prosecution of a minor offense in the same court. If a person is required to give security to keep the peace, the court may further order that the costs of prosecution or any part of those costs be paid by that person. The person shall be committed until the costs are paid or until the person is otherwise legally discharged.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17395;—CL 1948, 772.8;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 8 of Ch. 162 of R.S. 1846, being CL 1857, § 5966; CL 1871, § 7832; How., § 9442; CL 1897, § 11807; and CL 1915, § 15634.

772.9 Appeal from order to recognize to keep peace.

Sec. 9. A person ordered by the court to recognize to keep the peace may, on giving the recognizance, appeal from the order in the same manner as provided for an appeal from a judgment on a misdemeanor prosecution entered in the same court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17396;—CL 1948, 772.9;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 9 of Ch. 162 of R.S. 1846, being CL 1857, § 5967; CL 1871, § 7833; How., § 9443; CL 1897, § 11808; and CL 1915, § 15635.

772.10 Appellate court to affirm order, discharge appellant, or require appellant to enter into new recognizance; costs.

Sec. 10. The circuit court or the recorder's court of the city of Detroit, before which the appeal is taken may affirm the order of the judge, discharge the appellant, or require the appellant to enter into a new recognizance with sufficient sureties in a sum and for a period not exceeding 5 years, as the appellate court considers proper. The circuit court or recorder's court of the city of Detroit also may order the payment of the costs of the prosecution as the court considers just.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17397;—CL 1948, 772.10;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 11 of Ch. 162 of R.S. 1846, being CL 1857, § 5969; CL 1871, § 7835; How., § 9445; CL 1897, § 11809; and CL 1915, § 15636.

772.11 Failure to prosecute appeal; effect on recognizance; costs; condition.

Sec. 11. If a person appealing fails to prosecute the appeal, the person's recognizance shall remain in full force and effect without an affirmation of the judgment or order of the district or municipal court. The recognizance shall serve as a security for any costs that may be ordered by the court appealed to. The costs shall be paid by the appellant. The payment of costs shall be a condition incorporated in all recognizances given under section 8 of this chapter.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17398;—CL 1948, 772.11;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 12 of Ch. 162 of R.S. 1846, being CL 1857, § 5970; CL 1871, § 7836; How., § 9446; CL 1897, § 11810; and CL 1915, § 15637.

772.12 Discharge of person committed upon giving required security.

Sec. 12. A person committed for not finding sureties, or for refusing to recognize, as required by the court may be discharged from custody by the judge who entered the order or any other judge from the same court and judicial district when the person gives the security required.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17399;—CL 1948, 772.12;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 13 of Ch. 162 of R.S. 1846, being CL 1857, § 5971; CL 1871, § 7837; How., § 9447; CL 1897, § 11811; and CL 1915, § 15638.

772.13 Filing true copy of peace bond.

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Sec. 13. The clerk of the court shall file a true copy of a peace bond issued under this chapter with the law enforcement agency or agencies having jurisdiction of the area in which the complainant resides or works.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17400;—CL 1948, 772.13;—Am. 1978, Act 316, Imd. Eff. July 10, 1978;—Am. 1980, Act 471, Eff. Mar. 31, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 14 of Ch. 162 of R.S. 1846, being CL 1857, § 5972; CL 1871, § 7838; How., § 9448; CL 1897, § 11812; and CL 1915, § 15639.

772.13a Violation of recognizance; arrest by peace officer.

Sec. 13a. If a peace officer has reason to believe that the conditions of a recognizance required under this chapter are being violated in his or her presence or were violated, the peace officer shall arrest the person and hold him or her for presentation to the court on the next day.

History: Add. 1994, Act 71, Eff. July 1, 1994.

772.13b Violation of peace bond; order to appear; warrant; hearing.

Sec. 13b. If the court is presented with allegations that the person violated 1 or more conditions of a peace bond, the court may issue an order directing the person to appear before the court on a date certain within 7 days or may issue a warrant. If the person fails to appear as ordered, the court shall issue a warrant. If the person appears and denies violating any conditions of the recognizance, the court shall schedule a hearing to be held within 7 days. The hearing shall be conducted in the same manner as a probation violation hearing.

History: Add. 1994, Act 71, Eff. July 1, 1994.

772.14 Forfeiture of recognizance; remission of part of penalty; petition.

Sec. 14. If the court finds by admission or after a hearing that the conditions of the recognizance were violated, the court shall order the recognizance forfeited. The court may also require an additional recognizance with sufficient sureties to secure the peace. If the person fails to recognize, the court shall proceed as set forth in section 6 of this chapter. If a recognizance is forfeited, the court, upon a petition by the person, may remit a portion of the penalty, as the circumstances render just and reasonable.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17401;—CL 1948, 772.14;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 17 of Ch. 162 of R.S. 1846, being CL 1857, § 5975; CL 1871, § 7841; How., § 9451; CL 1897, § 11815; and CL 1915, § 15642.

772.14a Noncompliance with order; contempt; penalty.

Sec. 14a. In addition to forfeiting the bond, a person who is required by an order issued under this chapter to keep the peace toward a spouse, former spouse, person with whom he or she has had a child in common, or person residing or having resided in the same household and who fails to comply with that order, is subject to the contempt powers of the court and may be imprisoned for not more than 90 days or fined not more than $500.00, or both.

History: Add. 1978, Act 316, Imd. Eff. July 10, 1978;—Am. 1980, Act 471, Eff. Mar. 31, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

772.15 Surrender of principal by surety.

Sec. 15. A surety in a recognizance to keep the peace has the same authority and right to take and surrender the principal as in other criminal cases. Upon the surrender the surety shall be discharged and exempt from all liability for an act of the principal subsequent to the surrender that would be a breach of the condition of the recognizance. The surety is not discharged or exempt from liability for costs on an appeal taken by the principal in the recognizance. The person surrendered by a surety may recognize anew, with sufficient sureties, before a judge of the same court for the remainder of the term, and, upon doing so, shall be discharged from custody.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17402;—CL 1948, 772.15;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 71, Eff. July 1, 1994.

Former law: See section 18 of Ch. 162 of R.S. 1846, being CL 1857, § 5976; CL 1871, § 7842; How., § 9452; CL 1897, § 11816; and CL 1915, § 15643.

CHAPTER XIII
PROCEEDINGS FOR THE DISCOVERY OF CRIME

773.1 Inquest; procedures.

Sec. 1. A magistrate holding an inquest pursuant to Act No. 181 of the Public Acts of 1953, as amended, being sections 52.201 to 52.216 of the Michigan Compiled Laws, shall follow the procedures prescribed in

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this chapter.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17403;—CL 1948, 773.1;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 1 of Ch. 167 of R.S. 1846, being CL 1857, § 6089; CL 1871, § 7970; How., § 9583; CL 1897, § 11818; CL 1915, § 15645; and Act 48 of 1885.

773.2 Inquest; jury; selection.

Sec. 2. Upon determining that an inquest shall be held, a jury of 6 persons shall be selected. The jury shall be selected in the same manner as a jury is selected for the trial of a minor offense in the same court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17404;—CL 1948, 773.2;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 2 of Ch. 167 of R.S. 1846, being CL 1857, § 6090; CL 1871, § 7971; How., § 9584; CL 1897, § 11819; CL 1915, § 15646; and Act 48 of 1885.

773.3 Inquest; oath or affirmation to be administered jurors; view of body by jurors not required.

Sec. 3. (1) When the jurors summoned have appeared, the magistrate shall administer an oath or affirmation in substance as follows: "You do solemnly swear or affirm that you will diligently inquire in behalf of the people of this state, when, in what manner, and by what means, the deceased came to his or her death and that you will make a true inquest according to your knowledge and the evidence as brought before you".

(2) The jurors need not view the body of the deceased.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17405;—CL 1948, 773.3;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 3 of Ch. 167 of R.S. 1846, being CL 1857, § 6091; CL 1871, § 7972; How., § 9585; CL 1897, § 11820; CL 1915, § 15647; and Act 48 of 1885.

773.4 Inquest; subpoenas for witnesses; enforcement; requiring attendance by physician or surgeon; employment of chemist; compensation; audit and allowance.

Sec. 4. The magistrate may issue subpoenas for witnesses returnable immediately or at the time and place prescribed in the subpoena. The attendance of the person served with the subpoena may be enforced in the same manner and shall be subject to the same penalty as if the person had been served with a subpoena in behalf of the people of this state, to attend a trial before that magistrate. A magistrate holding an inquest may require by subpoena the attendance of a competent physician or surgeon for the purpose of making a postmortem examination and of testifying as to the result of the examination. The magistrate may also employ a chemist if there is reasonable ground of suspicion that death has been produced by poison. The amount of compensation for the attendance and services of a physician, surgeon, or chemist shall be audited and allowed by the county board of commissioners of the proper county, or by the board of county auditors in counties having a board of county auditors.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17406;—CL 1948, 773.4;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 4 of Ch. 167 of R.S. 1846, being CL 1857, § 6092; CL 1871, § 7973; How., § 9586; CL 1897, § 11821; and CL 1915, § 15648.

773.5 Inquest; oath or affirmation to be administered witnesses.

Sec. 5. An oath or affirmation to the following effect shall be administered to each witness by the magistrate: "You do solemnly swear, or affirm, that the evidence you shall give at this inquest, concerning the death of the deceased, shall be the truth, the whole truth, and nothing but the truth".

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17407;—CL 1948, 773.5;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 5 of Ch. 167 of R.S. 1846, being CL 1857, § 6093; CL 1871, § 7974; How., § 9587; CL 1897, § 11822; and CL 1915, § 15649.

773.6 Inquest; recording testimony of witnesses; transcript.

Sec. 6. If there is a suspicion of murder, manslaughter, or assault, the testimony of all witnesses examined before the inquest shall be recorded by a stenographer or district court recorder. A written transcript of the testimony need not be prepared unless requested by the prosecuting attorney, medical examiner, the magistrate, or a judge of the court in the judicial district in which the offense could be tried.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17408;—CL 1948, 773.6;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 6 of Ch. 167 of R.S. 1846, being CL 1857, § 6094; CL 1871, § 7975; How., § 9588; CL 1897, § 11823; and CL 1915, § 15650.

773.7 Inquisition of jury; contents.

Sec. 7. After hearing the testimony of the witnesses and making all necessary inquiries, the jury shall

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deliver to the magistrate their inquisition in which the jury shall find and certify when, in what manner, and by what means the deceased came to his or her death, the name of the deceased, if known, and the material circumstances attending the death. If it appears that the deceased came to his or her death by unlawful means, the jury shall state who, if known, is believed to be guilty, either as principal or accessory, or is believed to have been, in any manner, the cause of the death.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17409;—CL 1948, 773.7;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 7 of Ch. 167 of R.S. 1846, being CL 1857, § 6095; CL 1871, § 7976; How., § 9589; CL 1897, § 11824; and CL 1915, § 15651.

773.8 Inquisition of jury; form.

Sec. 8. The inquisition issued by the jury may be in the following form:

County of ..... , ss.

An inquisition taken at ..... , in this county, on the ..... day of ..... , before ....., a magistrate, by the oaths of the jurors whose names are subscribed, who being sworn to inquire on behalf of the people of this state, when, in what manner, and by what means ..... (or, the unknown deceased person) came to his or her death, upon their oaths, say (insert when, where, in what manner, and by what means, persons, weapons, or instruments the deceased was killed or came to his or her death.) In testimony of which the magistrate and the jurors of this inquest have signed their names.

.....

.....

.....

..... (Day and year)

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17410;—CL 1948, 773.8;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 8 of Ch. 167 of R.S. 1846, being CL 1857, § 6096; CL 1871, § 7977; How., § 9590; CL 1897, § 11825; and CL 1915, § 15652.

773.9 Returning inquisition, physical evidence, and transcript to circuit court or recorder's court if jury finds murder, manslaughter, or assault committed.

Sec. 9. If the jury finds that a murder, manslaughter, or assault was committed upon the deceased, the magistrate immediately shall return to the circuit court in the county or to the recorder's court of the city of Detroit if the offense was committed within the jurisdiction of that court, the inquisition, any physical evidence, and the transcript, if requested under section 6 of this chapter, of the testimony given and proceedings held before the magistrate.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17411;—CL 1948, 773.9;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 9 of Ch. 167 of R.S. 1846, being CL 1857, § 6097; CL 1871, § 7978; How., § 9591; CL 1897, § 11826; and CL 1915, § 15653.

773.10 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to warrants.

773.11 Expenses and fees of inquest; payment.

Sec. 11. The expenses and fees of the inquest shall be paid from the general fund of the county in which the inquisition was taken. When an inquest is held for a person who died in a prison or public reformatory of this state, the expense of the inquest shall be audited and paid by the institution, in the same manner as other charges against the institution are audited and paid.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17413;—CL 1948, 773.11;—Am. 1965, Act 315, Eff. Mar. 31, 1966;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 11 of Ch. 167 of R.S. 1846, being CL 1857, § 6099; CL 1871, § 7980; How., § 9593; CL 1897, § 11828; and CL 1915, § 15655.

773.12-773.14 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to inquests.

773.15 Complaint concerning deceased person buried in judicial district; request of prosecuting attorney or medical examiner; examination of complainant who knows or has good reason to believe deceased person came to death by means of poison or violence or in consequence of criminal act; postmortem examination; disinterment.

Sec. 15. (1) Upon presentation to a magistrate of a written request of the prosecuting attorney or the medical examiner and a written complaint under oath stating that a deceased person is buried in the

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magistrate's judicial district, specifying in what township or city the person is buried, and stating that the complainant knows or has good reason to believe that the deceased person came to his or her death by means of poison or violence, or in consequence of a criminal act, the magistrate shall examine, under oath, the complainant and any witnesses which the complainant produces. The testimony of the complainant and any witnesses shall be recorded by a stenographer or district court recorder.

(2) If the magistrate is satisfied from the examination that there is just cause to believe that the deceased person named or described in the complaint came to his or her death by means of poison or violence, or in consequence of a criminal act, and that a postmortem examination of the body of the deceased person is necessary or will materially aid in the prosecution of a person charged or who may be charged with a criminal act resulting in the death of the deceased person, the magistrate shall issue an order to the sheriff of the county, commanding the sheriff, in the name of the people of the state, to proceed to the place where the body is buried, and to disinter and remove the body to the county morgue or some suitable and convenient place in the county for the purpose of holding a postmortem examination.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17417;—CL 1948, 773.15;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 1 of Act 57 of 1873, being How., § 9598; CL 1897, § 11833; and CL 1915, § 15660.

773.16 Inquest by justice of the peace; body once buried; reinterment.

Sec. 16. As soon as the inquest shall have been completed, as provided for in the preceding section, the sheriff shall at once cause the body of the deceased person to be reinterred in the same place from whence he removed the same.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17418;—CL 1948, 773.16.

Former law: See section 2 of Act 57 of 1873, being How., § 9599; CL 1897, § 11834; and CL 1915, § 15661.

773.17 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to property of value found on body of unknown deceased person.

773.18 Property of value found on unknown decedent; deposit with county treasurer; ultimate disposition, time.

Sec. 18. It shall be the duty of said county clerk to deposit the same with the county treasurer, who shall safely keep said money or property for the period of 2 years from the time of receiving the same, unless the same shall be called for by the heirs or proper representatives of the deceased person, in which case the said money or valuable property shall be delivered to them, but if at the expiration of said 2 years no demand for the same shall have been made, said county treasurer shall sell the same in such manner and after such notice as is required by law for constable sales, and shall within 10 days thereafter pay into the state treasury all the proceeds to be credited to the general fund of the state.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17420;—CL 1948, 773.18.

Former law: See section 2 of Act 84 of 1883, being How., § 9599b; CL 1897, § 11836; and CL 1915, § 15663.

773.19-773.21 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to certain kinds of death requiring notice to coroner, right to remove body, property found on decedent, and coroner's inquest.

773.22 Violation of chapter; misdemeanor, penalty.

Sec. 22. Any persons who shall fail to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine not to exceed 100 dollars or to be imprisoned in the county jail for a period not to exceed 90 days or both.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17424;—CL 1948, 773.22.

Former law: See section 3 of Act 84 of 1883, being How., § 9599c; CL 1897, § 11837; CL 1915, § 15664; and section 6 of Act 248 of 1921.

773.23 Effect on prior acts.

Sec. 23. Nothing herein contained shall be construed to repeal any of the provisions of Act 345 of the Public Acts of 1919, or any acts amendatory or supplementary thereto.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17425;—CL 1948, 773.23.

Compiler's note: For provisions of act 345 of 1919, referred to in this section, see MCL 52.111 et seq.

CHAPTER XIV
JURISDICTION AND PROCEDURE OF JUSTICES' COURTS IN CRIMINAL CASES

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774.1 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to powers and jurisdiction of justice of peace.

774.1a Arraignment of accused charged with misdemeanor or ordinance violation; reading charge to accused; entering plea in court's minutes.

Sec. 1a. At the arraignment of an accused charged with a misdemeanor or an ordinance violation, the magistrate shall read to the accused the charge as stated in the warrant or complaint. The accused shall plead to the charge, and the plea shall be entered in the court's minutes. If the accused refuses to plead, the magistrate shall order that a plea of not guilty be entered on behalf of the accused.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.1b Plea of not guilty or refusal to plead; setting date for trial; right to trial by jury; election.

Sec. 1b. If the accused pleads not guilty or refuses to plead to the charge, the magistrate shall set a date for trial. The accused is entitled to trial by jury unless he or she expressly elects to be tried by the court without a jury, as provided in section 3 of chapter 3.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.1c Plea of guilty or nolo contendere; judgment.

Sec. 1c. If the accused enters a plea of guilty or nolo contendere, the magistrate shall render judgment on that plea.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.1d Acquittal of accused in misdemeanor or ordinance violation case; discharge; costs.

Sec. 1d. If the accused is acquitted in a misdemeanor or ordinance violation case, he or she shall be discharged immediately. If the court, before whom the trial is held, finds and certifies in its minutes that the complaint was wilful, malicious, and without probable cause, the complainant shall pay all of the costs that accrued to the court, including the witness and jury fees, in the proceedings held upon the complaint.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.1e Refusal by, or neglect of, complainant to pay costs; judgment; execution; disposition of money collected.

Sec. 1e. If the complainant refuses or neglects to pay the costs accrued under section 1d of this chapter, the court immediately may enter judgment against the complainant for the amount of those costs and issue execution on that judgment, in the same manner and with the same effect as in case of an execution issued by the circuit court on a judgment in a civil action. Money collected under this section shall be paid to the trial court and shall be applied to the payment of the costs for which the judgment was rendered.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.2 Docket; contents; form; filing.

Sec. 2. (1) Each judge of a municipal court shall keep a loose-leaf docket made up of printed docket sheets numbered consecutively by the printer, in which the judge shall enter all completed criminal cases. The docket shall contain the following information:

(a) Name and address of the defendant.

(b) Operator or chauffeur license and vehicle registration or vessel number, if available, for motor vehicle or vessel violations.

(c) Date and place of offense, and offense.

(d) Date of complaint and name of complainant.

(e) Date and warrant returned and by whom, or if a voluntary appearance, the date of the voluntary appearance.

(f) Plea of defendant.

(g) If trial, the date of the trial and whether the trial was by court or a jury, and the verdict of the court or a jury.

(h) Sentence of the court and the date of the sentence.

(i) Date of all adjournments and the date adjourned to.

(j) Name of the prosecuting attorney or assistant prosecuting attorney, and name of the attorney who appeared for the defendant in the case, if any.

(k) Names of witnesses sworn for the people and for the defendant.

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(*l*) If a trial by jury, the names of the jurors.

(m) Date of appeal and date return was made in circuit court, if any.

(2) Dockets shall be in a form that allows exact carbon copies to be made. A true copy of the docket shall be filed on or before the last day of the month following the month in which the case was completed, with each of the following:

(a) The prosecuting attorney of the county.

(b) The board of auditors, or the county board of commissioners if a board of auditors does not exist.

(c) The secretary of state and the county clerk for all motor vehicle or traffic cases involving moving violations, and the director of the department of natural resources for all violations involving a vessel. The county clerk, secretary of state, and the director of the department of natural resources shall receive copies of dockets only if the defendant was convicted. The copy filed with the county clerk shall be a certificate of conviction, and the copy filed with the secretary of state or the director of the department of natural resources shall be an abstract of the court and record of conviction. The copy for the secretary of state or the director of the department of natural resources need contain only the information required by the secretary of state or the director of the department of natural resources. The form shall be approved by the secretary of state, except that for a violation involving a vessel, the form shall be approved by the director of the department of natural resources.

(3) The copies of the docket shall be filed in all cases regardless of the disposition of the case. If examination is held by the municipal judge instead of a trial, the docket shall also contain information pertaining to whether or not probable cause was found by the municipal judge and the date the return on examination was filed in circuit court. The municipal judge may enter any other information in the docket that the municipal judge considers necessary.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17427;—CL 1948, 774.2;—Am. 1957, Act 274, Eff. Sept. 27, 1957;—Am. 1965, Act 324, Eff. Mar. 31, 1966;—Am. 1967, Act 287, Imd. Eff. Aug. 1, 1967;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 1 of Act 212 of 1879, being How., § 7134; CL 1897, § 1059; and CL 1915, § 15809.

774.2a Docket; cover or binder for docket sheets; alphabetical index; forms and dockets to be furnished by county.

Sec. 2a. (1) A suitable cover or binder shall be used to preserve the docket sheets. There shall not be more than 1,000 loose-leaf docket sheets for each cover or binder.

(2) An alphabetical index containing the names of all defendants and the number of each case as it appears in the docket shall be maintained by each municipal judge.

(3) All forms and dockets necessary for the operation of a municipal court shall be furnished by the county without charge to the court.

History: Add. 1957, Act 274, Eff. Sept. 27, 1957;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.2b File for criminal case; contents.

Sec. 2b. Each municipal court shall have a file for each criminal case. The file shall be in a suitable envelope, jacket, or folder, and shall contain the complaint, the warrant if returned, and any other papers filed in the case.

History: Add. 1957, Act 274, Eff. Sept. 27, 1957;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.3 Dockets, files, and indexes as public records; inspection and examination; delivery of completed dockets with indexes to county clerk; destruction of files.

Sec. 3. The dockets, files, and indexes shall be public records and shall be subject to inspection and examination during court hours. If a municipal court does not maintain regular hours, or if the court hours are less than 4 hours during the day, the dockets, files, and indexes shall be available for inspection and examination for at least 4 hours each day, Monday through Friday, except legal holidays. Completed dockets shall be delivered to the county clerk along with the indexes when the municipal judge considers it advisable, but not before 1 year and not later than 4 years after the date of the last case in the docket. Files may be destroyed by the municipal judge, when the judge considers it advisable, at any time after 6 years from the date the case was completed.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17428;—CL 1948, 774.3;—Am. 1957, Act 274, Eff. Sept. 27, 1957;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 2 of Act 212 of 1879, being How., § 7135; CL 1897, § 1060; and CL 1915, § 15810.

774.3a Docket; admissibility as evidence.

Sec. 3a. A municipal court docket maintained and filed pursuant to section 2 of this chapter, or a true copy

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of the docket, shall be admissible as evidence of the facts contained in the docket.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.4-774.8 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to complaint, warrant, reading charge to accused, arraignment, and entry of plea.

774.9 Authority of municipal court judge to issue subpoena and administer oaths in misdemeanor and ordinance violation cases.

Sec. 9. A judge of a municipal court has the same authority to issue a subpoena to compel the attendance of a witness and to administer oaths in misdemeanor or ordinance violation cases as a district court judge has in misdemeanor or ordinance violation cases which are tried in the district court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17434;—CL 1948, 774.9;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 24 of Ch. 94 of R.S. 1846, being CL 1857, § 3947; CL 1871, § 5548; How., § 7116; CL 1897, § 1042; and CL 1915, § 15792.

774.10 Jurors or witness; failure to appear or refusal to be sworn or to testify; liability.

Sec. 10. If a person is summoned to appear before a municipal court pursuant to this chapter as a juror or witness and fails to appear, or if the person appears but refuses to be sworn or to testify, the person shall be liable to the same penalties and may be proceeded against in the same manner as provided by law with respect to jurors and witnesses in civil proceedings in the district court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17435;—CL 1948, 774.10;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 25 of Ch. 94 of R.S. 1846, being CL 1857, § 3948; CL 1871, § 5549; How., § 7117; CL 1897, § 1043; and CL 1915, § 15793.

774.11 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to bail.

774.12 Summoning jury of 6 persons; method.

Sec. 12. After joining the issues, and before the municipal court proceeds to try the case, if the accused has not waived his or her right to a trial by jury, the court shall summon a jury of 6 persons as follows:

(a) If a statute specifies the method of summoning jurors for the municipal court, the court shall comply with the statute.

(b) If another statute does not specify a method of summoning jurors, the court shall comply with sections 13 to 21 of this chapter and shall direct the chief of police or a police officer of the city to make a list in writing of the names of 18 inhabitants of the city, qualified to serve as jurors in the circuit court. From this list the prosecuting attorney and the accused may each strike out 6 names. A police officer shall not make the list if the police officer is the complainant in the case or is in any way interested in the case.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17437;—CL 1948, 774.12;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 8 of Ch. 94 of R.S. 1846, being CL 1857, § 3931; CL 1871, § 5532; How., § 7099; CL 1897, § 1026; CL 1915, § 15776; and Act 155 of 1885.

774.13 Directing disinterested person to strike out names for parties; issuance of venire.

Sec. 13. If the prosecuting attorney or the accused neglects to strike out 6 names pursuant to section 12(b) of this chapter, the municipal court shall direct a suitable disinterested person to strike out the names for either or both of the parties. After the names have been stricken, the municipal judge shall issue a venire, directed to a police officer of the city, requiring the officer to summon the 6 persons whose names remain upon the list to appear before the municipal court, at the time and place named in the venire, to make a jury for the trial of the offense.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17438;—CL 1948, 774.13;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 9 of Ch. 94 of R.S. 1846, being CL 1857, § 3932; CL 1871, § 5533; How., § 7100; CL 1897, § 1027; CL 1915, § 15777; and Act 76 of 1861.

774.14 Police officer to summon jurors; list; returning list with venire to court.

Sec. 14. The police officer to whom the venire is delivered shall summon the jurors personally, and shall make a list of the persons summoned. The police officer shall certify the list, annex it to the venire, and return the list with the venire to the municipal court within the time specified in the venire.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17439;—CL 1948, 774.14;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 10 of Ch. 94 of R.S. 1846, being CL 1857, § 3933; CL 1871, § 5534; How., § 7101; CL 1897, § 1028; and CL 1915, § 15778.

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774.15 Supplying deficiency in number of jurors.

Sec. 15. If any of the jurors named in the venire fail to appear in court, or if there is a legal objection to a juror who appears, the municipal court shall supply the deficiency by directing any police officer of the city who is present and disinterested, to summon as a juror any of the bystanders or others who may be competent as jurors and against whom a cause of challenge does not appear.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17440;—CL 1948, 774.15;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 11 of Ch. 94 of R.S. 1846, being CL 1857, § 3934; CL 1871, § 5535; How., § 7102; CL 1897, § 1029; and CL 1915, § 15779.

774.16 Former service as juror as cause for challenge.

Sec. 16. It is a cause for challenge of a juror in a municipal court, in addition to the other causes of challenge allowed by law, that the person has served as a juror in a municipal court 2 times within the 1-year period immediately preceding the challenge.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17441;—CL 1948, 774.16;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 4 of Act 129 of 1867, being CL 1871, § 6046; How., § 7584a; CL 1897, § 349; CL 1915, § 14593; Act 62 of 1869; and Act 316 of 1907.

774.17 Peremptory challenges.

Sec. 17. In a misdemeanor or ordinance violation case in the municipal court, the prosecuting attorney may challenge 5 jurors peremptorily and the defendant may challenge 5 jurors peremptorily. In addition, the prosecuting attorney and the defendant may challenge 5 talesmen peremptorily.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17442;—CL 1948, 774.17;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 58 of Ch. 103 of R.S. 1846, being CL 1857, § 4400; CL 1871, § 6027; How., § 7607; CL 1897, § 10238; CL 1915, § 14594; Sec. 4 of Ch. 165 of R.S. 1846, being CL 1857, § 6071; CL 1871, § 7950; How., § 9562; CL 1897, § 11945; CL 1915, § 15818; and Act 104 of 1885, being How., § 6937a; CL 1897, § 820; CL 1915, § 14595.

774.18 New jury; continuation of proceedings; consent to trial by court.

Sec. 18. If the police officer to whom the venire is delivered fails to return the venire as required, or if the jury fails to agree and is discharged by the municipal court, a new jury shall be selected and summoned in the same manner and the proceedings shall be continued as prescribed in sections 12 to 17 of this chapter, unless the accused consents to be tried by the court. If the accused consents to a trial by the court, the municipal court shall proceed to the trial of the issue as if a jury had not been demanded.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17443;—CL 1948, 774.18;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 12 of Ch. 94 of R.S. 1846, being CL 1857, § 3935; CL 1871, § 5536; How., § 7103; CL 1897, § 1030; and CL 1915, § 15780.

774.19 Oath or affirmation to be administered jurors in misdemeanor or ordinance violation case.

Sec. 19. The municipal judge shall administer substantially the following oath or affirmation to the jurors in a misdemeanor or ordinance violation case tried in a municipal court: “You do solemnly swear, (or, “You do solemnly and sincerely declare and affirm,”) that you will well and truly try this case between the people of the state of Michigan and ..... , the accused, and give a true verdict according to law and the evidence given you in court, unless discharged by the court, so help you God.”.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17444;—CL 1948, 774.19;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 13 of Ch. 94 of R.S. 1846, being CL 1857, § 3936; CL 1871, § 5537; How., § 7104; CL 1897, § 1031; and CL 1915, § 15781.

774.20 Jurors; sitting together and hearing proofs and allegations; agreement on verdict or discharge; officer to take charge of jury.

Sec. 20. After the jury is sworn, the jurors shall sit together and hear the proofs and allegations in the case, which shall be delivered in public and in the presence of the accused. After hearing the proofs and allegations, the jury shall be kept together in some convenient place, until they agree on a verdict or are discharged by the municipal court. An officer of the court shall be sworn to take charge of the jury, in the same manner as in a trial in a municipal court in a civil proceeding.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17445;—CL 1948, 774.20;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 14 of Ch. 94 of R.S. 1846, being CL 1857, § 3937; CL 1871, § 5538; How., § 7105; CL 1897, § 1032; and CL 1915, § 15782.

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774.21 Jurors; delivery of verdict; fees; certificate.

Sec. 21. When the jurors have agreed on their verdict they shall deliver the verdict publicly to the municipal court, which shall enter the verdict in the minutes of its proceedings. The jurors shall each be entitled to the same fees as provided by law for jurors sworn in civil cases in a municipal court. In a misdemeanor case, a certificate of service and fees from the municipal judge in whose court the jurors served, countersigned by the prosecuting attorney of the county, and given to each juror, shall authorize the county clerk of the county to draw an order upon the county treasurer for the payment of the fees of each juror. The fees shall be paid in the same manner as jurors' fees are paid in the circuit court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17446;—CL 1948, 774.21;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 15 of Ch. 94 of R.S. 1846, being CL 1857, § 3938; CL 1871, § 5539; How., § 7106; CL 1897, § 1033; CL 1915, § 15783; Act 169 of 1877; and Act 183 of 1887.

774.22 Judgment and sentence; costs and expenses; punishment.

Sec. 22. If the accused is tried and found guilty in a municipal court, either by the court or by a jury, or is convicted upon a plea of guilty, the court shall render judgment and sentence the accused, either by a fine, imprisonment, or both, as the case may require. The court also may order the accused to pay the costs of prosecution and other reasonable costs and expenses, direct and indirect, as the public has been put to in connection with the offense, not to exceed $15.00 in a criminal case. The punishment provided for by the sentence shall not exceed the limit fixed by law for the offense charged.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17447;—Am. 1941, Act 335, Eff. Jan. 10, 1942;—CL 1948, 774.22;—Am. 1958, Act 143, Eff. Sept. 13, 1958;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 16 of Ch. 94 of R.S. 1846, being CL 1857, § 3939; CL 1871, § 5540; How., § 7107; CL 1897, § 1034; CL 1915, § 15784; Act 76 of 1861; and Act 6 of 1881.

774.22a, 774.22b Repealed. 1990, Act 219, Imd. Eff. Oct. 8, 1990.

Compiler's note: The repealed sections pertained to disorderly conduct involving sex offenses and to sex degenerates in jails or penal institutions.

774.22c Psychiatrists and expenses of confinement; reference.

Sec. 22c. The provisions of sections 1-c and 1-d of chapter 9, relative to psychiatrists and expenses of confinement shall be applicable to proceedings taken under this chapter.

History: Add. 1937, Act 196, Imd. Eff. July 14, 1937;—CL 1948, 774.22c.

Compiler's note: For provisions of sections 1c and 1d of chapter 9, referred to in this section, see MCL 769.1c and 769.1d.

774.23-774.25 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to acquittal, payment of costs, and execution of judgment.

774.26 Fines and costs.

Sec. 26. All fines and costs imposed by a municipal court, for a violation of state law shall be received by the court and paid over to the county treasurer on or before the last day of the month following receipt of the fine or costs. The county treasurer shall reimburse the municipal court for the court's lawful fees within 15 days after auditing pursuant to law, and the fines shall be distributed as prescribed by law.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17451;—Am. 1937, Act 168, Eff. Oct. 29, 1937;—CL 1948, 774.26;—Am. 1954, Act 79, Eff. Aug. 13, 1954;—Am. 1957, Act 266, Eff. Sept. 27, 1957;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 21 of Ch. 94 of R.S. 1846, being CL 1857, § 3944; CL 1871, § 5545; How., § 7112; CL 1897, § 1039; and CL 1915, § 15789.

774.26a Blank forms for recording information concerning money received in criminal case; approval; completion.

Sec. 26a. (1) The county treasurer shall provide a municipal court within the county with blank forms which have been approved by the state treasurer. The forms shall provide space for recording the following information with respect to all sums of money which the municipal court receives in a criminal case on account of any forfeiture of bail, bond, recognizance, fine, penalty, or taxation of costs:

(a) Receipt number.

(b) Docket number.

(c) Nature of offense.

(d) Amount of the fine.

(e) Amount of statutory court fees.

(f) Officers' fees.

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(g) Other receipts, including a forfeitured bond.
(h) Total receipts.
(i) Disposition of the case.
(j) Name of defendant.
(k) The name of the municipal judge.
(*l*) The name of the city.
(2) Each municipal judge shall complete the forms and shall furnish 1 copy to the county treasurer, and 1 copy either to the county clerk or to the controller or board of auditors, in counties having a controller or board of auditors, and shall retain 1 completed form for the municipal court files.

History: Add. 1957, Act 266, Eff. Sept. 27, 1957;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 2002, Act 88, Imd. Eff. Mar. 26, 2002.

774.26b Blank receipt forms; use; copies.

Sec. 26b. (1) The county treasurer shall provide to each municipal court blank serially numbered receipt forms in triplicate, to be used if the court receives any money on account of a cash bail, bond, fine, penalty, or taxation of costs. The receipt forms shall provide space for recording the following information:
(a) The name of the defendant and payor.
(b) The name of the municipal judge.
(c) The docket number.
(d) The date.
(e) The amount of a fine received.
(f) The amount of costs received.
(g) Amount and nature of any other sum received.
(h) The total amount received.
(2) One copy of the receipt form shall be for the payor, 1 for the court, and 1 for the county treasurer.

History: Add. 1957, Act 266, Eff. Sept. 27, 1957;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.26c Account in financial institution for money received in criminal cases; deposits and withdrawals; secured deposits; limitation on acceptable assets; "financial institution" defined.

Sec. 26c. (1) Each municipal court shall maintain a separate account in a financial institution for money received in criminal cases. All money received in criminal cases shall be deposited in the account daily if the receipts exceed $500.00, or whenever the receipts exceed $500.00.
(2) Withdrawals from the account shall be made only by check and only for the purposes of making a deposit with the county treasurer, making refunds or transfers of cash bail bonds, making payments for restitution, or making refunds to defendants in case of an error.
(3) Assets acceptable for pledging to secure deposits of municipal court funds are limited to any of the following:
(a) Assets considered acceptable to the state treasurer under section 3 of 1855 PA 105, MCL 21.143, to secure deposits of state surplus funds.
(b) Any of the following:
(*i*) Securities issued by the federal home loan mortgage corporation.
(*ii*) Securities issued by the federal national mortgage association.
(*iii*) Securities issued by the government national mortgage association.
(c) Other securities considered acceptable to the municipal court and the financial institution.
(4) As used in this section, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and which maintains a principal office or branch office located in this state under the laws of this state or the United States.

History: Add. 1957, Act 266, Eff. Sept. 27, 1957;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1997, Act 39, Imd. Eff. June 30, 1997.

774.26d Noncompliance as misdemeanor.

Sec. 26d. A person who fails to comply with sections 26, 26a, 26b, or 26c of this chapter is guilty of a misdemeanor.

History: Add. 1957, Act 266, Eff. Sept. 27, 1957;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.27 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

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Compiler's note: The repealed section pertained to payments of fines and costs.

774.28 Neglecting to pay fine or costs; action by county treasurer; neglecting to pay over fine to county treasurer as misdemeanor; punishment; judge to keep exact record of proceedings; liability.

Sec. 28. (1) If a person who has received a fine or costs or any part of a fine or costs, neglects to pay the money pursuant to section 22 or 26 of this chapter, the county treasurer immediately shall commence an action for the unpaid amount, in the name of the people of this state, and shall prosecute the case diligently to effect.

(2) A person who neglects to pay over a fine to the county treasurer within 60 days after receiving the fine, is guilty of a misdemeanor and shall be punished by a fine of not less than $50.00 nor more than $100.00, or imprisonment for not less than 30 nor more than 90 days, or both.

(3) Each municipal judge shall keep an exact record of all proceedings held before the judge. If the municipal judge does not maintain the record required by this subsection, the judge shall be liable for the penalties prescribed in subsection (2).

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17453;—CL 1948, 774.28;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 23 of Ch. 94 of R.S. 1846, being CL 1857, § 3946; CL 1871, § 5547; How., § 7114; CL 1897, § 1041; CL 1915, § 15791; and Act 76 of 1869.

774.29, 774.30 Repealed. 1957, Act 274, Eff. Sept. 27, 1957.

Compiler's note: The repealed sections provided for certificate of conviction and its contents, and for filing thereof in office of clerk of county in which conviction occurred within 20 days after conviction.

774.31 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to certificate of conviction as evidence.

774.32, 774.33 Repealed. 1957, Act 274, Eff. Sept. 27, 1957.

Compiler's note: The repealed sections provided for report to prosecuting attorney within ten days after final disposition of case to which state had been a party or wherein county might be liable and set penalty for failure of justice of peace to report within 20 days.

774.34 Appeal to circuit court; practice and procedure.

Sec. 34. (1) A defendant who is convicted of a misdemeanor or ordinance violation in a municipal court in a city that does not adopt a resolution of approval under section 23a of the Michigan municipal court act, 1956 PA 5, MCL 730.523, may appeal to the circuit court for a trial de novo even if the sentence has been suspended or the fine or costs, or both, have been paid.

(2) To appeal by right, the defendant shall file a claim of appeal with the circuit court clerk within 20 days after the entry of judgment. A copy of the claim of appeal shall be filed with the municipal court. All applicable fees required by sections 2529 and 6536 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2529 and 600.6536, shall be paid when filing the claim of appeal. The defendant shall also enter into a recognizance to the people of the state in a sum not less than $50.00 nor more than $500.00 within 20 days after the entry of the judgment, conditioned upon the defendant prosecuting the appeal to effect and abiding by the orders and judgment of the court. If the defendant enters into a recognizance, the municipal judge from whose judgment the appeal is taken shall discharge the defendant or order the defendant's discharge, shall make a special return of the proceedings held before the judge, and shall file the complaint, warrant, and the return together with the recognizance with the circuit court.

(3) The practice and procedure for appeals from a municipal court shall be as provided by supreme court rule.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17459;—CL 1948, 774.34;—Am. 1958, Act 32, Eff. Sept. 13, 1958;—Am. 1959, Act 212, Eff. Mar. 19, 1960;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1998, Act 407, Eff. Jan. 1, 1999.

Former law: See section 18 of Ch. 94 of R.S. 1846, being CL 1857, § 3941; CL 1871, § 5542; How., § 7109; CL 1897, § 1036; CL 1915, § 15786; Act 6 of 1848; Act 258 of 1849; Act 154 of 1855; Act 76 of 1861; and Act 23 of 1909.

774.35-774.41 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed sections pertained to writ of certiorari.

774.42 Circuit court; continuing recognizance or requiring new recognizance; default.

Sec. 42. The circuit court for the county in which the defendant filed an appeal from a municipal court judgment pursuant to section 34 of this chapter, may continue the recognizance entered under section 34 of this chapter or require a new recognizance with further or other security until a decision is rendered in the case. If a defendant defaults on the recognizance, the court may commit the defendant to jail.

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History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17467;—CL 1948, 774.42;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 8 of Act 258 of 1849, being CL 1857, § 3959; CL 1871, § 5560; How., § 7128; CL 1897, § 1054; and CL 1915, § 15804.

774.43 Circuit court; discharge of defendant if found not guilty; entering judgment, sentence, and imposing costs if defendant convicted on appeal; remanding defendant back to county jail; credit for fine paid.

Sec. 43. If the defendant who appeals a conviction in municipal court in a city that does not adopt a resolution of approval under section 23a of the Michigan municipal court act, 1956 PA 5, MCL 730.523, is found not guilty on appeal in circuit court, the circuit court shall discharge the defendant. If the defendant is convicted on appeal to circuit court, the circuit court has the authority to enter judgment, sentence, and impose costs as provided in section 22 of this chapter. If the defendant was released on recognizance as provided in section 34 or 42 of this chapter and is sentenced to jail by the circuit court, the defendant shall be remanded back to the county jail for the length of time determined by the circuit court, less any time served under the sentence imposed by the municipal court and less any time spent in jail awaiting trial. The defendant shall also be given credit for any fine paid under the sentence of the municipal court against any fine imposed by the circuit court on appeal.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17468;—CL 1948, 774.43;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1998, Act 407, Eff. Jan. 1, 1999.

Former law: See section 9 of Act 258 of 1849, being CL 1857, § 3960; CL 1871, § 5561; How., § 7129; CL 1897, § 1055; and CL 1915, § 15805.

774.44 Withdrawal or dismissal of appeal; order revoking recognizance and directing sentence be carried out.

Sec. 44. If a defendant takes an appeal from a municipal court in a city that does not adopt a resolution of approval under section 23a of the Michigan municipal court act, 1956 PA 5, MCL 730.523, and withdraws the appeal, or if the circuit court dismisses the appeal leaving the municipal court conviction in effect, the circuit court may enter an order revoking a recognizance and may also direct that the sentence of the municipal court be carried out.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17469;—CL 1948, 774.44;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1998, Act 407, Eff. Jan. 1, 1999.

Former law: See section 10 of Act 258 of 1849, being CL 1857, § 3961; CL 1871, § 5562; How., § 7130; CL 1897, § 1056; and CL 1915, § 15806.

774.45 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to fee for making return to writ of certiorari.

774.46 Issuing writs and process; construction.

Sec. 46. (1) Municipal judges may issue the writs and process considered necessary in criminal and ordinance violation cases to carry into effect the judge's orders and sentences.

(2) This section shall not be construed to eliminate the requirements of section 1 of chapter 4 regarding the approval of the prosecuting attorney prior to the issuance of a warrant in a criminal case.

History: Add. 1941, Act 199, Eff. Jan. 10, 1942;—CL 1948, 774.46;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.47 Municipal court having more than 1 judge; powers of any judge in connection with trial and disposition of case.

Sec. 47. In a municipal court having more than 1 judge, whenever a warrant is issued for the arrest of a person charged with an offense against the laws of this state, or for the violation of a city ordinance, any judge of that municipal court may arraign, set bail, adjourn, try, take testimony in, conduct a preliminary examination, dismiss, hold for trial in circuit court, and do any other act in connection with the trial and disposition of the case brought before the municipal court.

History: Add. 1941, Act 264, Eff. Jan. 10, 1942;—CL 1948, 774.47;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.48 Delivery of files, indexes, and dockets to successor of municipal judge; audit of judge's records; audit report; certificate; effectiveness.

Sec. 48. (1) Each municipal judge shall deliver to his or her successor in office all files, indexes, and dockets. Upon the death of a municipal judge, or if for any other reason the office becomes vacant, and also at the end of each term, the board of auditors of the county or the county board of commissioners shall cause the records of the municipal court judge to be audited immediately. The audit shall be completed within 30 days

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from the date of the vacancy or end of the term. If a municipal court judge has been reelected to office, the audit shall be completed within 6 months from the date of the expiration of the judge's previous term.

(2) The audit report shall set forth the amount due the municipal court and the amount due the county for fines and costs collected by the court. The board of auditors or county board of commissioners shall issue to the municipal judge or the executor or administrator of the judge's estate, a certificate stating that all amounts required to be paid to the county during the judge's term of office have been paid, if the audit determines that all amounts required to be paid have in fact been paid. This certificate shall not be effective if it is later determined that there was fraud, embezzlement, or other criminal concealment or acts involved in the funds collected by the municipal judge.

History: Add. 1957, Act 274, Eff. Sept. 27, 1957;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

774.49 Municipal court to be governed by statutes and supreme court rules applicable to district court; exceptions.

Sec. 49. (1) In all matters of substance, authority, and jurisdiction with regard to a felony, misdemeanor, or ordinance violation case, a municipal court shall be governed by the statutes applicable to the district court, except to the extent that those provisions conflict with a statute which is specifically applicable to the particular municipal court or to municipal courts in general.

(2) In all matters of practice and procedure in the exercise of jurisdiction in a felony, misdemeanor, or ordinance violation case, a municipal court shall be governed by the statutes and supreme court rules applicable to the district court, except to the extent that those provisions conflict with a statute or supreme court rule specifically applicable to the particular municipal court or to municipal courts in general.

History: Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

CHAPTER XV
FEES

775.1 Fees; allowances.

Sec. 1. For the following services hereafter performed, in the cases authorized by law, the officers hereinafter named shall be allowed, respectively, the fees in this chapter directed.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17471;—CL 1948, 775.1.

Former law: See section 1 of Ch. 169 of R.S. 1846, being CL 1857, § 5678; CL 1871, § 7477; How., § 9052; CL 1897, § 12003; and CL 1915, § 15896.

775.2 Repealed. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Compiler's note: The repealed section pertained to fees for services to justice of peace.

775.3 Fees; services of constables; additional compensations.

Sec. 3. A constable shall be allowed for serving a warrant or other process for the arrest of any person, issued by any magistrate or court, 50 cents; for traveling to make such service, going only, 15 cents per mile, and where an arrest has been made, 15 cents per mile return travel from the place of arrest to the place of return; for taking a prisoner to jail or to the house of correction, 15 cents per mile, going only; for serving a mittimus, 15 cents; serving a subpoena, 15 cents for each witness, and 15 cents per mile for the distance actually and necessarily traveled in going to make such service; for summoning a jury, 1 dollar; for attending the same, 1 dollar; for attending any court by order of the magistrate or officer before whom a trial or examination is being held, when not in charge of a jury, 2 dollars per day for each day and 1 dollar for each half day so actually attending. The board of supervisors of each county may allow such further compensation for the services of process and the expenses and trouble attending the same as they shall deem reasonable. For other services in criminal cases, for which no compensation is especially provided by law, such sum as the board of supervisors shall allow.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17473;—Am. 1931, Act 309, Eff. Sept 18, 1931;—CL 1948, 775.3.

Former law: See section 3 of Ch. 169 of R.S. 1846, being CL 1857, § 5680; CL 1871, § 7479; How., § 9054; CL 1897, § 12005; CL 1915, § 15898; and Act 286 of 1881.

775.4 Fees; services of sheriff; additional compensations.

Sec. 4. A sheriff shall be allowed for every person committed to jail, 35 cents; for every person discharged from jail, 35 cents; for taking a prisoner before a court for examination or to jail, 15 cents; for serving a subpoena, issued from a court of record, 15 cents for each witness and 10 cents for each copy of the same, and 15 cents a mile on the distance actually and necessarily traveled in going to make such service; for serving a warrant or performing any other duty which may be performed by a constable, the same fees as are allowed

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by law to a constable for such service. For other services not herein specially provided for, such sums as may be allowed by the board of supervisors.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17474;—Am. 1931, Act 309, Eff. Sept. 18, 1931;—CL 1948, 775.4.

Former law: See section 5 of Ch. 169 of R.S. 1846, being CL 1857, § 5681; CL 1871, § 7480; How., § 9055; CL 1897, § 12006; CL 1915, § 15899; and Act 286 of 1881.

775.5 Repealed. 1990, Act 219, Imd. Eff. Oct. 8, 1990.

Compiler's note: The repealed section pertained to fees for services of circuit court commissioner.

775.6 Fees; to be county charges.

Sec. 6. The fees hereinbefore in this chapter allowed for services, except those which are otherwise provided for by law, shall be county charges, and shall be audited by the board of supervisors of the county in which the services are rendered, and shall be paid in the same manner as other contingent charges of the county.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17476;—CL 1948, 775.6.

Former law: See section 6 of Ch. 169 of R.S. 1846, being CL 1857, § 5683; CL 1871, § 7482; How., § 9057; CL 1897, § 12008; and CL 1915, § 15901.

775.7 Expenses of certain witnesses for people; order directing payment.

Sec. 7. Whenever any person shall attend any court of record as a witness in behalf of the people of this state, upon request of the public prosecutor, or upon subpoena, or by virtue of a recognizance for that purpose, and it shall appear that such person has come from any other state or territory of the United States, or from any foreign country or that such person is poor, the court may, by an order to be entered on its minutes, direct the county treasurer of the county in which the court may be sitting, to pay such witness such sum of money as shall seem reasonable for his expenses; and no fees shall be allowed or paid to witnesses on the part of the people in any criminal proceeding or prosecution except as is provided in this section and act.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17477;—CL 1948, 775.7.

Former law: See section 7 of Ch. 169 of R.S. 1846, being CL 1857, § 5684; CL 1871, § 7483; How., § 9058; CL 1897, § 12009; and CL 1915, § 15902.

775.8 Expenses of certain witnesses for people; certified copy of order.

Sec. 8. The clerk of the court by which such order shall be made, shall immediately make out and deliver a certified copy thereof to the person in whose favor the same is made, without any fee for such service.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17478;—CL 1948, 775.8.

Former law: See section 8 of Ch. 169 of R.S. 1846, being CL 1857, § 5685; CL 1871, § 7484; How., § 9059; CL 1897, § 12010; and CL 1915, § 15903.

775.9 Expenses of certain witnesses for people; payment by county treasurer.

Sec. 9. Upon the production of such certified copy to the county treasurer, or as soon thereafter as he shall have sufficient moneys in his hands, he shall pay to the person authorized to receive the same, or to his order, the sum of money so directed to be paid, which shall be allowed to the treasurer in his accounts.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17479;—CL 1948, 775.9.

Former law: See section 9 of Ch. 169 of R.S. 1846, being CL 1857, § 5686; CL 1871, § 7485; How., § 9060; CL 1897, § 12011; and CL 1915, § 15904.

775.10 Fees; prohibited as in civil cases.

Sec. 10. The provisions of law prohibiting the taking of any fees for services in civil cases, other than such as are allowed by law, shall apply to the taking of fees in criminal cases beyond the amount allowed by law for such services.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17480;—CL 1948, 775.10.

Former law: See section 10 of Ch. 169 of R.S. 1846, being CL 1857, § 5687; CL 1871, § 7486; How., § 9061; CL 1897, § 12012; and CL 1915, § 15905.

775.11 Fees; services of prosecutor.

Sec. 11. In all criminal prosecutions where an indictment shall be found and judgment for costs against the defendant shall be rendered, there shall be taxed for the use of the county the following fees for the services of the prosecuting attorney, to-wit: For drawing an indictment, 2 dollars; for trying the cause, 4 dollars; for arguing each motion in arrest of judgment, or for a new trial, 2 dollars; for services where exceptions are taken by defendant, 2 dollars; for every discharge of the prosecution on the acknowledgment of satisfaction in

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such cases as are authorized by law, 2 dollars.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17481;—CL 1948, 775.11.

Former law: See section 11 of Ch. 169 of R.S. 1846, being CL 1857, § 5688; CL 1871, § 7487; How., § 9062; CL 1897, § 12013; and CL 1915, § 15906.

775.12 Repealed. 1978, Act 316, Imd. Eff. July 10, 1978.

Compiler's note: The repealed section pertained to prosecution at instance of private persons.

775.13 Witness for prosecution; fees; law enforcement officer.

Sec. 13. (1) If a person attends court as a witness in behalf of the prosecution, upon the request of the prosecuting attorney, upon a subpoena, or because of a recognizance for that purpose, the witness shall be entitled to the following fees:

(a) For attending in a court of record, $12.00 for each day and $6.00 for each half day.

(b) For attending in a municipal court or upon an examination, $10.00 for each day and $5.00 for each half day.

(c) For traveling, 10 cents per mile in going to and returning from the place of attendance, estimated from the residence of the witness if within the state and if without the state, from the boundary line of this state which the witness passed in traveling to attend court.

(2) A law enforcement officer shall not receive a fee as a witness in behalf of the people of this state if the law enforcement officer is on duty at the time he or she attends court nor shall the officer receive compensation in going to the place of attendance unless traveling to the court at the officer's own expense.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17483;—CL 1948, 775.13;—Am. 1952, Act 108, Eff. Sept. 18, 1952;—Am. 1955, Act 67, Imd. Eff. May 24, 1955;—Am. 1963, Act 132, Eff. Sept. 6, 1963;—Am. 1966, Act 17, Eff. Jan. 1, 1967;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 2 of Act 77 of 1849, being CL 1857, § 5690; CL 1871, § 7489; How., § 9064; CL 1897, § 12015; CL 1915, § 15908; Act 192 of 1875; and Act 253 of 1923.

775.13a Expert witness; compensation.

Sec. 13a. If a person attends a court as a witness in a felony, misdemeanor, or ordinance violation case upon the request of the prosecuting attorney or defendant by virtue of a recognizance or subpoena for that purpose, whether at the trial of the case or other proceeding in the case, to testify as an expert witness, the person may be paid as compensation for the service a sum in excess of the ordinary witness fees provided by law. The sum to be awarded shall be determined by the judge before whom the witness appears.

History: Add. 1966, Act 148, Eff. Mar. 10, 1967;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

775.14 Witness for prosecution; proving attendance and travel; order.

Sec. 14. A witness entitled to a fee under section 13 of this chapter shall prove his or her attendance and travel in open court before the clerk of the court. An order from the clerk of the court shall authorize the payment of the witness fee to the witness in the same manner as the fee of a juror attending the court is paid.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17484;—CL 1948, 775.14;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981.

Former law: See section 3 of Act 77 of 1849, being CL 1857, § 5689; CL 1871, § 7488; How., § 9065; CL 1897, § 12016; CL 1915, § 15909; and Act 180 of 1887.

775.15 Accused unable to procure witness; subpoena, fee.

Sec. 15. If any person accused of any crime or misdemeanor, and about to be tried therefor in any court of record in this state, shall make it appear to the satisfaction of the judge presiding over the court wherein such trial is to be had, by his own oath, or otherwise, that there is a material witness in his favor within the jurisdiction of the court, without whose testimony he cannot safely proceed to a trial, giving the name and place of residence of such witness, and that such accused person is poor and has not and cannot obtain the means to procure the attendance of such witness at the place of trial, the judge in his discretion may, at a time when the prosecuting officer of the county is present, make an order that a subpoena be issued from such court for such witness in his favor, and that it be served by the proper officer of the court. And it shall be the duty of such officer to serve such subpoena, and of the witness or witnesses named therein to attend the trial, and the officer serving such subpoena shall be paid therefor, and the witness therein named shall be paid for attending such trial, in the same manner as if such witness or witnesses had been subpoenaed in behalf of the people.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17485;—CL 1948, 775.15.

Former law: See Act 226 of 1849, being CL 1857, § 5693; CL 1871, § 7492; How., § 9067; CL 1897, § 12017; CL 1915, § 15911; and Act 24 of 1877 .

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775.16 Appointment of counsel under Michigan indigent defense commission act.

Sec. 16. When a person charged with having committed a crime appears before a magistrate without counsel, the person shall be advised of his or her right to have counsel appointed. If the person states that he or she is unable to procure counsel, the magistrate shall appoint counsel, if the person is eligible for appointed counsel under the Michigan indigent defense commission act.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17486;—CL 1948, 775.16;—Am. 1957, Act 256, Eff. Sept. 27, 1957;—Am. 1963, Act 132, Eff. Sept. 6, 1963;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 2013, Act 94, Imd. Eff. July 1, 2013.

Former law: See section 1 of Act 109 of 1857, being CL 1857, § 5675; CL 1871, § 7471; How., § 9046; CL 1897, § 12018; CL 1915, § 15912; Act 96 of 1893; and Act 23 of 1911.

775.17 Accused unable to procure counsel; attorney, duty; enlarged compensation.

Sec. 17. An attorney shall not, in such case, be compelled to follow a case into another county or into the supreme court, but if he does so, may recover an enlarged compensation to be fixed by the court.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17487;—CL 1948, 775.17.

Former law: See section 2 of Act 109 of 1857, being CL 1857, § 5676; CL 1871, § 7472; How., § 9047; CL 1897, § 12019; and CL 1915, § 15913.

775.18 Accused unable to procure counsel; number of attorneys; affidavit.

Sec. 18. Only 1 attorney in any 1 case shall receive the compensation above contemplated, nor shall he be entitled to this compensation until he files his affidavit in the office of the county clerk, in which such trial or proceedings may be had, that he has not, directly or indirectly, received any compensation for such services from any other source.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17488;—CL 1948, 775.18.

Former law: See section 3 of Act 109 of 1857, being CL 1857, § 5677; CL 1871, § 7473; How., § 9048; CL 1897, § 12020; and CL 1915, § 15914.

775.19 Interpreter; compensation; certificate.

Sec. 19. Except as provided in the deaf persons' interpreter act, if a person attends a court as an interpreter for the purpose of interpreting the testimony of a witness given in behalf of the prosecution, or for the purpose of translating or interpreting a writing or document introduced or used in a court in behalf of the prosecution, either upon the request of the prosecuting attorney or by appointment of the court pursuant to section 19a of this chapter, the person shall receive compensation as ordered by the court. The compensation for an interpreter in the municipal court shall not exceed $25.00 for each day and $15.00 for each half day actually employed. The certificate of the clerk of the court of record stating the amount ordered to be paid by the court, shall authorize the payment of compensation for the interpreter in the same manner as a witness fee is paid to a witness.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17489;—CL 1948, 775.19;—Am. 1955, Act 27, Imd. Eff. Apr. 13, 1955;—Am. 1957, Act 11, Eff. Sept. 27, 1957;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1982, Act 203, Imd. Eff. July 1, 1982.

Former law: See Act 134 of 1915, being CL 1915, § 15915.

775.19a Appointment of interpreter; compensation.

Sec. 19a. If an accused person is about to be examined or tried and it appears to the judge that the person is incapable of adequately understanding the charge or presenting a defense to the charge because of a lack of ability to understand or speak the English language, the inability to adequately communicate by reason of being mute, or because the person suffers from a speech defect or other physical defect which impairs the person in maintaining his or her rights in the case, the judge shall appoint a qualified person to act as an interpreter. Except as provided in the deaf persons' interpreter act, the interpreter shall be compensated for his or her services in the same amount and manner as is provided for interpreters in section 19 of this chapter.

History: Add. 1955, Act 27, Imd. Eff. Apr. 13, 1955;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1982, Act 203, Imd. Eff. July 1, 1982;—Am. 1998, Act 49, Imd. Eff. Mar. 30, 1998.

775.20 Expenses of prosecution for malfeasance in state office; payment.

Sec. 20. The expenses of all prosecutions against persons holding or who may have held any state office, for malfeasance in office, shall be paid from the general fund, by the state treasurer, and the board of state auditors are hereby authorized and empowered to allow all just and legal claims for such prosecutions, and this section shall be deemed to apply to the expenses of any prosecutions already commenced, as well as to any which may occur in the future.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17490;—CL 1948, 775.20.

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Former law: See Act 223 of 1861, being CL 1871, § 376; How., § 342; CL 1897, § 12021; CL 1915, § 15916; and Act 260 of 1909.

775.21 Proceeding instituted by attorney general; costs, payment by state.

Sec. 21. Whenever the attorney general shall institute criminal proceedings in any county in this state, all costs incurred in such proceedings, except the pay of circuit judges, prosecuting attorneys, and circuit court stenographers, may be paid by the state with the approval of the state administrative board.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17491;—CL 1948, 775.21.

Former law: See Act 271 of 1923.

775.22 Allocation and application of money collected; "victim payment" defined.

Sec. 22. (1) If a person is subject to any combination of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments arising out of the same criminal proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments shall be allocated as provided in this section.

(2) Except as otherwise provided in this subsection, if a person is subject to payment of victim payments and any combination of other fines, costs, assessments, probation or parole supervision fees, or other payments, 50% of all money collected from that person shall be applied to payment of victim payments, and the balance shall be applied to payment of fines, costs, supervision fees, and other assessments or payments. If any fines, costs, supervision fees, or other assessments or payments remain unpaid after all of the victim payments have been paid, any additional money collected shall be applied to payment of those fines, costs, supervision fees, or other assessments or payments. If any victim payments remain unpaid after all of the fines, costs, supervision fees, or other assessments or payments have been paid, any additional money collected shall be applied toward payment of those victim payments.

(3) In cases involving prosecutions for violations of state law, money allocated under subsection (2) for payment of fines, costs, probation and parole supervision fees, and assessments or payments other than victim payments shall be applied in the following order of priority:

(a) Payment of the minimum state cost prescribed by section 1j of chapter IX.

(b) Payment of other costs.

(c) Payment of fines.

(d) Payment of probation or parole supervision fees.

(e) Payment of assessments and other payments.

(4) In cases involving prosecutions for violations of local ordinances, money allocated under subsection (2) for payment of fines, costs, and assessments or payments other than victim payments shall be applied in the following order of priority:

(a) Payment of the minimum state cost prescribed by section 1j of chapter IX.

(b) Payment of fines and other costs.

(c) Payment of assessments and other payments.

(5) As used in this section, "victim payment" means restitution ordered to be paid to the victim or the victim's estate, but not to a person who reimbursed the victim for his or her loss, or an assessment ordered under section 5 of 1989 PA 196, MCL 780.905.

History: Add. 1993, Act 343, Eff. May 1, 1994;—Am. 2003, Act 102, Eff. Oct. 1, 2003.

CHAPTER XVI
MISCELLANEOUS PROVISIONS

776.1-776.5 Repealed. 1966, Act 189, Eff. Mar. 10, 1967.

Compiler's note: The repealed sections pertained to issuance and contents of search warrants and to custody and disposal of seized property.

776.6 Extradition; agent to demand certain persons from another state or government; appointment; payment of accounts.

Sec. 6. The governor of this state may in any case authorized by the constitution and laws of the United States, appoint agents to demand of the executive authority of any other state or territory, or from the executive authority of any foreign government, any fugitive from justice or any person charged with treason; and the accounts of the agents appointed for that purpose shall, unless otherwise directed by the governor, be audited by the state treasurer and paid out of the state treasury.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17496;—CL 1948, 776.6;—Am. 2002, Act 88, Imd. Eff. Mar. 26, 2002.

Former law: See section 6 of Ch. 170 of R.S. 1846, being CL 1857, § 6119; CL 1871, § 8004; How., § 9620; CL 1897, § 11991; CL 1915, § 15884; and Act 1 of 1853.

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776.7 Extradition; demand for certain persons by another state; warrant to sheriff, examination, attorney general's report.

Sec. 7. Whenever a demand shall be made upon the governor of this state by the governor of any other state or territory in any case authorized by the constitution and laws of the United States for the delivery over of any person charged in such state or territory with treason, felony or any other crime and there shall be produced with such demand a copy of the indictment found or information filed, or affidavit or complaint made before a magistrate of the state or territory demanding, charging the person so demanded with having committed treason, felony, or other crime within such state or territory, duly certified as authentic by the governor or chief magistrate of the state or territory from whence the person so charged fled, with due proof of the fleeing, it shall be the duty of the governor of this state to issue an order or warrant to the sheriff of the county in which such person so charged may be found, commanding him to forthwith arrest such alleged fugitive and to deliver him to the duly authorized agent appointed by the executive authority making such demand to receive him and remove him to the proper place for prosecution. But the sheriff, while the alleged fugitive is in his custody and before delivering him up to the agent of the demanding state, shall afford him every facility to enable him to have a judicial examination if he desires it, by habeas corpus or otherwise, to ascertain whether the demand and arrest have been made conformably to the requirements of law so that such person if he ought not to be delivered may be duly discharged, and the attorney general when required by the governor shall forthwith investigate the grounds of demand and report to the governor all material facts, which may come to his knowledge, as to the situation and circumstances of the person so demanded, and especially whether he is held in custody or is under recognizance to answer for any offense against the laws of this state, or of the United States or by virtue of any civil process, and also whether such demand was made conformably to law, so that such person ought not to be delivered up.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17497;—CL 1948, 776.7.

Former law: See section 7 of Ch. 170 of R.S. 1846, being CL 1857, § 6120; CL 1871, § 8005; How., § 9621; CL 1897, § 11992; CL 1915, § 15885; and Act 235 of 1879.

776.8 Extradition; warrant to agent; issuance, contents.

Sec. 8. If the governor shall be satisfied that the demand is conformable to law, and ought to be complied with, he shall issue his warrant, under the seal of the state, authorizing the agents who make such demand, either forthwith or at such time as shall be designated in the warrant, to take and transport such person to the line of this state, at the expense of such agents, and shall also by such warrant require the civil officers within this state to afford all needful assistance in the execution thereof.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17498;—CL 1948, 776.8.

Former law: See section 8 of Ch. 170 of R.S. 1846, being CL 1857, § 6124; CL 1871, § 8006; How., § 9622; CL 1897, § 11993; and CL 1915, § 15886.

776.9 Extradition; persons liable to; complaint, warrant.

Sec. 9. Whenever any person shall be found within this state charged with any offense committed in any other state or territory and liable by the constitution and laws of the United States to be delivered over upon the demand of the governor of such other state or territory, any court or magistrate authorized to issue warrants in criminal cases, may upon complaint on oath setting forth the offense, and such other matters as are necessary to bring the case within the provisions of law, issue a warrant to bring the person so charged before the same or some other court or magistrate, within this state, to answer to such complaint as in other cases.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17499;—CL 1948, 776.9.

Former law: See section 9 of Ch. 170 of R.S. 1846, being CL 1857, § 6125; CL 1871, § 8007; How., § 9623; CL 1897, § 11994; and CL 1915, § 15887.

776.10 Extradition; examination, recognizance.

Sec. 10. If, upon the examination of the person charged, it shall appear to the court or magistrate that there is reasonable cause to believe that the complaint is true, and that such person may be lawfully demanded of the governor, he shall if not charged with a capital crime, or with murder in the first degree, be required to recognize, with sufficient sureties, in a reasonable sum, to appear before such court or magistrate at a future day, allowing a reasonable time to obtain the warrant of the governor, and to abide the order of such court or magistrate in the premises.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17500;—CL 1948, 776.10.

Former law: See section 10 of Ch. 170 of R.S. 1846, being CL 1857, § 6126; CL 1871, § 8008; How., § 9624; CL 1897, § 11995;

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and CL 1915, § 15888.

776.11 Extradition; failure or inability to recognize, commitment, default.

Sec. 11. If such person shall not recognize, or if he shall be charged with a capital crime, or with the crime of murder in the first degree, he shall be committed to prison and there detained until such day in like manner as if the offense charged had been committed within this state; and if the person so recognizing shall fail to appear according to the condition of his recognizance, he shall be defaulted and the same proceedings shall be had as in the case of other recognizances entered into before such court or magistrate.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17501;—CL 1948, 776.11.

Former law: See section 11 of Ch. 170 of R.S. 1846, being CL 1857, § 6127; CL 1871, § 8009; How., § 9625; CL 1897, § 11996; and CL 1915, § 15889.

776.12 Extradition; discharge, delivery to authorized person, new recognizance or commitment.

Sec. 12. If the person so recognized or committed, shall appear before the court or magistrate upon the day ordered, he shall be discharged, unless he shall be demanded by some person authorized by the warrant of the governor to receive him, or unless the court or magistrate shall see cause to commit him, or to require him to recognize anew for his appearance at some other day; and if, when ordered, he shall not so recognize, he shall be committed and detained as before: Provided, That whether the person so charged shall be recognized, committed or discharged, any person authorized by the warrant of the governor may, at all times, take him into custody and the same shall be a discharge of the recognizance, if any, and shall not be deemed an escape.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17502;—CL 1948, 776.12.

Former law: See section 12 of Ch. 170 of R.S. 1846, being CL 1857, § 6128; CL 1871, § 8010; How., § 9626; CL 1897, § 11997; and CL 1915, § 15890.

776.13 Extradition; complainant to support prisoner and cost, liability; failure to pay, effect.

Sec. 13. The complainant in any such case shall be answerable for all the actual costs and charges and for the support in prison of any person so committed, to be paid weekly or otherwise as may be ordered by the court or magistrate; and if the charge for his support in prison shall not be so paid, the jailer may on the failure of the complainant discharge such person from his imprisonment.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17503;—CL 1948, 776.13.

Former law: See section 13 of Ch. 170 of R.S. 1846, being CL 1857, § 6129; CL 1871, § 8011; How., § 9627; CL 1897, § 11998; and CL 1915, § 15891.

776.14 Prosecuting attorney; right to defend person charged with crime in county.

Sec. 14. It shall be unlawful for any prosecuting attorney of this state to defend or assist in the defense of any person charged with crime within the county of which he is prosecuting attorney.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17504;—CL 1948, 776.14.

Former law: See section 1 of Act 23 of 1897, being CL 1897, § 2565; and CL 1915, § 2414.

776.15 Prosecuting attorney; right to defend accused in case transferred from another county; county liable for assistance in prosecution.

Sec. 15. When any criminal cases commenced by the people of the state of Michigan within any county of this state shall be transferred to another county for trial for any reason whatsoever, the prosecuting attorney of the county to which said cause is transferred shall be prohibited from defending or assisting in the defense of the cause so transferred; and in case the prosecuting attorney of the county to which said cause is transferred shall be employed to assist in the prosecution of said cause, the county from which said cause was transferred shall pay such charges to such prosecuting attorney as the court may allow.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17505;—CL 1948, 776.15.

Former law: See section 2 of Act 23 of 1897, being CL 1897, § 2566; and CL 1915, § 2415.

776.18 Assistant; right of prosecutor to procure; compensation; prohibition.

Sec. 18. The prosecuting attorney may procure the assistance in the trial of any person charged with a felony as he or she considers necessary. The prosecuting attorney may appoint an assistant to perform his or her duties during a period when the prosecuting attorney is unable to perform those duties. An assistant appointed under this section shall be paid reasonable compensation as determined by the board of supervisors or the board of county auditors, as applicable, for those services. No person shall be employed or appointed as assistant prosecutor who is interested as an attorney or otherwise in a case involving the same facts or circumstances involved in a case to be conducted or tried by the assistant prosecutor or who has received any

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compensation from any person with an interest in those cases.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17508;—CL 1948, 776.18;—Am. 2012, Act 72, Imd. Eff. Apr. 6, 2012.

Former law: See Act 195 of 1879, being How., § 560; CL 1897, § 2569; CL 1915, § 2418; and Act 258 of 1915.

776.19 Reward for criminal or escaped prisoner; authority to offer and pay.

Sec. 19. The board of supervisors is hereby authorized to offer and pay out of the general fund of the county not to exceed 2,000 dollars as a reward for the arrest and conviction, or for information leading to the arrest and conviction of any person or persons having committed a crime within the county or having escaped from any penal institution therein: Provided, That the powers granted hereby may be exercised by the finance committee of the board of supervisors when said board of supervisors is not in session.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17509;—CL 1948, 776.19.

Former law: See section 2 of Act 156 of 1851, being CL 1857, § 336; CL 1871, § 468; How., § 474; and Act 262 of 1925.

776.20 Firearms violations; burden of establishing exception.

Sec. 20. In any prosecution for the violation of any acts of the state relative to use, licensing and possession of pistols or firearms, the burden of establishing any exception, excuse, proviso or exemption contained in any such act shall be upon the defendant but this does not shift the burden of proof for the violation.

History: Add. 1968, Act 299, Eff. Nov. 15, 1968.

776.21 "Law enforcement officer" and "victim" defined; submitting victim to polygraph examination or lie detector test; giving polygraph examination or lie detector test to defendant upon request.

Sec. 21. (1) As used in this section:

(a) "Law enforcement officer" means a police officer of a county, city, village, township, or this state; a college or university public safety officer; a prosecuting attorney, assistant prosecuting attorney, or an investigator for the office of prosecuting attorney; or any other person whose duty is to enforce the laws of this state.

(b) "Victim" means a person who is a victim of a crime under sections 520b to 520e and 520g of Act No. 328 of the Public Acts of 1931, being sections 750.520b to 750.520e and 750.520g of the Michigan Compiled Laws.

(2) A law enforcement officer shall not request or order a victim to submit to a polygraph examination or lie detector test. A law enforcement officer shall not inform a victim of the option of taking a polygraph examination or lie detector test unless the victim inquires concerning such a test or as provided by subsection (3).

(3) A law enforcement officer shall inform the victim when the person accused of a crime specified in subsection (1)(b) has voluntarily submitted to a polygraphic examination or lie detector test and the test indicates that the person may not have committed the crime.

(4) Subsections (2) and (3) apply only to a polygraph examination or lie detector test which is requested, ordered, or given in regard to a person being a victim.

(5) A defendant who allegedly has committed a crime under sections 520b to 520e and 520g of Act No. 328 of the Public Acts of 1931, shall be given a polygraph examination or lie detector test if the defendant requests it.

History: Add. 1980, Act 454, Eff. Mar. 31, 1981.

776.22 Domestic violence calls; development, implementation, and evaluation of written policies and standards by police agencies; definitions.

Sec. 22. (1) Each police agency in this state shall, by January 1, 1995, develop, adopt, and implement written policies for police officers responding to domestic violence calls. The policies shall reflect that domestic violence is criminal conduct.

(2) Each police agency shall consult with the prosecuting attorney and with an area shelter for victims of domestic violence in the development, implementation, including training, and evaluation of the policies and standards.

(3) The policies shall address, but not be limited to addressing, all of the following:

(a) Procedures for conducting a criminal investigation with specific standards for misdemeanor and felony arrests.

(b) Procedures for making a criminal arrest. The procedures shall emphasize all of the following:

(*i*) In most circumstances, an officer should arrest and take an individual into custody if the officer has probable cause to believe the individual is committing or has committed domestic violence and his or her

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actions constitute a crime.

(*ii*) When the officer has probable cause to believe spouses, former spouses, individuals who have had a child in common, individuals who have or have had a dating relationship, or other individuals who reside together or formerly resided together are committing or have committed crimes against each other, the officer, when determining whether to make an arrest of 1 or both individuals, should consider the intent of this section to protect victims of domestic violence, the degree of injury inflicted on the individuals involved, the extent to which the individuals have been put in fear of physical injury to themselves or other members of the household, and any history of domestic violence between the individuals, if that history can reasonably be ascertained by the officer. In addition, the officer should not arrest an individual if the officer has reasonable cause to believe the individual was acting in lawful self-defense or in lawful defense of another individual.

(*iii*) A police officer's decision as to whether to arrest an individual should not be based solely on the consent of the victim to any subsequent prosecution or on the relationship of the individuals involved in the incident.

(*iv*) A police officer's decision not to arrest an individual should not be based solely upon the absence of visible indications of injury or impairment.

(c) Procedures for denial of interim bond, as provided in 1961 PA 44, MCL 780.581 to 780.588.

(d) Procedures for verifying a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(e) Procedures for making an arrest for a violation of a personal protection order.

(f) Procedures for enforcing a valid foreign protection order.

(g) Procedures for providing or arranging for emergency assistance to victims including, but not limited to, medical care, transportation to a shelter, or remaining at the scene of an alleged incident of domestic violence for a reasonable time until, in the reasonable judgment of the police officer, the likelihood of further imminent violence has been eliminated.

(h) Procedures for informing the victim of community services and legal options that are available under section 15c of chapter IV.

(i) Procedures for preparing a written report, whether or not an arrest is made.

(j) Training of peace officers, dispatchers, and supervisors.

(k) Discipline for noncompliance with the policy.

(*l*) Annual evaluations of the policy.

(4) The local policies developed, adopted, and implemented under this section shall be in writing and shall be available to the public upon request.

(5) As used in this section:

(a) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(b) "Foreign protection order" means that term as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.

(c) "Valid foreign protection order" means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

History: Add. 1994, Act 69, Imd. Eff. Apr. 11, 1994;—Am. 1994, Act 418, Eff. Apr. 1, 1995;—Am. 2001, Act 194, Eff. Apr. 1, 2002;—Am. 2005, Act 106, Imd. Eff. Sept. 14, 2005.

CHAPTER XVII
SENTENCING GUIDELINES

PART 1
GENERAL PROVISIONS

777.1 Definitions.

Sec. 1. As used in this chapter:

(a) “Aircraft” means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(b) “Departure” means that term as defined in section 31 of chapter IX.

(c) “Homicide” means any crime in which the death of a human being is an element of that crime.

(d) “Intermediate sanction” means that term as defined in section 31 of chapter IX.

(e) “ORV” means that term as defined in section 81101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101.

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(f) “Snowmobile” means that term as defined in section 82101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101.

(g) “Vehicle” means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

(h) “Vessel” means that term as defined in section 80104 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80104.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2002, Act 34, Eff. May 15, 2002.

777.5 Offense categories; designation.

Sec. 5. The offense categories are designated in part 2 of this chapter as follows:

(a) Crimes against a person are designated “person”.

(b) Crimes against property are designated “property”.

(c) Crimes involving a controlled substance are designated “CS”.

(d) Crimes against public order are designated “pub ord”.

(e) Crimes against public trust are designated “pub trst”.

(f) Crimes against public safety are designated “pub saf”.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.6 Offense descriptions; use.

Sec. 6. The offense descriptions in part 2 of this chapter are for assistance only and the statutes listed govern application of the sentencing guidelines.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

PART 2
INCLUDED FELONIES

777.11 Chapters 1 to 199 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 11. This chapter applies to felonies enumerated in chapters 1 to 199 of the Michigan Compiled Laws as set forth in sections 11a to 11e of this chapter.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 90, Eff. Sept. 1, 1999;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 492, Eff. July 1, 2001;—Am. 2001, Act 150, Eff. Jan. 1, 2002;—Am. 2001, Act 154, Eff. Jan. 1, 2002;—Am. 2002, Act 31, Eff. Apr. 1, 2002.

777.11a Chapters 1 to 27 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 11a. This chapter applies to the following felonies enumerated in chapters 1 to 27 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
4.421(1)	Pub trst	G	Lobbyists — compensation contingent on outcome of action	3
4.421(2)	Pub trst	G	Lobbyists giving gifts	3
15.324(1)(d)	Pub trst	G	Purchase of public residential property by public servant	1
18.366(1)(c)	Property	E	False presentation to crime victim services commission to obtain $1,000 to $20,000 or with prior convictions	5
18.366(1)(d)	Property	D	False presentation to crime victim services commission to obtain $20,000 or more or with prior convictions	10
21.154	Pub trst	E	Public officer — embezzlement	5

History: Add. 2002, Act 31, Eff. Apr. 1, 2002;—Am. 2005, Act 265, Imd. Eff. Dec. 16, 2005.

777.11b Applicability of chapter to certain felonies; MCL 28.214(6)(b) to 28.754(1).

Sec. 11b. This chapter applies to the following felonies enumerated in chapter 28 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
28.214(6)(b)	Pub trst	F	Unauthorized disclosure of information from LEIN — subsequent offense	4
28.293(1)	Pub ord	E	False information when applying for state ID	5

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28.293(2)	Pub ord	D	False information when applying for state ID — second offense	7
28.293(3)	Pub ord	C	False information when applying for state ID — third or subsequent offense	15
28.295(1)(a)	Pub ord	D	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for 10 years or more	10
28.295(1)(b)	Pub ord	E	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by more than 6 months	5
28.295(2)	Pub ord	E	Selling counterfeited or forged state ID card or possessing counterfeited or forged state ID card with intent to deliver to another person or possessing 2 or more counterfeited or forged state ID cards	5
28.295(5)	Property	H	Using stolen state ID card to commit felony	Variable
28.295a(1)	Pub ord	H	False representation to obtain or misuse personal information	4
28.295a(2)	Pub ord	G	False representation to obtain or misuse personal information — second offense	7
28.295a(3)	Pub ord	C	False representation to obtain or misuse personal information — third or subsequent offense	15
28.308	Pub saf	E	False certification or statement in application for enhanced driver license or enhanced official state personal identification card	5
28.422(14)	Pub saf	F	Forgery on pistol license application	4
28.422a(5)	Pub saf	F	False statement on pistol sales record	4
28.425b(3)	Pub saf	F	False statement on concealed pistol permit application	4
28.425j(3)	Pub saf	F	Unlawful granting or presenting of pistol training certificate	4
28.425o(6)(c)	Pub saf	F	Carrying concealed pistol or electro-muscular disruption device in prohibited place — third or subsequent offense	4
28.435(14)(c)	Pub saf	G	Firearm sale without trigger lock, gun case, or storage container — third or subsequent offense	2
28.454(1)	Pub saf	G	Consumer fireworks certificate violation	2
28.468(1)(c)	Pub saf	E	Michigan fireworks safety act violation causing serious impairment	5
28.468(1)(d)	Pub saf	C	Michigan fireworks safety act violation causing death	15
28.516(2)	Pub saf	F	False statement on concealed firearm certificate application	4
28.674	Pub saf	F	False report of a public threat	4
28.729(1)(a)	Pub ord	F	Failure to register as a sex offender, first offense	4

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28.729(1)(b)	Pub ord	D	Failure to register as a sex offender, second offense	7
28.729(1)(c)	Pub ord	D	Failure to register as a sex offender, third or subsequent offense	10
28.729(2)	Pub ord	F	Failure to update sex offender registration information	2
28.734(2)(b)	Pub trst	G	Student safety zone violation involving work or loitering — subsequent offense	2
28.735(2)(b)	Pub trst	G	Student safety zone violation involving residency — subsequent offense	2
28.754(1)	Pub ord	F	False report of a child abduction	4

History: Add. 2002, Act 31, Eff. Apr. 1, 2002;—Am. 2004, Act 150, Eff. Sept. 1, 2004;—Am. 2005, Act 122, Eff. Jan. 1, 2006;—Am. 2005, Act 139, Eff. Jan. 1, 2006;—Am. 2005, Act 207, Eff. Feb. 1, 2006;—Am. 2008, Act 24, Imd. Eff. Mar. 13, 2008;—Am. 2008, Act 538, Eff. Mar. 31, 2009;—Am. 2011, Act 19, Eff. July 1, 2011;—Am. 2011, Act 257, Imd. Eff. Dec. 14, 2011;—Am. 2012, Act 124, Eff. Aug. 6, 2012;—Am. 2015, Act 4, Eff. Oct. 1, 2015;—Am. 2015, Act 201, Eff. Feb. 22, 2016;—Am. 2016, Act 234, Eff. Sept. 22, 2016.

777.11c Chapters 29 to 167 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 11c. This chapter applies to the following felonies enumerated in chapters 29 to 167 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
35.929	Pub trst	H	Willful falsification in application for veterans benefits	3
35.980	Pub trst	H	False statement in application for Korean veterans benefits	3
35.1029	Pub trst	H	False statement in application for Vietnam veterans benefits	3
38.412a(1)	Pub trst	H	County employee providing answers to county civil service exam	1
38.516	Pub trst	H	Fire and police civil service — appointment or employment contrary to act	2
45.82	Pub trst	E	County purchasing agent — violations in awarding bids or contracts	5
47.8	Pub trst	H	Payment of claim against county before audit	2
47.56	Pub trst	H	Wayne county treasurer paying claims without appropriate signature	2
51.364	Pub trst	H	Appointment or selection contrary to civil service commission rules	2
55.301	Pub trst	E	Performing notarial acts while commission revoked	5
55.309(1)(b)	Pub trst	F	Michigan notary public act violation involving conveyance of interest in real property	4
110.28	Pub trst	G	Fourth class cities — misappropriation of money or property	3
117.25(3)	Pub trst	E	Amendment to city electors — willfully affixing another's signature, false representation	15
125.1447(1)(c)	Property	E	False pretenses under state housing development act involving $1,000 to $20,000 or with prior convictions	5

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125.1447(1)(d)	Property	D	False pretenses under state housing development authority act involving $20,000 or more or with prior convictions	10

History: Add. 2002, Act 31, Eff. Apr. 1, 2002;—Am. 2011, Act 208, Eff. Jan. 1, 2012.

777.11d Chapter 168 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 11d. This chapter applies to the following felonies enumerated in chapter 168 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
168.731(4)	Pub trst	G	Election law — filing certain false statements	2
168.734	Pub trst	G	Election law — election board refusing to provide challenger conveniences	2
168.756	Pub trst	E	Elector's false statement concerning inability to mark ballot	5
168.757	Pub trst	E	Election inspector — unlawful conduct	5
168.759(8)	Pub trst	E	Forged signature on absentee ballot	5
168.759b	Pub trst	E	False statement in application for emergency absentee ballot	5
168.761(5)	Pub trst	E	Assisting an absentee voter in making a false statement	5
168.769(4)	Pub trst	E	Voting both in person and by absentee ballot	5
168.792a(11)	Pub trst	E	Disclosing how ballot voted or election results early before polls are closed	5
168.792a(16)	Pub trst	E	Disclosing election result or how ballot voted	5
168.808	Pub trst	E	Untrue statement by member of board of inspectors	4
168.873	Pub trst	E	Misconduct of election employee in recount — county and local	5
168.887	Pub trst	E	Misconduct of election employee in recount	5
168.932(a)	Pub trst	E	Bribing or intimidating voters	5
168.932(b)	Pub trst	E	Ballot tampering	5
168.932(c)	Pub trst	E	Destroying or falsifying election return or records	5
168.932(d)	Pub trst	E	Disclosing votes or obstructing voter	5
168.932(e)	Pub trst	E	Absentee ballot tampering	5
168.932(f)	Pub trst	E	Election law — possess absent voter ballot delivered to another person	5
168.932(g)	Pub trst	E	Suggesting how a disabled voter should vote	5
168.932(h)	Pub trst	E	Suggesting or influencing how an absentee voter should vote	5
168.932(i)	Pub trst	E	Organizing a meeting where absentee voter ballots are to be voted	5
168.932a	Pub trst	G	Election offenses	4
168.932c	Pub trst	E	Providing compensation to a person for registering individuals to vote	5
168.932e	Pub trst	E	Person intentionally misrepresenting that he or she is an election official in a polling place	5
168.933	Pub trst	E	False swearing to register or vote	5
168.936	Pub trst	E	Election law — perjury	5
168.937	Pub trst	E	Election law — forgery	5

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History: Add. 2002, Act 31, Eff. Apr. 1, 2002;—Am. 2012, Act 278, Eff. Aug. 15, 2012.

777.11e Chapters 169 to 199 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 11e. This chapter applies to the following felonies enumerated in chapters 169 to 199 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
169.233	Pub trst	H	Campaign finance — failure to file certain campaign statements	3
169.254	Pub trst	H	Campaign finance — corporate contributions	3
169.255	Pub trst	H	Campaign finance — corporate solicitation for certain funds	3
169.266	Pub trst	H	Campaign finance — qualified campaign expenditures	3

History: Add. 2002, Act 31, Eff. Apr. 1, 2002;—Am. 2012, Act 274, Eff. Dec. 30, 2012.

777.12 Chapters 200 to 299 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 12. This chapter applies to felonies enumerated in chapters 200 to 299 of the Michigan Compiled Laws as set forth in sections 12a to 12n of this chapter.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 457, Eff. Mar. 28, 2001;—Am. 2000, Act 459, Eff. Mar. 28, 2001;—Am. 2001, Act 104, Eff. Oct. 1, 2001;—Am. 2001, Act 133, Eff. Jan. 1, 2002;—Am. 2001, Act 136, Eff. Feb. 1, 2002;—Am. 2001, Act 160, Eff. Feb. 1, 2002;—Am. 2002, Act 24, Eff. Mar. 31, 2003;—Am. 2002, Act 34, Eff. Apr. 1, 2002.

777.12a Chapters 200 to 219; felonies.

Sec. 12a. This chapter applies to the following felonies enumerated in chapters 200 to 219 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
205.27(1)(a)	Pub trst	G	Failure to file or false tax return or payment	5
205.27(1)(b)	Pub trst	G	Aiding and abetting tax evasion or filing false returns	5
205.27(1)(c)	Pub trst	G	Making/permitting false tax returns or payments	5
205.27(3)	Pub trst	G	False tax returns/perjury	15
205.28(1)(e)	Pub trst	G	State employee compromising taxes	5
205.28(1)(f)	Pub trst	G	Unauthorized disclosure of tax information	5
205.428(2)	Pub trst	G	Tobacco products tax act violations	5
205.428(3)	Pub trst	G	Illegal sale of cigarettes or other tobacco products with wholesale price of $250.00 or more	5
205.428(6)	Pub trst	F	Illegal tobacco stamp or tobacco stamp device	10
205.428(7)	Pub trst	G	Illegal vending machine license, disk, or marker	5
207.118a	Pub ord	G	Gasoline tax — embezzlement over $100	10
207.119	Pub trst	G	Gasoline or motor fuel tax violation	4
207.127c	Pub ord	G	Diesel fuel tax — embezzlement over $100	10
207.754(3)	Pub trst	G	State treasurer — municipality tax — divulging confidential information	5

History: Add. 2002, Act 34, Eff. Apr. 1, 2002.

777.12b Chapters 220 to 256; felonies.

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Sec. 12b. This chapter applies to the following felonies enumerated in chapters 220 to 256 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
252.311	Property	H	Destroying a tree or shrub to make a sign more visible	2

History: Add. 2002, Act 34, Eff. Apr. 1, 2002.

777.12c Chapter 257; felonies.

Sec. 12c. This chapter applies to the following felonies enumerated in chapters I and II of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.233a(7)	Pub ord	G	Odometer tampering	5
257.254	Property	E	Possessing stolen vehicle title	10
257.257(1)	Property	G	Altering or forging vehicle documents — first offense	5
257.257(2)	Property	G	Altering or forging vehicle documents — second offense	7
257.257(3)	Property	E	Altering or forging vehicle documents — third or subsequent offense	15

History: Add. 2002, Act 34, Eff. Apr. 1, 2002.

777.12d Chapter 257; felonies.

Sec. 12d. This chapter applies to the following felonies enumerated in chapters III, IV, and V of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.309(6)	Pub ord	F	Corrupting an examining officer	5
257.309(7)	Pub ord	F	Deviating from road test criteria	5
257.309(8)	Pub ord	F	Forging, counterfeiting, or altering road test certification	5
257.310(7)(a)	Pub ord	D	Forging driver license with intent to commit crime punishable by 10 years or more	10
257.310(7)(b)	Pub ord	E	Forging driver license with intent to commit crime punishable by 6 months or more but less than 10 years	5
257.310(8)	Pub ord	E	Selling or possessing forged driver license with intent to deliver	5
257.310(9)	Pub ord	E	Possession of 2 or more forged driver licenses	5
257.312b(6)	Pub ord	F	Corrupting a person or agency conducting a motorcycle driving test	5
257.312b(7)	Pub ord	F	Deviating from motorcycle road test criteria	5
257.312b(8)	Pub ord	F	Forging, counterfeiting, or altering motorcycle road test certification	5
257.329(1)	Property	G	Possession/sale of stolen or counterfeit insurance certificates	5
257.329(2)	Property	E	Possession/sale of stolen or counterfeit insurance certificates — second offense	7
257.329(3)	Property	E	Possession/sale of stolen or counterfeit insurance certificates — third or subsequent offense	15

History: Add. 2002, Act 34, Eff. Apr. 1, 2002;—Am. 2002, Act 127, Eff. Apr. 22, 2002.

777.12e Chapter 257; felonies.

Sec. 12e. This chapter applies to the following felonies enumerated in sections 601 to 624b of chapter VI of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

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M.C.L.	Category	Class	Description	Stat Max
257.601b(3)	Person	C	Moving violation causing death to another person in a work zone or a school bus zone	15
257.601c(2)	Person	C	Moving violation causing death to operator of implement of husbandry	15
257.602a(2)	Pub saf	G	Fourth degree fleeing and eluding	2
257.602a(3)	Pub saf	E	Third degree fleeing and eluding	5
257.602a(4)	Person	D	Second degree fleeing and eluding	10
257.602a(5)	Person	C	First degree fleeing and eluding	15
257.616a(2)(b)	Pub saf	G	Using a signal preemption device	2
257.616a(2)(c)	Pub saf	E	Using a signal preemption device causing a traffic accident	5
257.616a(2)(d)	Person	D	Using a signal preemption device causing serious impairment of a body function	10
257.616a(2)(e)	Person	C	Using a signal preemption device causing death	15
257.616a(2)(f)	Pub ord	G	Selling or purchasing a signal preemption device	2
257.617(2)	Person	E	Failure to stop at scene of accident resulting in serious impairment or death	5
257.617(3)	Person	C	Failure to stop at scene of accident resulting in death when at fault	15

History: Add. 2002, Act 34, Eff. Apr. 1, 2002;—Am. 2004, Act 26, Eff. June 14, 2004;—Am. 2008, Act 297, Imd. Eff. Oct. 8, 2008;—Am. 2011, Act 59, Eff. July 1, 2011.

777.12f Chapter 257; felonies.

Sec. 12f. This chapter applies to the following felonies enumerated in sections 625 to 625q of chapter VI of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.625(4)(a)	Person	C	Operating a vehicle while intoxicated or impaired or with the presence of a controlled substance causing death	15
257.625(4)(b)	Person	B	Operating a vehicle with alcohol content of 0.17 grams or more with prior conviction and causing death	20
257.625(4)(c)	Person	B	Operating a vehicle while intoxicated or impaired or with the presence of a controlled substance causing death to certain persons	20
257.625(5)(a)	Person	E	Operating a vehicle while intoxicated or impaired or with the presence of a controlled substance causing serious impairment	5
257.625(5)(b)	Person	D	Operating a vehicle with alcohol content of 0.17 grams or more with prior conviction and causing serious impairment	10
257.625(7)(a)(*ii*)	Person	E	Operating a vehicle while intoxicated or impaired or with the presence of a controlled substance with a minor in the vehicle — subsequent offense	5

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257.625(9)(c)	Pub saf	E	Operating a vehicle while intoxicated or with the presence of a controlled substance — third or subsequent offense	5
257.625(10)(b)	Person	E	Allowing a vehicle to be operated while intoxicated or impaired causing death	5
257.625(10)(c)	Person	G	Allowing a vehicle to be operated while intoxicated or impaired causing serious impairment	2
257.625(11)(c)	Pub saf	E	Operating a vehicle while impaired — third or subsequent offense	5
257.625m(5)	Pub saf	E	Commercial drunk driving — third or subsequent offense	5
257.625q(3)	Pub saf	D	Knowingly providing false information concerning an ignition interlock device	10
257.625q(5)	Pub saf	D	Failure to report illegal ignition interlock device	10

History: Add. 2002, Act 34, Eff. Apr. 1, 2002;—Am. 2003, Act 134, Eff. Sept. 30, 2003;—Am. 2014, Act 220, Eff. Sept. 24, 2014;—Am. 2016, Act 34, Eff. June 6, 2016.

777.12g MCL 257.626(3) to 257.744a; felonies to which chapter applicable.

Sec. 12g. This chapter applies to the following felonies enumerated in sections 626 to 750 of chapter VI of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.626(3)	Person	E	Reckless driving causing serious impairment	5
257.626(4)	Person	C	Reckless driving causing death	15
257.653a(3)	Person	G	Failure to use due care and caution causing injury to emergency personnel	2
257.653a(4)	Person	C	Failure to use due care and caution causing death to emergency personnel	15
257.744a	Pub saf	D	False statement in citation — perjury	15

History: Add. 2002, Act 34, Eff. Apr. 1, 2002;—Am. 2008, Act 467, Eff. Oct. 31, 2010.

777.12h Chapter 257; felonies.

Sec. 12h. This chapter applies to the following felonies enumerated in chapters VII, VIII, and IX of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.902	Pub saf	E	Motor vehicle code violations	5
257.903(1)	Property	E	Motor vehicle code — false certification — first offense	5
257.903(2)	Property	E	Motor vehicle code — false certification — second offense	7
257.903(3)	Property	D	Motor vehicle code — false certification — third or subsequent offense	15
257.904(4)	Person	C	Operating a vehicle without a license causing death	15
257.904(5)	Person	E	Operating a vehicle without a license causing serious impairment	5
257.904(7)	Person	G	Allowing a vehicle to be operated without a license causing serious impairment	2
	Person	E	Allowing a vehicle to be operated without a license causing death	5

History: Add. 2002, Act 34, Eff. Apr. 1, 2002.

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777.12j Chapter 257; felonies.

Sec. 12j. This chapter applies to the following felonies enumerated in chapter 257 of the Michigan Compiled Laws beginning with MCL 257.941:

M.C.L.	Category	Class	Description	Stat Max
257.1353(2)	Pub trst	H	Motor vehicle — fail to record material matter — subsequent offense	2
257.1354(2)	Pub trst	H	Motor vehicle — general violations — subsequent offense	2
257.1355	Pub trst	H	Motor vehicle — fail to record transaction/falsify records	2

History: Add. 2002, Act 34, Eff. Apr. 1, 2002.

777.12k Chapters 258 to 260; felonies.

Sec. 12k. This chapter applies to the following felonies enumerated in chapters 258 to 260 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
259.80f(3)	Pub saf	D	Possessing weapon in sterile area of commercial airport	10
259.83(2)(b)	Pub saf	G	Aircraft — failure to comply with certification requirements — second violation	2
259.83(2)(c)	Pub saf	F	Aircraft — failure to comply with certification requirements — third or subsequent violation	4
259.83b(2)(a)	Pub saf	F	Conducting flight operations without certificate	4
259.83b(2)(b)	Pub saf	E	Conducting flight operations without certificate — second violation	5
259.83b(2)(c)	Pub saf	D	Conducting flight operations without certificate — third or subsequent violation	10
259.183	Property	E	Aircraft — unlawful taking or tampering	5
259.185(4)	Person	C	Operating or serving as crew of aircraft while under the influence causing death	15
259.185(5)	Person	E	Operating or serving as crew of aircraft while under the influence causing serious impairment	5
259.185(8)	Pub saf	E	Operating or serving as crew of aircraft while under the influence — third or subsequent offense	5

History: Add. 2002, Act 34, Eff. Apr. 1, 2002.

777.12m Chapters 285 to 289; felonies.

Sec. 12m. This chapter applies to the following felonies enumerated in chapters 285 to 289 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
285.83(4)	Pub trst	H	Fraudulent warehouse receipt violations under the grain dealers act	5
285.279(2)(c)	Property	E	False pretenses under Michigan family farm development act involving $1,000 to $20,000 or with prior convictions	5
285.279(2)(d)	Property	D	False pretenses under Michigan family farm development act involving $20,000 or more or with prior convictions	10

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286.228(6)	Pub ord	E	Insect pest and plant disease act — intentional violation with intent to damage natural resources	5
286.260(4)	Pub ord	E	Intentional violation of quarantine rule or order with intent to damage natural resources	5
286.929(4)	Pub trst	G	Organic products act violations	4
287.323(1)	Person	C	Dangerous animal causing death	15
287.323(2)	Person	G	Dangerous animal causing serious injury	4
287.679(2)	Pub ord	H	Dead animal violation — third or subsequent offense	1
287.744(1)	Pub ord	G	Animal industry act violations	5
287.855	Pub saf	G	Violations involving contamination of livestock or diseased or quarantined livestock	5
287.967(5)	Pub ord	G	Cervidae producer violations	4
289.5107(2)	Pub saf	F	Adulterated, misbranded, or falsely identified food	4

History: Add. 2002, Act 34, Eff. Apr. 1, 2002;—Am. 2002, Act 421, Eff. Mar. 31, 2003;—Am. 2005, Act 54, Eff. Sept. 1, 2005;—Am. 2015, Act 213, Eff. Mar. 14, 2016.

777.12n Chapters 290 to 299; felonies.

Sec. 12n. This chapter applies to the following felonies enumerated in chapters 290 to 299 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
290.629(1)	Person	G	Weights and measures — assaults enforcement officer	2
290.631(3)	Pub trst	G	Weights and measures	5
290.650	Person	G	Motor fuels — assaulting/ obstructing director or authorized representative	2
290.650b(3)	Pub trst	H	Motor fuels violations	2

History: Add. 2002, Act 34, Eff. Apr. 1, 2002.

777.13 Chapters 300 to 399 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 13. This chapter applies to felonies enumerated in chapters 300 to 399 of the Michigan Compiled Laws as set forth in sections 13a to 13p of this chapter.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 61, Eff. Sept. 1, 1999;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 304, Eff. Jan. 1, 2001;—Am. 2000, Act 315, Eff. Jan. 1, 2001;—Am. 2000, Act 412, Eff. Mar. 28, 2001;—Am. 2001, Act 13, Eff. July 1, 2001;—Am. 2001, Act 156, Eff. Jan. 1, 2002;—Am. 2002, Act 30, Eff. Apr. 1, 2002.

777.13b Applicability of chapter to certain felonies; MCL 324.1608 to 324.2157(1)(d).

Sec. 13b. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
324.1608	Person	G	Resisting and obstructing conservation officer	2
324.2157(1)(c)	Property	E	Damage to state property involving $1,000 to $20,000 or with prior convictions	5
324.2157(1)(d)	Property	D	Damage to state property involving $20,000 or more or with prior convictions	10

History: Add. 2002, Act 30, Eff. Apr. 1, 2002.

777.13c Applicability of chapter to certain felonies; MCL 324.3115(2) to 324.21548(1).

Sec. 13c. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan

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Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
324.3115(2)	Pub saf	H	Water pollution	2
324.3115(4)	Pub saf	G	Water pollution — substantial endangerment	5
324.5531(4)	Pub saf	H	Knowingly releasing air pollutants	2
324.5531(5)	Pub saf	G	Knowingly releasing air pollutants — causing death or serious bodily injury	6
324.5531(6)	Pub saf	C	Knowingly releasing air pollutants — intentionally causing death or serious bodily injury	15
324.8905(2)	Pub saf	H	Littering — infectious waste/pathological waste/sharps	2
324.8905(3)	Pub saf	G	Littering — infectious waste/pathological waste/sharps — subsequent offense	5
324.11151(2)	Pub saf	H	Hazardous waste — subsequent offense	2
324.11151(3)	Pub saf	H	Hazardous waste — disregard for human life	2
324.11151(3)	Pub saf	G	Hazardous waste — extreme indifference for human life	5
324.11549(2)	Pub saf	G	Solid waste — importing from foreign country	2
324.11719(2)	Pub saf	G	Septage — false statement or entry in a license application or record	2
324.12116(2)	Pub saf	H	Liquid industrial by-product — false statement in an application or shipping document	2
324.20139(3)	Pub saf	H	Hazardous substance — knowing release or intentional false statement	2
324.20139(4)	Pub saf	E	Hazardous substance — substantial endangerment	5
324.21324(1)	Pub saf	G	Underground storage tanks — false or misleading information	5
324.21548(1)	Pub trst	H	Underground storage tanks — false or misleading request for payment	5

History: Add. 2002, Act 30, Eff. Apr. 1, 2002;—Am. 2004, Act 382, Imd. Eff. Oct. 12, 2004;—Am. 2006, Act 59, Imd. Eff. Mar. 13, 2006;—Am. 2015, Act 226, Eff. Mar. 16, 2016.

777.13d Applicability of chapter to certain felonies; MCL 324.30316(3) to 324.33939(1).

Sec. 13d. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
324.30316(3)	Pub saf	H	NREPA violation — subsequent offense	2
324.31525	Person	G	NREPA — imminent danger of death or serious injury — subsequent offense	2
324.33939(1)	Pub trst	H	NREPA violation for commercial purposes	2

History: Add. 2002, Act 30, Eff. Apr. 1, 2002.

777.13e Applicability of chapter to certain felonies; MCL 324.40118(15) to 324.52908(1)(d).

Sec. 13e. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max

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324.40118(15)	Pub ord	G	Wildlife conservation — buying/selling protected animals — subsequent offense	4
324.41309(3)(b)	Property	G	Possession of nonaquatic prohibited species	2
324.41309(3)(c)	Property	F	Possession of aquatic prohibited species	3
324.41309(4)(a)	Property	G	Possession of restricted or nonnative species — intent to damage resources	2
324.41309(4)(b)	Property	F	Possession of prohibited or genetically engineered species — intent to damage resources	4
324.41309(8)	Property	G	Introduction of nonaquatic prohibited species or genetically engineered species — knowing identity	2
324.41309(9)	Property	F	Introduction of aquatic prohibited species — knowing identity	3
324.41309(10)(a)	Property	G	Introduction of restricted or nonnative species — knowing unlawful	2
324.41309(10)(b)	Property	F	Introduction of prohibited or genetically engineered species — knowing unlawful	4
324.41309(11)(a)	Property	F	Introduction of restricted or nonnative species — intent to damage resources	3
324.41309(11)(b)	Property	E	Introduction of prohibited or genetically engineered species — intent to damage resources	5
324.48738(4)	Property	E	Possession, importation, or planting of genetically engineered fish	5
324.51120(2)	Property	H	Removing forest products over $2,500	3
324.51512	Pub saf	D	Willfully setting forest fires	10
324.52908(1)(c)	Property	E	Damage to plant involving $1,000 to $20,000 or with prior convictions	5
324.52908(1)(d)	Property	D	Damage to plant involving $20,000 or more or with prior convictions	10

History: Add. 2002, Act 30, Eff. Apr. 1, 2002;—Am. 2003, Act 269, Eff. Mar. 30, 2004;—Am. 2005, Act 81, Eff. Sept. 1, 2005;—Am. 2014, Act 538, Eff. Apr. 15, 2015;—Am. 2015, Act 189, Eff. Feb. 14, 2016.

777.13f Applicability of chapter to certain felonies; MCL 324.61511 to 324.61521(1).

Sec. 13f. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
324.61511	Pub trst	G	False affidavit under NREPA	5
324.61521(1)	Pub trst	G	Evading rule under NREPA	3

History: Add. 2002, Act 30, Eff. Apr. 1, 2002.

777.13g Applicability of chapter to certain felonies; MCL 324.76107(3) to 324.82160(3).

Sec. 13g. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
324.76107(3)	Pub ord	D	Removing or mutilating human body from Great Lakes bottomland	10
324.76107(4)(c)	Property	E	Recovering abandoned property in Great Lakes having value of $1,000 to $20,000 or with prior convictions	5
324.76107(4)(d)	Property	D	Recovering abandoned property in Great Lakes having value of $20,000 or more or with prior convictions	10

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324.80130d(1)	Pub ord	H	False representation to obtain personal information	4
324.80130d(2)	Pub ord	G	False representation to obtain personal information — second offense	7
324.80130d(3)	Pub ord	C	False representation to obtain personal information — third or subsequent offense	15
324.80134a(2)	Person	E	Failure to stop at scene of marine accident causing serious impairment or death	5
324.80134a(3)	Person	C	Failure to stop at scene of marine accident causing death when at fault	15
324.80172	Person	G	Negligent crippling or homicide by vessel	2
324.80173	Person	G	Felonious operation of a vessel	2
324.80176(4)	Person	C	Operating a vessel under the influence or while impaired or with the presence of a controlled substance causing death	15
324.80176(5)	Person	E	Operating a vessel under the influence or while impaired or with the presence of a controlled substance causing serious impairment	5
324.80177(1)(c)	Pub saf	E	Operating a vessel under the influence or with the presence of a controlled substance — third or subsequent offense	5
324.80178b(1)(b)	Person	E	Operating a vessel while intoxicated or impaired with a minor in the vehicle — subsequent offense	5
324.80319a(1)	Pub ord	H	False representation to obtain personal information	4
324.80319a(2)	Pub ord	G	False representation to obtain personal information — second offense	7
324.80319a(3)	Pub ord	C	False representation to obtain personal information — third or subsequent offense	15
324.81120(1)	Pub ord	H	False representation to obtain personal information	4
324.81120(2)	Pub ord	G	False representation to obtain personal information — second offense	7
324.81120(3)	Pub ord	C	False representation to obtain personal information — third or subsequent offense	15
324.81134(4)	Person	C	Operating an ORV under the influence or impaired or with the presence of a controlled substance causing death	15
324.81134(5)	Person	E	Operating an ORV under the influence or impaired or with the presence of a controlled substance causing serious impairment	5
324.81134(8)(c)	Pub saf	E	Operating an ORV under the influence or with the presence of a controlled substance — third or subsequent offense	5
324.81134(12) (a)(*ii*)	Person	E	Operating an ORV while intoxicated or impaired with a minor in the ORV — subsequent offense	5

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324.82126c(1)	Person	G	Operating a snowmobile carelessly or negligently causing death or serious impairment	2
324.82126c(2)	Person	G	Operating a snowmobile without regard to safety causing serious impairment	2
324.82127(4)	Person	C	Operating a snowmobile under the influence or while impaired or with the presence of a controlled substance causing death	15
324.82127(5)	Person	E	Operating a snowmobile under the influence or while impaired or with the presence of a controlled substance causing serious impairment	5
324.82128(1)(c)	Pub saf	E	Operating a snowmobile under the influence or with the presence of a controlled substance — third or subsequent offense	5
324.82129b(1)(b)	Person	E	Operating a snowmobile under the influence or impaired with a minor occupying the snowmobile — subsequent offense	5
324.82160(1)	Pub ord	H	False representation to obtain personal information	4
324.82160(2)	Pub ord	G	False representation to obtain personal information — second offense	7
324.82160(3)	Pub ord	C	False representation to obtain personal information — third or subsequent offense	15

History: Add. 2002, Act 30, Eff. Apr. 1, 2002;—Am. 2003, Act 232, Eff. Apr. 1, 2004;—Am. 2014, Act 403, Eff. Mar. 31, 2015.

777.13j Applicability of chapter to certain felonies; MCL 328.232 and 330.1944.

Sec. 13j. This chapter applies to the following felonies enumerated in chapters 325 to 332 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
328.232	Property	E	Conversion of funeral contracts	5
330.1944	Pub saf	F	Criminal sexual psychopath leaving state without permission	4

History: Add. 2002, Act 30, Eff. Apr. 1, 2002;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

****** 777.13k THIS SECTION IS AMENDED EFFECTIVE MARCH 29, 2017: See 777.13k.amended ******

777.13k Applicability of chapter to certain felonies; MCL 333.2685 to 333.5661.

Sec. 13k. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.2685	Person	E	Use of a live human embryo or fetus for nontherapeutic research	5
333.2688	Person	E	Research on dead embryo or fetus without mother's consent	5
333.2689	Person	E	Abortion to obtain embryo or fetus	5
333.2690	Person	E	Sale or delivery of fetus or embryo	5
333.2813(3)	Pub trst	F	Unauthorized disclosure of social security number — subsequent offense	4
333.2835(9)	Pub trst	G	Disclosing confidential information — abortion	3

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333.2841(3)	Pub ord	E	Failure to inform law enforcement or funeral home of discovery of dead body with purpose of concealing fact or cause of death	5
333.5210	Person	F	AIDS — sexual penetration with uninformed partner	4
333.5661	Person	F	Fraud resulting in patient death	4

History: Add. 2002, Act 30, Eff. Apr. 1, 2002;—Am. 2012, Act 539, Eff. Apr. 1, 2013.

***** *777.13k.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 29, 2017* *****

777.13k.amended Applicability of chapter to certain felonies; MCL 333.2685 to 333.5661.

Sec. 13k. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.2685	Person	E	Use of a live human embryo, fetus, or neonate for nontherapeutic research	5
333.2688	Person	E	Research on dead embryo, fetus, or neonate without mother's consent	5
333.2689	Person	E	Abortion to obtain embryo or fetus	5
333.2690(1)	Person	E	Sale or delivery of fetus, embryo, or neonate for certain purposes	5
333.2690(2)	Person	E	Financially benefiting from granting certain persons access to an embryo, fetus, or neonate or from transferring possession of an embryo, fetus, or neonate to certain persons	5
333.2813(3)	Pub trst	F	Unauthorized disclosure of social security number — subsequent offense	4
333.2835(9)	Pub trst	G	Disclosing confidential information — abortion	3
333.2841(3)	Pub ord	E	Failure to inform law enforcement or funeral home of discovery of dead body with purpose of concealing fact or cause of death	5
333.5210	Person	F	AIDS — sexual penetration with uninformed partner	4
333.5661	Person	F	Fraud resulting in patient death	4

History: Add. 2002, Act 30, Eff. Apr. 1, 2002;—Am. 2012, Act 539, Eff. Apr. 1, 2013;—Am. 2016, Act 387, Eff. Mar. 29, 2017.

777.13m Applicability of chapter to certain felonies; MCL 333.7340 to 333.7417.

Sec. 13m. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.7340	CS	F	Sale, distribution, or delivery of product containing ephedrine or pseudoephedrine by mail, internet, or telephone	4
333.7340c(2)	CS	D	Soliciting another person to purchase or obtain ephedrine or pseudoephedrine to manufacture methamphetamine	10
333.7341(8)	CS	G	Delivery or manufacture of imitation controlled substance	2
333.7401(2)(a)(*i*)	CS	A	Delivery or manufacture of 1,000 or more grams of certain schedule 1 or 2 controlled substances	Life

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333.7401(2)(a)(*ii*)	CS	A	Delivery or manufacture of 450 or more but less than 1,000 grams of certain schedule 1 or 2 controlled substances	30
333.7401(2)(a)(*iii*)	CS	B	Delivery or manufacture of 50 or more but less than 450 grams of certain schedule 1 or 2 controlled substances	20
333.7401(2)(a)(*iv*)	CS	D	Delivery or manufacture of less than 50 grams of certain schedule 1 or 2 controlled substances	20
333.7401(2)(b)(*i*)	CS	B	Delivery or manufacture of methamphetamine or 3, 4-methylenedioxymethamphetamine	20
333.7401(2)(b)(*ii*)	CS	E	Delivery or manufacture of certain schedule 1, 2, or 3 controlled substances	7
333.7401(2)(c)	CS	F	Delivery or manufacture of schedule 4 controlled substance	4
333.7401(2)(d)(*i*)	CS	C	Delivery or manufacture of 45 or more kilograms of marijuana	15
333.7401(2)(d)(*ii*)	CS	D	Delivery or manufacture of 5 or more but less than 45 kilograms of marijuana	7
333.7401(2)(d)(*iii*)	CS	F	Delivery or manufacture of less than 5 kilograms or 20 plants of marijuana	4
333.7401(2)(e)	CS	G	Delivery or manufacture of schedule 5 controlled substance	2
333.7401(2)(f)	CS	D	Delivery or manufacture of a prescription form or counterfeit prescription form	7
333.7401a	Person	B	Delivering a controlled substance or GBL with intent to commit criminal sexual conduct	20
333.7401b(3)(a)	CS	E	Delivery or manufacture of GBL	7
333.7401b(3)(b)	CS	G	Possession of GBL	2
333.7401c(2)(a)	CS	D	Operating or maintaining controlled substance laboratory	10
333.7401c(2)(b)	CS	B	Operating or maintaining controlled substance laboratory in presence of minor	20
333.7401c(2)(c)	CS	B	Operating or maintaining controlled substance laboratory involving hazardous waste	20
333.7401c(2)(d)	CS	B	Operating or maintaining controlled substance laboratory near certain places	20
333.7401c(2)(e)	CS	A	Operating or maintaining controlled substance laboratory involving firearm or other harmful device	25
333.7401c(2)(f)	CS	B	Operating or maintaining controlled substance laboratory involving methamphetamine	20
333.7402(2)(a)	CS	D	Delivery or manufacture of certain counterfeit controlled substances	10
333.7402(2)(b)	CS	E	Delivery or manufacture of schedule 1, 2, or 3 counterfeit controlled substance	5
333.7402(2)(c)	CS	F	Delivery or manufacture of counterfeit schedule 4 controlled substance	4

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333.7402(2)(d)	CS	G	Delivery or manufacture of counterfeit schedule 5 controlled substance	2
333.7402(2)(e)	CS	C	Delivery or manufacture of controlled substance analogue	15
333.7403(2)(a)(*i*)	CS	A	Possession of 1,000 or more grams of certain schedule 1 or 2 controlled substances	Life
333.7403(2)(a)(*ii*)	CS	A	Possession of 450 or more but less than 1,000 grams of certain schedule 1 or 2 controlled substances	30
333.7403(2)(a)(*iii*)	CS	B	Possession of 50 or more but less than 450 grams of certain schedule 1 or 2 controlled substances	20
333.7403(2)(a)(*iv*)	CS	G	Possession of 25 or more but less than 50 grams of certain schedule 1 or 2 controlled substances	4
333.7403(2)(a)(*v*)	CS	G	Possession of less than 25 grams of certain schedule 1 or 2 controlled substances	4
333.7403(2)(b)(*i*)	CS	D	Possession of methamphetamine or 3, 4-methylenedioxymethamphetamine	10
333.7403(2)(b)(*ii*)	CS	G	Possession of certain schedule 1, 2, 3, or 4 controlled substances or controlled substances analogue	2
333.7403a	CS	F	Fraudulently obtaining controlled substance or prescription for controlled substance	4
333.7405(1)(a)	CS	G	Controlled substance violations by licensee	2
333.7405(1)(b)	CS	G	Manufacturing or distribution violations by licensee	2
333.7405(1)(c)	CS	G	Refusing lawful inspection	2
333.7405(1)(d)	CS	G	Maintaining drug house	2
333.7405(1)(e)	CS	G	Unlawfully dispensing out-of-state prescription	2
333.7407(1)(a)	CS	G	Controlled substance violations by licensee	4
333.7407(1)(b)	CS	G	Use of fictitious, revoked, or suspended license number	4
333.7407(1)(c)	CS	G	Obtaining controlled substance by fraud	4
333.7407(1)(d)	CS	G	False reports under controlled substance article	4
333.7407(1)(e)	CS	G	Possession of counterfeiting implements	4
333.7407(1)(f)	CS	F	Disclosing or obtaining prescription information	4
333.7407(1)(g)	CS	F	Possession of counterfeit prescription form	4
333.7407(2)	CS	G	Refusing to furnish records under controlled substance article	4
333.7410a	CS	G	Controlled substance offense or offense involving GBL in or near a park	2
333.7417	CS	F	Sell or offer to sell named product producing same or similar effect as scheduled ingredient	4

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History: Add. 2002, Act 30, Eff. Apr. 1, 2002;—Am. 2002, Act 666, Eff. Mar. 1, 2003;—Am. 2002, Act 711, Eff. Apr. 1, 2003;—Am. 2003, Act 311, Eff. Apr. 1, 2004;—Am. 2006, Act 259, Eff. Oct. 1, 2006;—Am. 2010, Act 170, Eff. Oct. 1, 2010;—Am. 2010, Act 355, Imd. Eff. Dec. 22, 2010;—Am. 2013, Act 124, Imd. Eff. Oct. 1, 2013;—Am. 2014, Act 218, Eff. Jan. 1, 2015;—Am. 2016, Act 126, Eff. Aug. 23, 2016.

777.13n Applicability of chapter to certain felonies; MCL 333.10116(1) to 333.26424(k).

Sec. 13n. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.10116(1)	Pub ord	E	Purchasing or selling body part of deceased individual for transplantation or therapy	5
333.10117	Pub ord	E	Falsifying, concealing, or defacing document of anatomical gift for financial gain	5
333.10204(1)	Pub ord	F	Transferring a human organ for valuable consideration	4
333.10204(4)	Pub saf	F	Removal of a human organ by an unauthorized individual	4
333.10205	Pub saf	F	Removal of a human organ in an unapproved facility	4
333.13738(2)	Pub saf	F	Waste disposal violations — subsequent offense	5
333.13738(3)	Pub saf	F	Improper disposal of waste with indifference to human life	2
	Pub saf	B	Improper disposal of waste with extreme indifference to human life	20
333.16170(3)	Pub trst	F	False representation of completion of health professional recovery program	4
333.16294	Pub saf	F	Unauthorized practice of health profession	4
333.17748d(2)	Person	G	Compounding pharmacy violation	2
333.17748d(3)	Person	F	Compounding pharmacy violation resulting in personal injury	4
333.17748d(4)	Person	E	Compounding pharmacy violation resulting in serious impairment of a body function	5
333.17748d(5)	Person	C	Compounding pharmacy violation resulting in death	15
333.17764(3)	Pub saf	G	Adulterating, misbranding, removing, or substituting a drug or device	2
333.17764(4)	Pub saf	F	Adulterating, misbranding, removing, or substituting a drug or device resulting in personal injury	4
333.17764(5)	Pub saf	E	Adulterating, misbranding, removing, or substituting a drug or device resulting in serious impairment of a body function	5
333.17764(6)	Pub saf	C	Adulterating, misbranding, removing, or substituting a drug or device resulting in death	15
333.17766c(2)(b)	CS	G	Possessing more than 12 grams ephedrine or pseudoephedrine	2
333.17766c(2)(c)	CS	E	Purchasing or possessing ephedrine or pseudoephedrine knowing or having reason to know that it is to be used to manufacture methamphetamine	5

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333.20142(5)	Pub trst	F	False statement in application for licensure as health facility	4
333.20153	Pub saf	D	Reuse of single-use medical device	10
333.21792	Pub trst	G	Nursing home accepting referral fees, bribing officials, or accepting bribes	4
333.26424(k)	Pub trst	G	Selling marihuana in violation of registry identification card restrictions	2

History: Add. 2002, Act 30, Eff. Apr. 1, 2002;—Am. 2003, Act 309, Eff. Apr. 1, 2004;—Am. 2004, Act 215, Eff. Oct. 12, 2004;—Am. 2008, Act 37, Imd. Eff. Mar. 17, 2008;—Am. 2010, Act 26, Imd. Eff. Mar. 26, 2010;—Am. 2011, Act 87, Imd. Eff. July 15, 2011;—Am. 2012, Act 513, Eff. Apr. 1, 2013;—Am. 2014, Act 279, Eff. Sept. 30, 2014.

****** 777.13p THIS SECTION IS AMENDED EFFECTIVE APRIL 4, 2017: See 777.13p.amended ******

777.13p Applicability of chapter to certain felonies; MCL 338.823 to 388.1937.

Sec. 13p. This chapter applies to the following felonies enumerated in chapters 338 to 399 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
338.823	Pub trst	F	Private detective license act violation	4
338.1053	Pub trst	F	Private security business and security alarm act violation	4
338.3434a(2)	Pub trst	F	Unauthorized disclosure of a social security number — subsequent offense	4
338.3471(1)(b)	Pub trst	G	Michigan immigration clerical assistant act violation — subsequent offense	2
338.3649a(2)	Pub saf	E	Michigan boxing and mixed martial arts regulatory act violation — professional in mixed martial arts contest with amateur	3
339.601(6)(b)	Pub trst	G	Unauthorized practice of residential building, residential maintenance, or alteration contracting — second or subsequent offense	2
339.601(6)(c)	Pub trst	F	Unauthorized practice of residential building, residential maintenance, or alteration contracting causing serious injury or death	4
339.601(7)(c)	Pub trst	F	Unauthorized practice of, or unauthorized operation of a school teaching, architecture, professional engineering, or professional land surveyor causing serious injury or death	4
339.735	Pub trst	E	Unauthorized practice of public accounting	5
380.1230d(3)(a)	Pub saf	G	Failure by school employee to report charge or conviction	2
380.1816	Pub trst	F	Improper use of bond proceeds	4
388.936	Pub trst	F	Knowingly making false statement to obtain school district loan	4
388.1937	Pub trst	F	Making false statement or concealing material information to obtain qualification of school bond issue or improperly using proceeds of school bonds	4

History: Add. 2002, Act 30, Eff. Apr. 1, 2002;—Am. 2002, Act 475, Eff. Oct. 1, 2002;—Am. 2004, Act 162, Eff. Oct. 1, 2004;—Am. 2004, Act 418, Eff. Mar. 30, 2005;—Am. 2005, Act 96, Imd. Eff. July 20, 2005;—Am. 2005, Act 125, Imd. Eff. Sept. 29, 2005;—Am. 2005, Act 279, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 340, Imd. Eff. Dec. 23, 2008;—Am. 2010, Act 317, Eff. Apr. 1, 2011;—

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Am. 2015, Act 184, Eff. Feb. 10, 2016.

****** 777.13p.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 4, 2017 ******

777.13p.amended Applicability of chapter to certain felonies; MCL 338.823 to 388.1937.

Sec. 13p. This chapter applies to the following felonies enumerated in chapters 338 to 399 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
338.823	Pub trst	F	Private detective license act violation	4
338.1053	Pub trst	F	Private security business and security alarm act violation	4
338.3434a(2)	Pub trst	F	Unauthorized disclosure of a social security number — subsequent offense	4
338.3471(1)(b)	Pub trst	G	Michigan immigration clerical assistant act violation — subsequent offense	2
338.3649a(2)	Pub saf	E	Michigan boxing and mixed martial arts regulatory act violation — professional in mixed martial arts contest with amateur	3
339.601(6)(b)	Pub trst	G	Unauthorized practice of residential building, residential maintenance, or alteration contracting — second or subsequent offense	2
339.601(6)(c)	Pub trst	F	Unauthorized practice of residential building, residential maintenance, or alteration contracting causing serious injury or death	4
339.601(7)(c)	Pub trst	F	Unauthorized practice of, or unauthorized operation of a school teaching, architecture, professional engineering, or professional land surveyor causing serious injury or death	4
339.735	Pub trst	E	Unauthorized practice of public accounting	5
339.5601(5)	Pub trst	E	Unauthorized practice of an occupation under the skilled trades regulation act — third or subsequent offense	5
380.1230d(3)(a)	Pub saf	G	Failure by school employee to report charge or conviction	2
380.1816	Pub trst	F	Improper use of bond proceeds	4
388.936	Pub trst	F	Knowingly making false statement to obtain school district loan	4
388.1937	Pub trst	F	Making false statement or concealing material information to obtain qualification of school bond issue or improperly using proceeds of school bonds	4

History: Add. 2002, Act 30, Eff. Apr. 1, 2002;—Am. 2002, Act 475, Eff. Oct. 1, 2002;—Am. 2004, Act 162, Eff. Oct. 1, 2004;—Am. 2004, Act 418, Eff. Mar. 30, 2005;—Am. 2005, Act 96, Imd. Eff. July 20, 2005;—Am. 2005, Act 125, Imd. Eff. Sept. 29, 2005;—Am. 2005, Act 279, Imd. Eff. Dec. 19, 2005;—Am. 2008, Act 340, Imd. Eff. Dec. 23, 2008;—Am. 2010, Act 317, Eff. Apr. 1, 2011;—Am. 2015, Act 184, Eff. Feb. 10, 2016;—Am. 2016, Act 416, Eff. Apr. 4, 2016.

777.14 Chapters 400 to 499 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 14. This chapter applies to felonies enumerated in chapters 400 to 499 of the Michigan Compiled Laws as set forth in sections 14a to 14p.

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History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 363, Eff. July 1, 2001;—Am. 2002, Act 29, Eff. Apr. 1, 2002.

777.14a Applicability of chapter to certain felonies; MCL 400.60(2) to 400.722(4).

Sec. 14a. This chapter applies to the following felonies enumerated in chapters 400 to 407 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
400.60(2)	Property	H	Welfare — obtaining over $500 by failure to inform	4
400.293	Pub trst	E	Charitable organizations and solicitations act violations	5
400.603	Pub trst	G	Medicaid fraud — false statement in benefit/concealing information	4
400.604	Pub trst	G	Medicaid fraud — kickback/referral fees	4
400.605	Pub trst	G	Medicaid fraud — false statement regarding institutions	4
400.606	Property	E	Medicaid fraud — conspiracy	10
400.607	Pub trst	G	Medicaid fraud — false claim/medically unnecessary	4
400.609	Property	D	Medicaid fraud — fourth or subsequent offense	10
400.713(13)	Pub saf	H	Adult foster care — unlicensed facility	2
	Pub saf	F	Adult foster care — unlicensed facility — subsequent violation	5
400.722(4)	Pub saf	F	Adult foster care — maintaining operation after refusal of licensure	5

History: Add. 2002, Act 29, Eff. Apr. 1, 2002;—Am. 2010, Act 378, Eff. Mar. 30, 2011.

777.14b Applicability of chapter to certain felonies; MCL 408.1035(5) to 409.122(3).

Sec. 14b. This chapter applies to the following felonies enumerated in chapters 408 to 420 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
408.1035(5)	Person	H	MIOSHA violation causing employee death	1
	Person	G	MIOSHA violation causing employee death — subsequent offense	3
408.1035a(5)	Person	H	MIOSHA violation causing employee death	1
	Person	G	MIOSHA violation causing employee death — subsequent offense	3
409.122(2)	Person	G	Employment of children during certain hours — second offense	2
	Person	E	Employment of children during certain hours — third or subsequent offense	10
409.122(3)	Person	D	Employment of children in child sexually abusive activity	20

History: Add. 2002, Act 29, Eff. Apr. 1, 2002.

777.14c Applicability of chapter to certain felonies; MCL 421.54 to 421.54c.

Sec. 14c. This chapter applies to the following felonies enumerated in chapter 421 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
421.54(a)(*ii*)(B)	Property	H	Unemployment comp fraud — failure to comply with act/rule $25,000-$100,000	2
421.54(a)(*ii*)(C)	Property	G	Unemployment comp fraud — failure to comply with act/rule over $100,000	5

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421.54(a)(*iv*)(B)	Property	H	Unemployment comp fraud — willful violation of act/rule over $100,000	2
421.54(b)(*ii*)(B)	Property	H	Unemployment comp fraud — false statement or misrepresentation over $25,000	2
421.54(b)(*ii*)(C)	Property	H	Unemployment comp fraud — false statement or misrepresentation without actual loss	2
421.54(d)	Property	H	Unemployment comp fraud — disclose confidential information for financial gain	1
421.54(m)	Property	H	Unemployment comp fraud — knowing false statement or representation or failure to disclose material fact $3,500 - $25,000	1
421.54a	Property	G	Unemployment comp fraud — false statement as condition of employment	10
421.54b(1)(b)(*i*)	Property	H	Unemployment comp fraud — conspiracy with loss of $25,000 or less	2
421.54b(1)(b)(*ii*)	Property	G	Unemployment comp fraud — conspiracy with loss over $25,000	5
421.54b(1)(b)(*iii*)	Property	H	Unemployment comp fraud — conspiracy with no actual loss	2
421.54c(1)(b)(*ii*)	Property	H	Unemployment comp fraud — embezzlement of $25,000 to under $100,000	2
421.54c(1)(b)(*iii*)	Property	G	Unemployment comp fraud — embezzlement of $100,000 or more	5
421.54c(1)(b)(*iv*)	Property	H	Unemployment comp fraud — embezzlement with no actual loss	2

History: Add. 2002, Act 29, Eff. Apr. 1, 2002;—Am. 2012, Act 477, Imd. Eff. Dec. 27, 2012.

777.14d Applicability of chapter to certain felonies; MCL 431.257 to 432.218.

Sec. 14d. This chapter applies to the following felonies enumerated in chapters 422 to 432 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
431.257	Pub trst	G	Horse racing — delivery of unclaimed winnings	2
431.307(8)	Pub trst	G	Horse racing — testifying falsely to commissioner while under oath	4
431.317(9)	Pub trst	E	Horse racing — accepting wagers on live or simulcast horse races without a license	5
431.330(6)	Pub trst	G	Horse racing — administering a drug that could affect racing condition	5
431.332	Pub trst	G	Horse racing — influencing or attempting to influence result of race	5
432.30	Property	G	Lottery — forgery of tickets	5
432.218	Pub ord	D	Casino gaming offenses	10

History: Add. 2002, Act 29, Eff. Apr. 1, 2002;—Am. 2016, Act 272, Imd. Eff. July 1, 2016.

777.14f Applicability of chapter to certain felonies; MCL 436.1701(2) to 436.1919.

Sec. 14f. This chapter applies to the following felonies enumerated in chapter 436 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
436.1701(2)	Person	D	Selling alcohol to a minor and causing death	10
436.1909(3)	Pub ord	H	Liquor violation	1

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436.1909(4)(a)	Pub ord	F	Unauthorized sale, delivery, or importation of spirits — 80,000 ml or more	4
436.1919	Pub ord	H	Fraudulent documents, labels, or stamps	1

History: Add. 2002, Act 29, Eff. Apr. 1, 2002;—Am. 2010, Act 317, Eff. Apr. 1, 2011.

777.14g Applicability of chapter to certain felonies; MCL 438.41 to 444.107.

Sec. 14g. This chapter applies to the following felonies enumerated in chapters 437 to 444 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
438.41	Property	E	Criminal usury	5
440.9320(8)	Property	G	Farming — illegal sale of secured products	3
440.9501	Pub trst	E	Filing a false or fraudulent financing statement with the secretary of state	5
440.9501a	Pub trst	E	Filing false affidavit of fraudulent financing statement	5
442.219	Pub trst	E	False statement in application for license to conduct certain sales	5
443.50	Pub trst	E	Issuing warehouse receipt for goods not received	5
443.52	Pub trst	E	Issuing duplicate warehouse receipt not so marked	5
444.13	Pub trst	H	Warehousemen and warehouse receipts	2
444.107	Pub trst	E	Warehouse certificates — willfully alter or destroy	5

History: Add. 2002, Act 29, Eff. Apr. 1, 2002;—Am. 2004, Act 304, Eff. Jan. 1, 2005;—Am. 2008, Act 382, Imd. Eff. Dec. 29, 2008
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777.14h Applicability of chapter to certain felonies; MCL 445.65 to 445.2507(2).

Sec. 14h. This chapter applies to the following felonies enumerated in chapter 445 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
445.65	Pub ord	E	Identity theft	5
	Pub ord	D	Identity theft – second offense	10
	Pub ord	C	Identify theft – third or subsequent offense	15
445.67	Pub ord	E	Solicit, obtain, possess, sell, or transfer personal identifying information of another or falsify a police report with intent to commit identity theft	5
	Pub ord	D	Obtain, possess, sell, or transfer personal identifying information of another or falsify a police report with intent to commit identity theft – second offense	10
	Pub ord	C	Obtain, possess, sell, or transfer personal identifying information of another or falsify a police report with intent to commit identity theft – third or subsequent offense	15
445.408(2)	Pub ord	E	Buying or selling stolen scrap metal	5
445.408(3)	Pub ord	E	Buying or selling stolen scrap metal – subsequent offense	5
445.433(2)	Pub ord	E	Knowingly buying or selling stolen nonferrous metal articles	5

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445.487(2)	Pub ord	H	Precious metal and gem dealer failure to record material matter – subsequent offense	2
445.488(2)	Pub ord	H	Precious metal and gem dealer violations – subsequent offense	2
445.489	Pub ord	H	Precious metal and gem dealer failing to record transaction or falsifying transaction record, or making improper purchase	2
445.490	Pub ord	H	Precious metal and gem dealer failure to obtain a certificate of registration	2
445.574a(2)(d)	Pub ord	H	Improper return of 10,000 or more nonrefundable containers	5
445.574a(3)(d)	Pub ord	H	Improper acceptance or delivery of 10,000 or more nonrefundable containers by dealer	5
445.574a(4)(d)	Pub ord	H	Improper acceptance or delivery of 10,000 or more nonrefundable containers by distributor	5
445.667	Pub ord	G	Changing, altering, or modifying reverse vending machine or data for reverse vending machine	2
445.779	Pub ord	H	Antitrust violation	2
445.1505	Pub trst	G	Fraudulent filing, offer, or sale of franchise	7
445.1508	Pub trst	G	Sale of franchise without proper disclosure	7
445.1513	Pub trst	G	Illegal offer or sale of franchise	7
445.1520	Pub trst	G	Failure to keep or maintain record of sale of franchise	7
445.1521	Pub trst	G	False representation of departmental finding, recommendation, or approval of franchise document	7
445.1523	Pub trst	G	False statement of material fact to department of attorney general regarding franchise	7
445.1525	Pub trst	G	False advertising of franchise	7
445.1528	Pub trst	D	Offer or sale of franchise through pyramid or chain promotion	7
445.1671	Pub trst	E	False statement in report required by mortgage broker or lender	15
445.2081	Pub ord	E	Purchasing or selling stolen plastic bulk merchandise containers	5
445.2507(2)	Pub ord	F	Violation of unsolicited commercial e-mail protection act in furtherance of crime	4

History: Add. 2002, Act 29, Eff. Apr. 1, 2002;—Am. 2003, Act 134, Eff. Sept. 30, 2003;—Am. 2004, Act 457, Eff. Mar. 1, 2005;—Am. 2006, Act 594, Eff. Mar. 30, 2007;—Am. 2008, Act 65, Imd. Eff. Apr. 3, 2008;—Am. 2008, Act 386, Imd. Eff. Dec. 29, 2008;—Am. 2008, Act 430, Eff. Apr. 1, 2009;—Am. 2010, Act 317, Eff. Apr. 1, 2011;—Am. 2010, Act 319, Eff. Apr. 1, 2011;—Am. 2012, Act 187, Imd. Eff. June 20, 2012.

777.14j Applicability of chapter to certain felonies; MCL 450.775 to 451.2508.

Sec. 14j. This chapter applies to the following felonies enumerated in chapters 450 and 451 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
450.775	Pub ord	H	Corporations — minority and woman owned businesses	2

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450.795	Pub ord	H	Corporations — handicapper business opportunity act	2
451.319	Pub trst	G	Securities, real estate, and debt management — violation	2
451.434	Pub trst	H	Debt management act — licensee violations	2
451.2508	Pub trst	E	Securities act violation	10

History: Add. 2002, Act 29, Eff. Apr. 1, 2002;—Am. 2008, Act 552, Imd. Eff. Jan. 16, 2009.

777.14m Applicability of chapter to certain felonies; MCL 462.257(1) to 472.36.

Sec. 14m. This chapter applies to the following felonies enumerated in chapters 460 to 473 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
462.257(1)	Person	A	Trains — endangering travel	Life
462.353(5)	Pub saf	E	Operating a locomotive under the influence — third or subsequent offense	5
462.353(6)	Person	C	Operating locomotive under the influence or while impaired causing death	15
462.353(7)	Person	E	Operating locomotive under the influence or while impaired causing serious impairment	5
472.21	Pub saf	A	Causing derailment of streetcar, tram, or trolley or endangering life of person engaged in the work of or traveling by streetcar, tram, or trolley	Life
472.36	Pub saf	A	Street railways — obstruction of track	Life

History: Add. 2002, Act 29, Eff. Apr. 1, 2002;—Am. 2002, Act 659, Eff. Apr. 1, 2003;—Am. 2008, Act 484, Imd. Eff. Jan. 12, 2009
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777.14p Applicability of chapter to certain felonies; MCL 482.44 to 493.56a(13).

Sec. 14p. This chapter applies to the following felonies enumerated in chapters 482 to 499 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
482.44	Property	H	Bills of lading — issuance for goods not received	5
482.46	Property	H	Bills of lading — issuance of duplicate negotiable bill with intent to defraud	5
482.48	Property	H	Bills of lading — negotiation when goods not in carriers' possession	5
482.49	Property	H	Bills of lading — inducing carrier to issue when goods have not been received	5
482.50	Property	H	Bills of lading — issuance of non-negotiable bill not so marked	5
487.1042(1)	Pub trst	E	Money transmission services act — intentionally making a false statement, misrepresentation, or certification in a record or document	5
487.1042(2)	Pub trst	E	Criminal fraud in the conduct of money transmission services business	5
487.1042(3)	Pub trst	E	Money transmission services act license violation	5
487.1505(6)	Pub trst	E	BIDCO act — knowingly receiving money or property at an interest rate exceeding 25%	5
492.137(a)	Pub trst	H	Installment sales of motor vehicles	3

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493.56a(13)	Pub trst	C	False statement in reports — secondary mortgage	15

History: Add. 2002, Act 29, Eff. Apr. 1, 2002;—Am. 2006, Act 251, Imd. Eff. July 3, 2006;—Am. 2008, Act 323, Imd. Eff. Dec. 18, 2008;—Am. 2008, Act 528, Imd. Eff. Jan. 13, 2009.

777.15 Chapters 500 to 749 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 15. This chapter applies to the following felonies enumerated in chapters 500 to 749 of the Michigan Compiled Laws as set forth in sections 15a to 15g of this chapter.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2001, Act 10, Imd. Eff. May 29, 2001;—Am. 2001, Act 152, Eff. Jan. 1, 2002;—Am. 2002, Act 206, Eff. May 1, 2002.

777.15a Chapters 500 to 550 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 15a. This chapter applies to the following felonies enumerated in chapters 500 to 550 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
500.1325(3)	Pub trst	E	Insurance code — knowingly misrepresenting false financial condition	5
500.1371	Pub trst	H	Holding companies — violation	2
500.1505(2)	Pub trst	C	Insurance code — license and regulatory violations	15
500.4511(1)	Pub trst	F	Insurance code — fraudulent insurance act	4
500.4511(2)	Pub trst	D	Insurance fraud — agreement or conspiracy to commit	10
500.5252(4)	Property	G	Insurance — improper personal interest in transactions	5
500.7034(2)	Pub trst	E	Officer of a MEWA knowingly receive valuables for sale property or loan	10
500.8197(2)	Pub trst	C	Insurance — knowing or willful false statements in application for insurance	15
500.8197(3)	Property	E	Consolidation merger — compensation otherwise than expressed in contract	5

History: Add. 2002, Act 206, Eff. May 1, 2002.

777.15b Chapters 551 to 570 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 15b. This chapter applies to the following felonies enumerated in chapters 551 to 570 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
551.102(2)	Pub trst	F	Unauthorized disclosure of social security number — subsequent offense	4
554.985	Property	E	Continuing care community disclosure act — knowing violation	7
565.371	Property	G	Fraudulent conveyances — recording with intent to deceive	3
570.152	Property	G	Contractor — fraudulent use of building contract fund	3
570.1110(11)(c)	Property	E	Contractor — false sworn statement involving $1,000 to $20,000 or with prior convictions	5
570.1110(11)(d)	Property	D	Contractor — false sworn statement involving $20,000 or more or with prior convictions	10

History: Add. 2002, Act 206, Eff. May 1, 2002;—Am. 2010, Act 152, Imd. Eff. Aug. 23, 2010;—Am. 2014, Act 451, Imd. Eff. Jan. 2, 2015.

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777.15d Chapter 600 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 15d. This chapter applies to the following felonies enumerated in chapter 600 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
600.908(8)	Pub trst	E	Immunity to witness — committing perjury	15
600.2136	Pub trst	E	Library record, book, paper — false certification in court	15
600.2907a	Property	G	Recording documents affecting property without lawful cause	3
600.2916	Pub saf	G	Revised judicature act — lethal gases for fumigation	4
600.8713	Pub trst	G	Revised judicature act — false statement by authorized local officials	15
600.8813	Pub trst	E	Law enforcement officer — knowingly making false statement in a citation	15

History: Add. 2002, Act 206, Eff. May 1, 2002.

777.15f Chapters 700 to 720 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 15f. This chapter applies to the following felonies enumerated in chapters 700 to 720 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
710.54(11)	Pub trst	F	Offer to give other consideration — adoption — subsequent violation	4
710.55(1)	Pub trst	F	Adoption — persons not authorized placing child — subsequent violation	4
710.69	Person	F	Michigan adoption law — subsequent offense	4
711.1(8)	Pub trst	E	Intentional false statement in petition for name change	15
712A.6b(3)	Pub ord	G	Violation of court order — subsequent conviction	2

History: Add. 2002, Act 206, Eff. May 1, 2002.

777.15g Chapters 721 to 730 of Michigan Compiled Laws; felonies to which chapters applicable.

Sec. 15g. This chapter applies to the following felonies enumerated in chapters 721 to 730 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
722.115e(2)(a)	Pub saf	G	Failure to report arraignment for criminal charges — child care centers, day care centers, and employees	2
722.115f(8)(a)	Pub saf	G	Failure to report arraignment on criminal charges — family child care homes and group child care homes	2
722.115i(2)(a)	Pub saf	G	Failure to report arraignment on criminal charges – foster family homes and foster family group homes	2
722.115*l*(b)	Pub ord	F	False report initiating special investigation	Variable
722.633(5)(b)	Person	F	Intentional false report of child abuse constituting a felony	Variable
722.675	Pub ord	E	Distributing obscene matter to children	2
722.857	Person	E	Surrogate parenting contracts involving minors or intellectually disabled	5

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722.859(3)	Person	E	Surrogate parenting contracts for compensation	5

History: Add. 2002, Act 206, Eff. May 1, 2002;—Am. 2005, Act 106, Imd. Eff. Sept. 14, 2005;—Am. 2005, Act 134, Eff. Jan. 1, 2006;—Am. 2007, Act 220, Imd. Eff. Dec. 28, 2007;—Am. 2008, Act 16, Eff. June 1, 2008;—Am. 2014, Act 76, Imd. Eff. Mar. 28, 2014.

777.16 Chapter 750 of Michigan compiled laws; felonies to which chapter applicable.

Sec. 16. This chapter applies to felonies enumerated in chapter 750 of the Michigan Compiled Laws as set forth in sections 16a to 16bb of this chapter.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2007, Act 20, Imd. Eff. June 19, 2007.

777.16a MCL 750.13 to 750.32; felonies to which chapter applicable.

Sec. 16a. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.13	Person	D	Enticing female under 16 for immoral purposes	10
750.14	Person	C	Abortion resulting in death of female	15
	Person	G	Abortion	4
750.16(1)	Person	G	Adulterate, misbrand, remove, or substitute a drug or medicine	2
750.16(2)	Person	F	Adulterate, misbrand, remove, or substitute a drug or medicine causing personal injury	4
750.16(3)	Person	E	Adulterate, misbrand, remove, or substitute a drug or medicine resulting in serious impairment of body function	5
750.16(4)	Person	C	Adulterate, misbrand, remove, or substitute a drug or medicine resulting in death	15
750.18(3)	Person	G	Mix, color, stain, or powder a drug or medicine with an ingredient or material so as to injuriously affect its quality or potency	2
750.18(4)	Person	F	Mix, color, stain, or powder a drug or medicine with an ingredient or material so as to injuriously affect its quality or potency resulting in personal injury	4
750.18(5)	Person	E	Mix, color, stain, or powder a drug or medicine with an ingredient or material so as to injuriously affect its quality or potency resulting in serious impairment of body function	5
750.18(6)	Person	C	Mix, color, stain, or powder a drug or medicine with an ingredient or material so as to injuriously affect its quality or potency resulting in death	15
750.30	Pub ord	H	Adultery	4
750.32	Pub ord	H	Cohabitation of divorced parties	4

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2004, Act 216, Eff. Oct. 12, 2004;—Am. 2010, Act 97, Eff. June 25, 2010.

777.16b MCL 750.49(2)(a) to (d) to 750.68; felonies to which chapter applicable.

Sec. 16b. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.49(2)(a) to (d)	Pub ord	F	Fighting animals or providing facilities for animal fights	4

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750.49(2)(e)	Pub ord	F	Organizing or promoting animal fights	4
750.49(2)(f)	Pub ord	H	Attending animal fight	4
750.49(2)(g)	Pub ord	F	Breeding or selling fighting animals	4
750.49(2)(h)	Pub ord	F	Selling or possessing equipment for animal fights	4
750.49(8)	Person	A	Inciting fighting animal resulting in death	Life
750.49(9)	Person	F	Inciting fighting animal to attack	4
750.49(10)	Person	D	Fighting animal attacking without provocation and death resulting	15
750.50(4)(c)	Pub ord	G	Animal neglect or cruelty involving 4 or more animals but fewer than 10 animals or with 1 prior conviction	2
750.50(4)(d)	Pub ord	F	Animal neglect or cruelty involving 10 or more animals or with 2 or more prior convictions	4
750.50b(3)	Property	F	Killing or torturing animals	4
750.50c(5)	Pub ord	E	Killing or causing serious physical harm to law enforcement animal or search and rescue dog	5
750.50c(7)	Pub saf	H	Harassing or causing harm to law enforcement animal or search and rescue dog while committing crime	2
750.68	Property	G	Changing brands with intent to steal	4

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2006, Act 518, Imd. Eff. Dec. 29, 2006;—Am. 2007, Act 151, Eff. Apr. 1, 2008;—Am. 2008, Act 562, Imd. Eff. Jan. 16, 2009.

777.16c MCL 750.72 to 750.79(1)(e); felonies to which chapter applicable.

Sec. 16c. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.72	Person	A	First degree arson	Life
750.73	Person	B	Second degree arson	20
750.74	Property	D	Third degree arson	10
750.75	Property	E	Fourth degree arson	5
750.76(3)(a)	Person	A	Arson of insured dwelling	Life
750.76(3)(b)	Property	B	Arson of insured building or structure	20
750.76(3)(c)	Property	D	Arson of insured personal property	10
750.79(1)(c)	Property	E	Preparing to burn with intent to commit arson of $1,000 or more but less than $20,000, or with prior conviction	5
750.79(1)(d)	Property	D	Preparing to burn with intent to commit arson of $20,000, or more, or with 2 or more prior convictions, or with intent to commit insurance fraud, or causing injury	10
750.79(1)(e)	Property	C	Preparing to burn with intent to commit arson of dwelling or to commit insurance fraud, or causing injury	15

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2012, Act 534, Eff. Apr. 3, 2013;—Am. 2013, Act 124, Imd. Eff. Oct. 1, 2013;—Am. 2014, Act 112, Eff. July 9, 2014.

777.16d MCL 750.81(5) to 750.91; felonies to which chapter applicable.

Sec. 16d. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max

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750.81(5)	Person	E	Domestic assault or assault of a pregnant individual with prior convictions	5
750.81a(3)	Person	E	Aggravated domestic assault with prior convictions	5
750.81d(1)	Person	G	Assaulting, resisting, or obstructing certain persons	2
750.81d(2)	Person	F	Assaulting, resisting, or obstructing certain persons causing injury	4
750.81d(3)	Person	C	Assaulting, resisting, or obstructing certain persons causing serious impairment	15
750.81d(4)	Person	B	Assaulting, resisting, or obstructing certain persons causing death	20
750.81e(2)	Person	G	Assault on utility worker causing bodily injury requiring medical attention	2
750.81e(3)	Person	E	Assault on utility worker causing serious impairment of a body function	5
750.82(1)	Person	F	Felonious assault	4
750.82(2)	Person	F	Felonious assault — weapon-free school zone	4
750.83	Person	A	Assault with intent to murder	Life
750.84(1)(a)	Person	D	Assault with intent to do great bodily harm less than murder	10
750.84(1)(b)	Person	D	Assault by strangulation or suffocation	10
750.85	Person	A	Torture	Life
750.86	Person	D	Assault with intent to maim	10
750.87	Person	D	Assault with intent to commit a felony	10
750.88	Person	C	Assault with intent to commit unarmed robbery	15
750.89	Person	A	Assault with intent to commit armed robbery	Life
750.90	Person	D	Sexual intercourse under pretext of medical treatment	10
750.90a	Person	A	Assault against a pregnant individual causing miscarriage, stillbirth, or death to embryo or fetus with intent or recklessness	Life
750.90b(a)	Person	C	Assault against a pregnant individual resulting in miscarriage, stillbirth, or death to embryo or fetus	15
750.90b(b)	Person	D	Assault against a pregnant individual resulting in great bodily harm to embryo or fetus	10
750.90c(a)	Person	C	Gross negligence against a pregnant individual resulting in miscarriage, stillbirth, or death to embryo or fetus	15
750.90c(b)	Person	E	Gross negligence against a pregnant individual resulting in great bodily harm to embryo or fetus	5
750.90d(a)	Person	C	Operating a vehicle under the influence or while impaired causing miscarriage, stillbirth, or death to embryo or fetus	15
750.90d(b)	Person	E	Operating a vehicle under the influence or while impaired causing serious or aggravated injury to embryo or fetus	5

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750.90e	Person	G	Careless or reckless driving causing miscarriage, stillbirth, or death to embryo or fetus	2
750.90g(3)	Person	A	Performance of procedure on live infant with intent to cause death	Life
750.90h	Person	G	Performing or assisting in performance of partial-birth abortion	2
750.91	Person	A	Attempted murder	Life

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 192, Eff. Mar. 10, 2000;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2001, Act 2, Eff. June 1, 2001;—Am. 2001, Act 20, Eff. Sept. 1, 2001;—Am. 2002, Act 269, Eff. July 15, 2002;—Am. 2005, Act 336, Eff. Mar. 1, 2006;—Am. 2010, Act 132, Imd. Eff. July 21, 2010;—Am. 2011, Act 169, Eff. Jan. 1, 2012;—Am. 2012, Act 365, Eff. Apr. 1, 2013;—Am. 2016, Act 88, Eff. July 25, 2016.

777.16e MCL 750.93 to 750.106; felonies to which chapter applicable.

Sec. 16e. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.93	Property	G	Removing or destroying bonds in state treasury	10
750.94	Property	G	Issuing bank notes without complying with requirements	10
750.95	Property	G	Fraudulent bank notes	10
750.96	Property	G	Fraudulent disposal of bank property	4
750.98	Pub ord	G	Private banking	4
750.99	Pub trst	G	Certifying checks without sufficient funds	4
750.100	Pub trst	E	Banks — conducting business when insolvent	5
750.101	Pub trst	E	Violating financial institutions act	5
750.104	Property	F	Fitting boat with intent to destroy	4
750.105	Property	G	Making false cargo invoice for boat	4
750.106	Property	G	Boats — making or procuring false protest	4

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2015, Act 213, Eff. Mar. 14, 2016.

777.16f MCL 750.110 to 750.131a; felonies to which chapter applicable.

Sec. 16f. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.110	Property	D	Breaking and entering with intent to commit felony or larceny	10
750.110a(2)	Person	B	Home invasion — first degree	20
750.110a(3)	Person	C	Home invasion — second degree	15
750.110a(4)	Person	E	Home invasion — third degree	5
750.111	Property	E	Entering without breaking with intent to commit felony or larceny	5
750.112	Person	A	Burglary with explosives	Life
750.116	Property	E	Possession of burglar's tools	10
750.117	Pub trst	F	Bribing a public officer	4
750.118	Pub trst	D	Public officer accepting bribe	10
750.119(1)(a)	Pub trst	F	Bribing a juror or other person	4
750.119(1)(b)	Pub trst	D	Bribing a juror or other person in case punishable by more than 10 years	10
750.120	Pub trst	F	Juror or other person accepting a bribe	4
750.120a(2)(a)	Pub ord	F	Juror intimidation	4
750.120a(2)(b)	Pub ord	D	Juror intimidation in case punishable by more than 10 years	10

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750.120a(2)(c)	Person	C	Juror intimidation by committing crime or threatening to kill or injure	15
750.120a(4)	Person	D	Retaliating against juror	10
750.121	Pub trst	F	Bribing a public officer to influence contract	4
750.122(7)(a)	Pub ord	F	Bribing or intimidating witness	4
750.122(7)(b)	Pub ord	D	Bribing or intimidating witness in case punishable by more than 10 years	10
750.122(7)(c)	Person	C	Intimidating witness by committing crime or threatening to kill or injure	15
750.122(8)	Person	D	Retaliating against witness	10
750.124	Pub trst	G	Bribing an athlete	4
750.128	Pub ord	H	Bucket shop violation	2
750.131(3)(b)(*ii*)	Property	G	NSF checks — $100 to $500 — third or subsequent offense	2
750.131(3)(c)	Property	G	NSF checks — $500 or more	2
750.131a(1)	Property	H	No account checks	2
750.131a(2)	Property	H	NSF checks, 3 or more within 10 days	2

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 45, Eff. Oct. 1, 1999;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 498, Eff. Mar. 28, 2001.

777.16g MCL 750.135 to 750.147b; felonies to which chapter applicable; violation of MCL 750.145d.

Sec. 16g. (1) This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.135	Person	D	Exposing children with intent to injure or abandon	10
750.135a(2)(c)	Person	D	Leaving child unattended in vehicle resulting in serious physical harm	10
750.135a(2)(d)	Person	B	Leaving child unattended in vehicle resulting in death	15
750.136b(2)	Person	A	First degree child abuse	Life
750.136b(4)(a)	Person	C	Second degree child abuse — first offense	10
750.136b(4)(b)	Person	B	Second degree child abuse — second or subsequent offense	20
750.136b(6)	Person	G	Third degree child abuse	2
750.136c	Person	B	Buying or selling an individual	20
750.136d(1)(a)	Person	A	First degree child abuse in presence of another child	Life
750.136d(1)(b)	Person	D	Second degree child abuse in presence of another child – first offense	10
750.136d(1)(c)	Person	B	Second degree child abuse in presence of another child – second or subsequent offense	20
750.136d(1)(d)	Person	G	Third degree child abuse in presence of another child	2
750.145a	Person	F	Soliciting child to commit an immoral act	4
750.145b	Person	D	Accosting children for immoral purposes with prior conviction	10
750.145c(2)	Person	B	Producing child sexually abusive activity or material	20

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750.145c(3)	Person	D	Distributing, promoting, or financing the distribution of child sexually abusive activity or material	7
750.145c(4)	Person	F	Possessing child sexually abusive material	4
750.145d(2)(b)	Variable	G	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 1 year but less than 2 years	2
750.145d(2)(c)	Variable	F	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 2 years but less than 4 years	4
750.145d(2)(d)	Variable	D	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 4 years but less than 10 years	10
750.145d(2)(e)	Variable	C	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 10 years but less than 15 years	15
750.145d(2)(f)	Variable	B	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 15 years or for life	20
750.145n(1)	Person	C	First degree vulnerable adult abuse	15
750.145n(2)	Person	F	Second degree vulnerable adult abuse	4
750.145n(3)	Person	G	Third degree vulnerable adult abuse	2
750.145o	Person	E	Death of vulnerable adult caused by unlicensed caretaker	5
750.145p(1)	Person	G	Commingling funds of, obstructing investigation regarding, or filing false information regarding, vulnerable adult	2
750.145p(2)	Person	G	Retaliation or discrimination by caregiver against vulnerable adult	2
750.145p(5)	Person	E	Caregiver or licensee violation against vulnerable adult — subsequent offense	5
750.147b	Person	G	Ethnic intimidation	2

(2) For a violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d, determine the offense category, offense variable level, and prior record variable level based on the underlying offense.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 39, Eff. Aug. 1, 1999;—Am. 2000, Act 183, Eff. Sept. 18, 2000;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2002, Act 47, Eff. June 1, 2002;—Am. 2002, Act 630, Eff. Mar. 31, 2003;—Am. 2008, Act 520, Eff. Apr. 1, 2009;—Am. 2008, Act 521, Eff. Apr. 1, 2009;—Am. 2012, Act 195, Eff. July 1, 2012.

777.16h MCL 750.149 to 750.157w; felonies to which chapter applicable.

Sec. 16h. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.149	Pub saf	F	Concealing an offense punishable by life	4
750.157a(b)	Pub ord	H	Conspiracy — gambling	5

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750.157a(d)	Pub ord	G	Conspiracy to commit legal act in illegal manner	5
750.157b(2)	Person	A	Solicitation of murder	Life
750.157b(3)(a)	Pub ord	E	Solicitation of felony punishable by life or 5 or more years	5
750.157b(3)(b)	Pub ord	G	Solicitation of felony punishable by less than 5 years	2
750.157n(1)	Property	H	Financial transaction device — stealing, retaining, or using without consent	4
750.157n(2)	Property	H	Possessing fraudulent or altered financial transaction device	4
750.157p	Property	H	Possessing financial transaction device without permission and with intent to use or sell	4
750.157q	Property	H	Delivery or sale of fraudulent financial transaction device	4
750.157r	Property	H	Financial transaction device — forgery, alteration, or counterfeiting	4
750.157s(1)(b)(*ii*)	Property	H	Using revoked or canceled financial transaction device involving $100 to $500 with prior convictions	2
750.157s(1)(c)	Property	H	Use of revoked or canceled financial transaction device involving $500 or more	2
750.157t	Property	H	Furnishing goods or services to person committing violation with financial transaction device	4
750.157u	Property	H	Overcharging person using financial transaction device	4
750.157v	Property	H	False statement of identity to obtain financial transaction device	4
750.157w(1)(c)	Property	E	Fraudulently withdrawing or transferring $1,000 to $20,000 with financial transaction device	5
750.157w(1)(d)	Property	D	Fraudulently withdrawing or transferring $20,000 or more with financial transaction device	10

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.16i MCL 750.158 to 750.182a; felonies to which chapter applicable.

Sec. 16i. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.158	Pub ord	E	Sodomy	15
750.159j	Pub saf	B	Racketeering	20
750.160	Pub ord	D	Disinterring or mutilating dead human body	10
750.160a	Pub ord	H	Photographing dead human body	2
750.160c	Pub ord	D	Improper disposal of dead human body after more than 180 days	10
750.161	Pub ord	G	Desertion, abandonment, or nonsupport	3
750.164	Pub ord	F	Desertion to escape prosecution	4
750.165	Pub ord	F	Failing to pay support	4
750.168(2)(a)	Pub ord	G	Disorderly conduct at a funeral, memorial service, viewing, procession, or burial	2

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750.168(2)(b)	Pub ord	F	Disorderly conduct at a funeral, memorial service, viewing, procession, or burial — subsequent offense	4
750.174(4)	Property	E	Embezzlement by agent of $1,000 to $20,000, or with prior convictions, or of $200 to $1,000 from nonprofit corporation or charitable organization	5
750.174(5)	Property	D	Embezzlement by agent of $20,000 to $50,000, or with prior convictions, or of $1,000 to $20,000 from nonprofit corporation or charitable organization	10
750.174(6)	Property	C	Embezzlement by agent of $50,000 to $100,000	15
750.174(7)	Property	B	Embezzlement by agent of $100,000 or more	20
750.174a(4)	Property	E	Embezzlement from vulnerable adult of $1,000 to $20,000 or with prior convictions	5
750.174a(5)	Property	D	Embezzlement from vulnerable adult of $20,000 to $50,000 or with prior convictions	10
750.174a(6)	Property	C	Embezzlement from vulnerable adult of $50,000 to $100,000 or with prior convictions	15
750.174a(7)	Property	B	Embezzlement from vulnerable adult of $100,000 or more or with prior convictions	20
750.175	Pub trst	D	Embezzlement by public officer of more than $50	10
750.176	Pub trst	E	Embezzlement by administrator, executor, or guardian	10
750.177(2)	Property	D	Embezzlement by chattel mortgagor of $20,000 or more or with prior convictions	10
750.177(3)	Property	E	Embezzlement by chattel mortgagor of $1,000 to $20,000 or with prior convictions	5
750.178(2)	Property	D	Embezzling mortgaged or leased property of $20,000 or with prior convictions	10
750.178(3)	Property	E	Embezzling mortgaged or leased property of $1,000 to $20,000 or with prior convictions	5
750.180	Property	D	Embezzlement by financial institution	20
750.181(4)	Property	E	Embezzling jointly held property with value of $1,000 to $20,000 or with prior convictions	5
750.181(5)	Property	D	Embezzling jointly held property with value of $20,000 or more or with prior convictions	10
750.182	Property	G	Embezzlement by warehouses	4
750.182a	Pub trst	H	Falsifying school records	2

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 223, Eff. Sept. 25, 2000;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2002, Act 278, Imd. Eff. May 9, 2002;—Am. 2003, Act 268, Eff. Apr. 1, 2004;—Am. 2006, Act 149, Eff. Aug. 22, 2006;—Am. 2006, Act 151, Eff. Aug. 22, 2006;—Am. 2006, Act 574, Eff. Mar. 30, 2007;—Am. 2010, Act 95, Imd. Eff. June 22, 2010;—Am. 2012, Act 6, Imd. Eff. Feb. 14, 2012;—Am. 2012, Act 168, Imd. Eff. June 19, 2012;—Am. 2012, Act 169, Imd. Eff. June 19, 2012.

Compiler's note: In this section in the reference to M.C.L. 750.178(2), under the heading "Description", the phrase “property of $20,000 or with prior convictions” evidently should read “property of $20,000 or more or with prior convictions.”

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777.16j MCL 750.183 to 750.199a; felonies to which chapter applicable.

Sec. 16j. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.183	Pub saf	E	Aiding escaping prisoner	7
750.186a(1)	Pub saf	F	Escape from a juvenile facility	4
750.189	Pub saf	H	Officer negligently allowing prisoner to escape or refusing to receive prisoner	2
750.190	Pub saf	G	Officer receiving reward to assist or permit escape	2
750.193	Pub saf	E	Escape from prison	5
750.195(1)	Pub saf	H	Escape from a misdemeanor jail sentence	2
750.195(2)	Pub saf	F	Escape from a felony jail sentence	4
750.197(1)	Pub saf	H	Escape while awaiting trial for misdemeanor	2
750.197(2)	Pub saf	F	Escape while awaiting trial for felony	4
750.197c	Pub saf	E	Escape from jail through violence	5
750.199(3)	Pub saf	F	Harboring a person for whom felony warrant has been issued	4
750.199a	Pub ord	F	Absconding on or forfeiting bond	4

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 243, Imd. Eff. June 30, 2006;—Am. 2006, Act 536, Imd. Eff. Dec. 29, 2006.

777.16k MCL 750.200 to 750.212a; felonies to which chapter applicable.

Sec. 16k. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.200	Pub saf	E	Transporting an explosive by common carrier	5
750.200i(2)(a)	Pub saf	C	Manufacturing or using a harmful device	15
750.200i(2)(b)	Property	B	Harmful device causing property damage	20
750.200i(2)(c)	Person	A	Harmful device causing personal injury	25
750.200i(2)(d)	Person	A	Harmful device causing serious impairment	Life
750.200j(2)(a)	Person	E	Irritant or irritant device	5
750.200j(2)(b)	Property	E	Irritant or irritant device causing property damage	7
750.200j(2)(c)	Person	D	Irritant or irritant device causing personal injury	10
750.200j(2)(d)	Person	A	Irritant or irritant device causing serious impairment	25
750.200j(2)(e)	Person	A	Irritant or irritant device causing death	Life
750.200(*l*)	Person	E	Falsely exposing person to harmful substance or device	5
750.201	Pub saf	E	Transporting certain types of explosives	5
750.202	Pub saf	F	Shipping an explosive with false markings or invoice	4
750.204(2)(a)	Pub saf	C	Sending an explosive with malicious intent	15
750.204(2)(b)	Property	B	Sending an explosive causing property damage	20

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750.204(2)(c)	Person	A	Sending an explosive causing physical injury	25
750.204(2)(d)	Person	A	Sending an explosive causing serious impairment	Life
750.204a	Pub saf	E	Sending or transporting an imitation explosive device with malicious intent	5
750.207(2)(a)	Pub saf	C	Placing an explosive with malicious intent	15
750.207(2)(b)	Property	B	Placing an explosive causing property damage	20
750.207(2)(c)	Person	A	Placing an explosive causing physical injury	25
750.207(2)(d)	Person	A	Placing an explosive causing serious impairment	Life
750.209(1)(a)	Pub saf	C	Placing an offensive or injurious substance with intent to injure	15
750.209(1)(b)	Property	B	Placing an offensive or injurious substance causing property damage	20
750.209(1)(c)	Person	A	Placing an offensive or injurious substance causing physical injury	25
750.209(1)(d)	Person	A	Placing an offensive or injurious substance causing serious impairment	Life
750.209(2)	Pub saf	E	Placing an offensive or injurious substance with intent to alarm or annoy	5
750.209a	Pub saf	D	Possessing an explosive device in public place	10
750.210(2)(a)	Pub saf	C	Possessing or carrying an explosive or combustible substance with malicious intent	15
750.210(2)(b)	Property	B	Possessing or carrying an explosive or combustible substance causing property damage	20
750.210(2)(c)	Person	A	Possessing or carrying an explosive or combustible substance causing physical injury	25
750.210(2)(d)	Person	A	Possessing or carrying an explosive or combustible substance causing serious impairment	Life
750.210a	Pub saf	H	Sale of valerium	5
750.211a(2)(a)	Pub saf	F	Manufacturing or possessing a Molotov cocktail or similar device designed to explode upon impact or by heat or flame or that is highly incendiary	4
750.211a(2)(b)	Pub saf	C	Manufacturing or possessing an explosive or incendiary device with malicious intent	15
750.211a(2)(c)	Property	B	Manufacturing or possessing an explosive or incendiary device causing property damage	20
750.211a(2)(d)	Person	A	Manufacturing or possessing an explosive or incendiary device causing physical injury	25
750.211a(2)(e)	Person	A	Manufacturing or possessing an explosive or incendiary device causing serious impairment	Life

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750.212a	Person	B	Explosives violation involving a vulnerable target causing death or injury	20

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2001, Act 136, Imd. Eff. Oct. 23, 2001;—Am. 2004, Act 524, Eff. Apr. 1, 2005.

777.16*l* MCL 750.213 to 750.219f; felonies to which chapter applicable; violation of MCL 750.213a(3)(a).

Sec. 16*l*. (1) This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.213	Person	B	Threats to extort money	20
750.213a(3)(a)	Person	Variable	Coercing female to have an abortion against her will	Variable
750.215(3)	Pub saf	F	Impersonating peace officer	4
750.217b	Pub saf	G	Impersonating public utility employee	2
750.217c(3)	Pub ord	H	Impersonating public officer or employee — subsequent conviction	2
750.217c(4)	Pub ord	G	Impersonating public officer or employee — third or subsequent conviction	4
750.217d	Pub saf	C	False representation or practice as health professional	15
750.217e	Pub ord	G	Impersonating a DHS employee	2
750.217f	Pub saf	G	Impersonating a firefighter or emergency medical service personnel	2
750.218(4)	Property	E	False pretenses involving $1,000 or more but less than $20,000 or $200 or more but less than $1,000 with prior convictions	5
750.218(5)	Property	C	False pretenses involving $20,000 or more but less than $50,000 or $1,000 or more but less than $20,000 with prior convictions	15
750.218(6)	Property	C	False pretenses involving a value of $50,000 or more but less than $100,000 or $20,000 or more but less than $50,000 with prior convictions	15
750.218(7)	Property	B	False pretenses involving a value of $100,000 or more or $50,000 or more but less than $100,000 with prior convictions	20
750.219a(2)(c)	Property	E	Telecommunications fraud with 1 or more prior convictions or involving a value of $1,000 to $20,000	5
750.219a(2)(d)	Property	D	Telecommunications fraud with 2 or more prior convictions or involving a value of $20,000 or more	10
750.219d(4)(a)	Pub ord	C	Residential mortgage fraud violation involving loan value of $100,000 or less	15
750.219d(4)(b)	Pub ord	B	Residential mortgage fraud violation involving loan value of more than $100,000	20
750.219e	Property	F	Receiving, possessing, preparing, or submitting an unauthorized credit application or receiving or possessing proceeds	4

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750.219f	Property	F	Receiving with intent to forward, possessing with intent to forward, or forwarding an unauthorized credit application or proceeds	4

(2) For a violation of section 213a(3)(a) of the Michigan penal code, 1931 PA 328, MCL 750.213a, determine the offense class, offense variable level, and prior record variable level based on the underlying offense.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 165, Eff. Feb. 3, 1999;—Am. 1999, Act 168, Eff. Mar. 10, 2000;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2001, Act 19, Eff. Sept. 1, 2001;—Am. 2003, Act 16, Eff. Sept. 1, 2003;—Am. 2005, Act 171, Eff. Jan. 1, 2006;—Am. 2011, Act 202, Eff. Jan. 1, 2012;—Am. 2016, Act 150, Eff. Sept. 7, 2016.

777.16m MCL 750.223(2) to 750.237(4); felonies to which chapter applicable.

Sec. 16m. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.223(2)	Pub saf	F	Sale of firearm to minor — subsequent offense	4
750.223(3)	Pub ord	D	Sale of firearm to person prohibited from possessing	10
750.224	Pub saf	E	Manufacture or sale of silencer, bomb, blackjack, automatic weapon, gas spray, etc.	5
750.224a(4)	Pub saf	F	Possession or sale of electrical current weapons	4
750.224a(6)	Pub saf	G	Improper use of electro-muscular disruption device	2
750.224b	Pub saf	E	Possession of short barreled shotgun or rifle	5
750.224c	Pub saf	F	Armor piercing ammunition	4
750.224d(2)	Person	G	Using self-defense spray device	2
750.224e	Pub saf	F	Manufacture/sale/possession of devices to convert semiautomatic weapons	4
750.224f(5)	Pub saf	E	Possession or sale of firearm by felon	5
750.224f(6)	Pub saf	E	Possession or sale of ammunition by felon	5
750.226	Pub saf	E	Carrying firearm or dangerous weapon with unlawful intent	5
750.227	Pub saf	E	Carrying a concealed weapon	5
750.227a	Pub saf	F	Unlawful possession of pistol	4
750.227c	Pub saf	G	Possessing a loaded firearm in or upon a vehicle	2
750.227f	Pub saf	F	Wearing body armor during commission of certain crimes	4
750.227g(1)	Pub saf	F	Felon purchasing, owning, possessing, or using body armor	4
750.230	Pub saf	G	Altering ID mark on firearm	2
750.232a(3)	Pub saf	G	False statement in a pistol application	4
750.234a(1)(a)	Pub saf	D	Discharging firearm from vehicle	10
750.234a(1)(b)	Person	C	Discharging firearm from vehicle causing physical injury	15
750.234a(1)(c)	Person	B	Discharging firearm from vehicle causing serious impairment	20
750.234a(1)(d)	Person	A	Discharging firearm from vehicle causing death	Life
750.234b(1)	Pub saf	D	Discharging firearm at a dwelling or potentially occupied structure	10
750.234b(2)	Pub saf	D	Discharging firearm in a dwelling or potentially occupied structure	10

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750.234b(3)	Pub saf	C	Discharging firearm in or at a dwelling or potentially occupied structure causing physical injury	15
750.234b(4)	Person	B	Discharging firearm in or at a dwelling or potentially occupied structure causing serious impairment	20
750.234b(5)	Person	A	Discharging firearm in or at a dwelling or potentially occupied structure causing death	Life
750.234c	Pub saf	F	Discharging firearm at emergency/police vehicle	4
750.236	Person	C	Setting spring gun — death resulting	15
750.237(3)	Person	E	Using firearm while under the influence or impaired causing serious impairment	5
750.237(4)	Person	C	Using firearm while under the influence or impaired causing death	15

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 225, Eff. Oct. 1, 2000;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2001, Act 166, Eff. Feb. 1, 2002;—Am. 2005, Act 106, Imd. Eff. Sept. 14, 2005;—Am. 2012, Act 124, Eff. Aug. 6, 2012;—Am. 2014, Act 5, Eff. May 12, 2014;—Am. 2014, Act 192, Eff. Sept. 22, 2014.

777.16n MCL 750.241 to 750.263; felonies to which chapter applicable.

Sec. 16n. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.241(2)	Pub saf	F	Obstructing public service facility personnel in civil disturbance	4
750.248	Property	E	Forgery	14
750.248a	Property	F	Uttering and publishing financial transaction device	4
750.248b	Property	C	Forgery of real estate document	14
750.249	Property	E	Uttering and publishing forged records	14
750.249a	Property	H	Molds or dies to forge financial transaction device	4
750.249b	Property	C	Uttering and publishing forged real estate document	14
750.250	Property	E	Forgery of treasury notes	7
750.251	Property	E	Forgery of bank bills	7
750.252	Property	E	Possessing counterfeit notes	7
750.253	Property	G	Uttering counterfeit notes	5
750.254	Property	E	Possession of counterfeit notes or bills	5
750.255	Property	E	Possession of counterfeiting tools	10
750.260	Property	E	Counterfeiting coins or possession of 5 or more counterfeit coins	Life
750.261	Property	E	Possession of 5 or fewer counterfeit coins	10
750.262	Property	E	Manufacture or possession of tools to counterfeit coins	10
750.263(3)	Property	E	Delivery, use, or display of items with counterfeit mark – subsequent offense or over $1,000 or 100 items	5
750.263(4)	Property	E	Manufacturing items with counterfeit mark	5

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2002, Act 272, Eff. July 15, 2002;—Am. 2002, Act 321, Eff. July 15, 2002;—Am. 2011, Act 207, Eff. Jan. 1, 2012.

777.16o MCL 750.271 to 750.313; felonies to which chapter applicable.

Sec. 16o. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan

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Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.271	Property	E	Fraudulently issuing or selling domestic securities	10
750.272	Property	G	Sale of fraudulent stock of foreign corporations	10
750.273	Property	E	Obtaining signature with intent to defraud	10
750.274	Property	E	Purchasing or collecting on fraudulent financial document	10
750.276	Property	G	Obtaining signature or promise of vendee of grain to sell at fictitious price	4
750.277	Pub trst	G	Sale or transfer of note of vendee of grain to sell at a fictitious price	4
750.278	Property	G	Issuing or delivering fraudulent warehouse receipt	5
750.279	Property	G	Fraudulent disposal of entrusted property	4
750.280	Property	E	Gross fraud or cheat at common law	10
750.282	Pub ord	G	Fraudulently damaging or using property of utility in amount over $500	4
750.282a	Property	E	Illegally selling or transferring product or service of electric service provider or natural gas provider to another person	5
750.300	Pub ord	G	Killing or injuring animal to defraud insurance company	2
750.300a(1)(a)	Property	G	Food stamp fraud of $250 or less – second offense	5
	Property	G	Food stamp fraud of $250 or less – third or subsequent offense	10
750.300a(1)(b)	Property	E	Food stamp fraud of more than $250 to $1,000	5
	Property	E	Food stamp fraud of more than $250 to $1,000 – subsequent offense	10
750.300a(1)(c)	Property	E	Food stamp fraud of more than $1,000	10
750.303	Pub ord	H	Gaming	2
750.313	Pub ord	H	Gambling in stocks, bonds, or commodities	2

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 389, Eff. Apr. 1, 2001;—Am. 2004, Act 457, Eff. Mar. 1, 2005;—Am. 2010, Act 130, Imd. Eff. July 21, 2010;—Am. 2012, Act 169, Imd. Eff. June 19, 2012.

777.16p MCL 750.317 to 750.329a; felonies to which chapter applicable.

Sec. 16p. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.317	Person	M2	Second degree murder	Life
750.317a	Person	A	Delivery of controlled substance causing death	Life
750.321	Person	C	Manslaughter	15
750.322	Person	C	Willful killing of unborn quick child	15
750.323	Person	C	Abortion resulting in death	15
750.327	Person	A	Death by explosives on vehicle or vessel	Life
750.328	Person	A	Death by explosives in or near building	Life
750.329	Person	C	Homicide — weapon aimed with intent but not malice	15

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750.329a	Person	E	Assisting a suicide	5

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2005, Act 168, Eff. Jan. 1, 2006;—Am. 2008, Act 467, Eff. Oct. 31, 2010.

777.16q MCL 750.332 to 750.350a; felonies to which chapter applicable.

Sec. 16q. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.332	Property	H	Entering horse in race under false name	4
750.335a(2)(b)	Person	G	Aggravated indecent exposure	2
750.335a(2)(c)	Person	A	Indecent exposure by sexually delinquent person	Life
750.338	Pub ord	G	Gross indecency between males	5
	Pub ord	A	Gross indecency between males involving sexually delinquent person	Life
750.338a	Pub ord	G	Gross indecency between females	5
	Pub ord	A	Gross indecency between females involving sexually delinquent person	Life
750.338b	Pub ord	G	Gross indecency between males and females	5
	Pub ord	A	Gross indecency between males and females involving sexually delinquent person	Life
750.349	Person	A	Kidnapping	Life
750.349a	Person	A	Prisoner taking a hostage	Life
750.349b	Person	C	Unlawful imprisonment	15
750.350	Person	A	Kidnapping — child enticement	Life
750.350a	Person	H	Kidnapping — custodial interference	1

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2002, Act 261, Imd. Eff. May 1, 2002;—Am. 2005, Act 302, Eff. Feb. 1, 2006;—Am. 2006, Act 164, Eff. Aug. 24, 2006.

777.16r MCL 750.356(2) to 750.374; felonies to which chapter applicable.

Sec. 16r. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.356(2)	Property	D	Larceny involving $20,000 or more or with prior convictions	10
750.356(3)	Property	E	Larceny involving $1,000 to $20,000 or with prior convictions	5
750.356a(1)	Property	G	Larceny from a motor vehicle	5
750.356a(2)(c)	Property	E	Breaking and entering a vehicle to steal $1,000 to $20,000 or with prior convictions	5
750.356a(2)(d)	Property	D	Breaking and entering a vehicle to steal $20,000 or more or with prior convictions	10
750.356a(3)	Property	G	Breaking and entering a vehicle to steal causing damage	5
750.356b	Property	G	Breaking and entering a coin telephone	4
750.356c	Property	E	Retail fraud — first degree	5
750.357	Person	D	Larceny from the person	10
750.357a	Property	G	Larceny of livestock	4
750.357b	Property	E	Larceny — stealing firearms of another	5
750.358	Property	G	Larceny from burning building	5
750.360	Property	G	Larceny in a building	4
750.360a(2)(b)	Property	F	Theft detection device offense with prior conviction	4

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750.361	Property	H	Trains — stealing/maliciously removing parts	2
750.362	Property	E	Larceny by conversion involving $1,000 to $20,000 or with prior convictions	5
	Property	D	Larceny by conversion involving $20,000 or more or with prior convictions	10
750.362a(2)	Property	D	Larceny of rental property involving $20,000 or more or with prior convictions	10
750.362a(3)	Property	E	Larceny of rental property involving $1,000 to $20,000 or with prior convictions	5
750.363	Property	E	Larceny by false personation involving $1,000 to $20,000 or with prior convictions	5
	Property	D	Larceny by false personation involving $20,000 or more	10
750.365	Person	D	Larceny from car or persons detained or injured by accident	20
750.367	Property	E	Larceny of trees or shrubs involving $1,000 to $20,000 or with prior convictions	5
	Property	D	Larceny of a tree or shrub involving $20,000 or more or with prior convictions	10
750.367b	Property	E	Airplanes — taking possession	5
750.368(5)	Pub ord	G	Preparing, serving, or executing unauthorized process — third or subsequent offense	4
750.372	Pub ord	H	Running or allowing lottery	2
750.373	Pub ord	H	Selling or possessing lottery tickets	2
750.374	Pub ord	H	Lottery violations — subsequent offense	4

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2002, Act 102, Eff. July 1, 2002;—Am. 2002, Act 279, Imd. Eff. May 9, 2002.

777.16s MCL 750.377a(1)(a) to 750.406; felonies to which chapter applicable.

Sec. 16s. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.377a(1)(a)	Property	D	Malicious destruction of personal property involving $20,000 or more or with prior convictions	10
750.377a(1)(b)	Property	E	Malicious destruction of personal property involving $1,000 to $20,000 or with prior convictions	5
750.377b	Property	F	Malicious destruction of fire/police property	4
750.377c	Property	E	School bus — intentional damage	5
750.378	Property	F	Malicious destruction of property — dams/canals/mills	4
750.379	Property	F	Malicious destruction of property — bridges/railroads/locks	4
750.380(2)	Property	D	Malicious destruction of building involving $20,000 or more or with prior convictions	10

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750.380(3)	Property	E	Malicious destruction of a building involving $1,000 to $20,000 or with prior convictions	5
750.382(1)(c)	Property	E	Malicious destruction of plants or turf involving $1,000 to $20,000 or with prior convictions	5
750.382(1)(d)	Property	D	Malicious destruction of plants or turf involving $20,000 or more or with prior convictions	10
750.383a	Property	E	Malicious destruction of utility equipment or utility infrastructure component	5
750.386	Property	E	Malicious destruction of mine property	20
750.387(5)	Property	E	Malicious destruction of a tomb or memorial involving $1,000 to $20,000 or with prior convictions	5
750.387(6)	Property	D	Malicious destruction of a tomb or memorial involving $20,000 or more or with prior convictions	10
750.392	Property	E	Malicious destruction of property — vessels	10
750.394(2)(c)	Person	F	Throwing or dropping dangerous object at vehicle causing injury	4
750.394(2)(d)	Person	D	Throwing or dropping dangerous object at vehicle causing serious impairment	10
750.394(2)(e)	Person	C	Throwing or dropping dangerous object at vehicle causing death	15
750.395(2)(c)	Property	E	Damaging or destroying research property with a value between $1,000 and $20,000 or with prior convictions	5
750.395(2)(d)	Property	E	Damaging or destroying research property with a value of $20,000 or more or 2 or more prior convictions	5
750.395(2)(e)	Person	E	Damaging or destroying research property resulting in physical injury	5
750.395(2)(f)	Person	D	Damaging or destroying research property resulting in serious impairment of body function	10
750.395(2)(g)	Person	C	Damaging or destroying research property resulting in death	15
750.397	Person	D	Mayhem	10
750.397a	Person	D	Placing harmful objects in food	10
750.405	Pub saf	E	Inciting soldiers to desert	5
750.406	Pub saf	E	Military stores — larceny, embezzlement or destruction	5

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2003, Act 183, Eff. Jan. 1, 2004;—Am. 2004, Act 519, Eff. Apr. 1, 2005;—Am. 2005, Act 106, Imd. Eff. Sept. 14, 2005;—Am. 2008, Act 414, Eff. Mar. 1, 2009.

777.16t MCL 750.410a to 750.411w; felonies to which chapter applicable.

Sec. 16t. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.410a	Person	G	Conspiracy to commit a person to state hospital unjustly	4
750.411a(1)(b)	Pub ord	F	False report of a felony	4
750.411a(1)(c)	Person	E	False report of crime resulting in physical injury	5

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750.411a(1)(d)	Person	D	False report of crime resulting in serious impairment of body function	10
750.411a(1)(e)	Person	C	False report of crime resulting in death	15
750.411a(3)(a)	Pub ord	F	Threat or false report of an explosive or harmful device, substance, or material	4
750.411a(3)(b)	Pub ord	D	Threat or false report of an explosive or harmful device, substance, or material — subsequent offense	10
750.411a(4)(b)	Person	E	False report of medical or other emergency resulting in physical injury	5
750.411a(4)(c)	Person	D	False report of medical or other emergency resulting in serious impairment of body function	10
750.411a(4)(d)	Person	C	False report of medical or other emergency resulting in death	15
750.411b	Pub trst	G	Excess fees to members of legislature	4
750.411h(2)(b)	Person	E	Stalking of a minor	5
750.411i(3)(a)	Person	E	Aggravated stalking	5
750.411i(3)(b)	Person	D	Aggravated stalking of a minor	10
750.411*l*	Pub ord	H	Fourth degree money laundering	2
750.411m	Pub ord	E	Third degree money laundering	5
750.411n	Pub ord	D	Second degree money laundering	10
750.411o	Pub ord	B	First degree money laundering	20
750.411p(2)(a)	Property	B	Money laundering of proceeds from controlled substance offense involving $10,000 or more	20
750.411p(2)(b)	Property	D	Money laundering of proceeds from controlled substance offense or other proceeds involving $10,000 or more	10
750.411p(2)(c)	Property	E	Money laundering — transactions involving represented proceeds	5
750.411s(2)(a)	Person	G	Unlawful posting of message	2
750.411s(2)(b)	Person	E	Unlawful posting of message with aggravating circumstances	5
750.411t(2)(b)	Person	E	Hazing resulting in serious impairment of body function	5
750.411t(2)(c)	Person	C	Hazing resulting in death	15
750.411u	Pub ord	B	Gang membership felonies	20
750.411v(1)	Person	E	Gang recruitment	5
750.411v(2)	Person	B	Retaliation for withdrawal from gang	20
750.411w	Pub ord	E	Selling or possessing automated sales suppression device or zapper, phantom-ware, or skimming device	5

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 371, Eff. Apr. 1, 2001;—Am. 2004, Act 112, Eff. Aug. 18, 2004;—Am. 2008, Act 562, Eff. Apr. 1, 2009;—Am. 2008, Act 565, Eff. Apr. 1, 2009;—Am. 2010, Act 278, Imd. Eff. Dec. 16, 2010;—Am. 2012, Act 147, Eff. Aug. 29, 2012;—Am. 2012, Act 332, Eff. Jan. 1, 2013;—Am. 2013, Act 216, Eff. Apr. 1, 2014.

777.16u MCL 750.413 to 750.421b; felonies to which chapter applicable.

Sec. 16u. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.413	Property	E	Unlawful driving away of an automobile	5
750.414	Property	H	Unlawful use of an automobile	2
750.415(2)	Property	G	Motor vehicles — conceal/misrepresent identity with intent to mislead	4

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750.415(5)	Property	G	Motor vehicles — buy/sell/exchange/give away paraphernalia capable of changing/misrepresenting identity	4
750.415(6)	Property	E	Motor vehicles — buy/receive/obtain a motor vehicle or motor vehicle part with intent to sell or dispose knowing the VIN has been removed or altered	10
750.417	Property	H	Motor vehicle — mortgaged — removal from state	4
750.418	Property	H	Removing a vehicle out of state without vendor's consent	4
750.420	Pub saf	H	Motor vehicle — equipping to release smoke/gas	4
750.421	Pub saf	H	Motor vehicle — designed for attack	5
750.421b	Pub saf	H	Hinder transport of farm/commercial products — subsequent offense	2

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 218, Eff. Oct. 1, 2000;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.16v MCL 750.422 to 750.441; felonies to which chapter applicable.

Sec. 16v. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.422	Pub trst	C	Perjury committed in court — noncapital crime	15
	Pub trst	B	Perjury committed in court — capital crime	Life
750.422a	Pub trst	E	Material false statement in petition seeking review of DNA evidence	5
750.423	Pub trst	E	Perjury by falsely swearing	15
750.424	Pub trst	C	Subornation of perjury	15
750.425	Pub trst	E	Inciting or procuring perjury but perjury not committed	5
750.430a	Person	D	Human cloning	10
750.436(2)(a)	Pub saf	C	Poisoning food, drink, medicine, or water supply	15
750.436(2)(b)	Property	B	Poisoning food, drink, medicine, or water supply causing property damage	20
750.436(2)(c)	Person	A	Poisoning food, drink, medicine, or water supply causing injury	25
750.436(2)(d)	Person	A	Poisoning food, drink, medicine, or water supply causing serious impairment	Life
750.436(3)(a)	Pub ord	F	False report of poisoning food, drink, medicine, or water supply	4
750.436(3)(b)	Pub ord	D	False report of poisoning food, drink, medicine, or water supply with prior conviction	10
750.439	Pub ord	G	Polygamy	4
750.440	Pub ord	G	Polygamy — knowingly entering a prohibited marriage	4
750.441	Pub ord	G	Teaching or advocating polygamy	4

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2002, Act 123, Eff. Apr. 22, 2002;—Am. 2008, Act 412, Imd. Eff. Jan. 6, 2009;—Am. 2010, Act 99, Imd. Eff. June 22, 2010.

777.16w MCL 750.451(3) to 750.465a(1)(c); felonies to which chapter applicable; violation of MCL 750.462f.

Sec. 16w. (1) This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

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M.C.L.	Category	Class	Description	Stat Max
750.451(3)	Pub ord	G	Prostitution — various offenses — third or subsequent offense	2
750.451(4)	Person	E	Soliciting a person under 18 years of age to commit prostitution	5
750.452	Pub ord	E	Keeping a house of prostitution	5
750.455	Pub ord	B	Pandering	20
750.456	Person	B	Placing spouse into prostitution	20
750.457	Pub ord	B	Accepting earnings of a prostitute	20
750.458	Person	B	Prostitution — detaining person for debt	20
750.459	Person	B	Transporting a person for prostitution	20
750.462f(1)(a)	Person	D	Human trafficking violation	10
750.462f(1)(b)	Person	C	Human trafficking violation resulting in bodily injury	15
750.462f(1)(c)	Person	B	Human trafficking violation resulting in serious bodily injury	20
750.462f(1)(d)	Person	A	Human trafficking violation involving death or the commission of certain felonies	Life
750.462f(2)	Person	B	Obtaining a minor for commercial sexual activity or for forced labor or services	20
750.462f(3)	Person	Variable	Attempting, conspiring, or soliciting another to violate human trafficking laws	Variable
750.465a(1)(b)	Property	G	Operating audiovisual recording device in a theatrical facility — second offense	2
750.465a(1)(c)	Property	F	Operating audiovisual recording device in a theatrical facility — third or subsequent offense	4

(2) For a violation of section 462f(3) of the Michigan penal code, 1931 PA 328, MCL 750.462f, determine the offense category, offense variable level, and prior record variable level based on the underlying offense.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2004, Act 424, Imd. Eff. Dec. 15, 2004;—Am. 2006, Act 156, Eff. Aug. 24, 2006;—Am. 2010, Act 361, Eff. Apr. 1, 2011;—Am. 2014, Act 327, Eff. Jan. 14, 2015.

777.16x MCL 750.478a(2) to 750.512; felonies to which chapter applicable.

Sec. 16x. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.478a(2)	Pub ord	H	Unauthorized process to obstruct a public officer or employee	2
750.478a(3)	Pub ord	G	Unauthorized process to obstruct a public officer or employee — subsequent offense	4
750.479(2)	Person	G	Assaulting or obstructing certain officials	2
750.479(3)	Person	G	Assaulting or obstructing certain officials causing injury	4
750.479(4)	Person	D	Assaulting or obstructing certain officials causing serious impairment	10
750.479(5)	Person	B	Assaulting or obstructing certain officials causing death	20
750.479a(2)	Pub saf	G	Fleeing and eluding — fourth degree	2
750.479a(3)	Pub saf	E	Fleeing and eluding — third degree	5
750.479a(4)	Person	C	Fleeing and eluding — second degree	10
750.479a(5)	Person	B	Fleeing and eluding — first degree	15

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750.479b(1)	Person	F	Disarming peace officer — nonfirearm	4
750.479b(2)	Person	D	Disarming peace officer — firearm	10
750.479c(2)(c)	Pub ord	G	Providing false information to peace officer conducting criminal investigation	2
750.479c(2)(d)	Pub ord	F	Providing false or misleading information to peace officer conducting criminal investigation regarding certain felonies	4
750.480	Pub trst	F	Public officers — refusing to turn over books/money to successor	4
750.483a(2)(b)	Person	D	Withholding evidence, preventing report of crime, or retaliating for reporting crime punishable by more than 10 years	10
750.483a(4)(b)	Person	D	Interfering with police investigation by committing crime or threatening to kill or injure	10
750.483a(6)(a)	Pub ord	F	Tampering with evidence or offering false evidence	4
750.483a(6)(b)	Pub ord	D	Tampering with evidence or offering false evidence in case punishable by more than 10 years	10
750.488	Pub trst	H	Public officers — state official — retaining fees	2
750.490	Pub trst	H	Public money — safekeeping	2
750.491	Pub trst	H	Public records — removal/mutilation/ destruction	2
750.492a(1)(a)	Pub trst	G	Medical record — intentional place false information — health care provider	4
750.492a(2)	Pub trst	G	Medical record — health care provider — altering to conceal injury/death	4
750.495a(2)	Person	F	Concealing objects in trees or wood products — causing injury	4
750.495a(3)	Person	C	Concealing objects in trees or wood products — causing death	15
750.498b(2)(a)	Person	E	Tampering with, taking, or removing marine safety device without authority causing serious impairment	5
750.498b(2)(b)	Person	C	Tampering with, taking, or removing marine safety device without authority causing death	15
750.502d	Pub saf	F	Unlawfully possessing or transporting anhydrous ammonia or tampering with containers	4
750.505	Pub ord	E	Common law offenses	5
750.508(2)(b)	Pub ord	G	Carrying or possessing a scanner in the commission of a crime	2
750.511	Person	A	Blocking or wrecking railroad track	Life
750.512	Property	E	Uncoupling railroad cars	10

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 473, Eff. Mar. 28, 2001;—Am. 2002, Act 271, Eff. July 15, 2002;—Am. 2002, Act 320, Eff. July 15, 2002;—Am. 2003, Act 313, Eff. Apr. 1, 2004;—Am. 2006, Act 40, Imd. Eff. Mar. 2, 2006;—Am. 2006, Act 234, Eff. July 1, 2006;—Am. 2012, Act 105, Eff. July 20, 2012;—Am. 2012, Act 323, Eff. Jan. 1, 2013.

777.16y MCL 750.520b(2) to 750.532; felonies to which chapter applicable.

Sec. 16y. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan

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Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.520b(2)	Person	A	First degree criminal sexual conduct	Life
750.520c	Person	C	Second degree criminal sexual conduct	15
750.520d	Person	B	Third degree criminal sexual conduct	15
750.520e	Person	G	Fourth degree criminal sexual conduct	2
750.520g(1)	Person	D	Assault with intent to commit sexual penetration	10
750.520g(2)	Person	E	Assault with intent to commit sexual contact	5
750.520n	Pub saf	G	Electronic monitoring device violation	2
750.528	Pub saf	F	Destroying dwelling house or other property during riot or unlawful assembly	4
750.528a	Pub saf	F	Civil disorders — firearms/explosives	4
750.529	Person	A	Armed robbery	Life
750.529a	Person	A	Carjacking	Life
750.530	Person	C	Unarmed robbery	15
750.531	Person	C	Bank robbery/safebreaking	Life
750.532	Person	H	Seduction	5

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2005, Act 304, Eff. Apr. 15, 2006;—Am. 2006, Act 166, Eff. Aug. 28, 2006;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.16z MCL 750.535(2) to 750.535b; felonies to which chapter applicable.

Sec. 16z. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.535(2)	Property	D	Receiving or concealing stolen property having a value of $20,000 or more or with prior convictions	10
750.535(3)	Property	E	Receiving or concealing stolen property having a value of $1,000 to $20,000 or with prior convictions	5
750.535(7)	Property	E	Receiving or concealing stolen motor vehicle	5
750.535(8)	Property	D	Receiving or concealing stolen motor vehicle — second or subsequent offense	10
750.535a(2)	Pub ord	D	Operating a chop shop	10
750.535a(3)	Pub ord	D	Operating a chop shop, subsequent violation	10
750.535b	Pub saf	E	Stolen firearms or ammunition	10

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 186, Eff. Apr. 1, 2000;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2002, Act 122, Eff. Apr. 22, 2002;—Am. 2002, Act 271, Imd. Eff. May 9, 2002;—Am. 2004, Act 2, Imd. Eff. Feb. 12, 2004;—Am. 2004, Act 157, Imd. Eff. June 16, 2004;—Am. 2006, Act 62, Eff. June 1, 2006;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007;—Am. 2007, Act 20, Imd. Eff. June 19, 2007;—Am. 2014, Act 222, Eff. Mar. 31, 2015.

Compiler's note: Enacting section 1 of Act 20 of 2007 provides:

"Enacting section 1. The citation correction in section 16z of chapter XVII of the code of criminal procedure, 1927 PA 175, MCL 777.16z, changing the reference of 750.520b(2) to 750.535(2), applies retroactively to January 9, 2007."

777.16aa MCL 750.539c to 750.540g(1)(d); felonies to which chapter applicable.

Sec. 16aa. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.539c	Pub ord	H	Eavesdropping	2
750.539d(3)(a)(*i*)	Pub ord	H	Installing, placing, or using eavesdropping device	2

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750.539d(3)(a)(*ii*)	Pub ord	E	Installing, placing, or using eavesdropping device — subsequent offense	5
750.539d(3)(b)	Pub ord	E	Distributing, disseminating, or transmitting recording or image obtained by eavesdropping	5
750.539e	Pub ord	H	Divulging or using information obtained by eavesdropping	2
750.539f	Pub ord	H	Manufacture or possession of eavesdropping device	2
750.539j(2)(a)(*i*)	Pub ord	H	Lewd surveillance or capturing lewd image	2
750.539j(2)(a)(*ii*)	Pub ord	E	Lewd surveillance or capturing lewd image — subsequent offense	5
750.539j(2)(b)	Pub ord	E	Distributing, disseminating, or transmitting visual image obtained by surveillance	5
750.539k(5)(a)	Property	E	Illegally recording personal identifying information from financial transaction device transaction	5
750.539k(5)(b)	Property	D	Illegally recording personal identifying information from financial transaction device transaction — second offense	10
750.539k(5)(c)	Property	C	Illegally recording personal identifying information from financial transaction device transaction — third or subsequent offense	15
750.540(5)(a)	Pub ord	H	Damaging, destroying, using, or obstructing use of electronic medium of communication	2
750.540(5)(b)	Person	F	Damaging, destroying, using, or obstructing use of electronic medium of communication resulting in injury or death	4
750.540c(4)	Property	F	Telecommunication violation	4
750.540f(2)	Property	E	Knowingly publishing a communications access device with prior convictions	5
750.540g(1)(c)	Property	E	Diverting telecommunication services having a value of $1,000 to $20,000 or with prior convictions	5
750.540g(1)(d)	Property	D	Diverting telecommunication services having a value of $20,000 or more or with prior convictions	10

History: Add. 2007, Act 20, Imd. Eff. June 19, 2007;—Am. 2013, Act 214, Eff. Apr. 1, 2014.

777.16bb MCL 750.543f to 750.553; felonies to which chapter applicable.

Sec. 16bb. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.543f	Person	A	Terrorism without causing death	Life
750.543h(3)(a)	Pub ord	B	Hindering prosecution of terrorism — certain terrorist acts	20
750.543h(3)(b)	Pub ord	A	Hindering prosecution of terrorism — act of terrorism	Life
750.543k	Pub saf	B	Soliciting or providing material support for terrorism or terrorist acts	20
750.543m	Pub ord	B	Threat or false report of terrorism	20

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750.543p	Pub saf	B	Use of internet or telecommunications to commit certain terrorist acts	20
750.543r	Pub saf	B	Possession of vulnerable target information with intent to commit certain terrorist acts	20
750.545	Pub ord	E	Misprision of treason	5
750.552b	Property	F	Trespassing on correctional facility property	4
750.552c	Pub saf	F	Trespass upon key facility	4
750.553	Property	G	Squatting, second or subsequent offense	2

History: Add. 2007, Act 20, Imd. Eff. June 19, 2007;—Am. 2014, Act 225, Eff. Sept. 24, 2014.

777.17 Applicability of chapter to certain felonies; chapters 751 to 830.

Sec. 17. This chapter applies to the following felonies enumerated in chapters 751 to 830 of the Michigan Compiled Laws as set forth in sections 17a to 17g of this chapter.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 67, Eff. Aug. 1, 1999;—Am. 2000, Act 178, Eff. Sept. 18, 2000;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 300, Eff. Jan. 1, 2001;—Am. 2001, Act 136, Eff. Feb. 1, 2002;—Am. 2002, Act 28, Eff. Apr. 1, 2002.

777.17b Applicability of chapter to certain felonies; MCL 752.272a(2)(c) to 752.543.

Sec. 17b. This chapter applies to the following felonies enumerated in chapter 752 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
752.272a(2)(c)	Pub saf	F	Sale or distribution of nitrous oxide device — 2 or more prior convictions	4
752.365(3)	Pub ord	G	Obscenity — subsequent offense	2
752.541	Pub saf	D	Riot	10
752.542	Pub saf	D	Incitement to riot	10
752.542a	Pub saf	D	Riot in state correctional facilities	10
752.543	Pub saf	G	Unlawful assembly	5

History: Add. 2002, Act 28, Eff. Apr. 1, 2002.

777.17c Applicability of chapter to certain felonies; MCL 752.797(1)(c) to 752.797(3)(f); determination.

Sec. 17c. (1) This chapter applies to the following felonies enumerated in chapter 752 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
752.797(1)(c)	Property	E	Computer fraud — 2 prior convictions or value of $1,000 to $20,000	5
752.797(1)(d)	Property	D	Computer fraud — 3 or more prior convictions or value of $20,000 or more	10
752.797(2)(a)	Property	E	Unlawfully accessing computer, computer system, or computer program	5
752.797(2)(b)	Property	D	Unlawfully accessing computer, computer system, or computer program, with prior conviction	10
752.797(3)(b)	Variable	G	Using computer to commit crime punishable by a maximum term of imprisonment of more than 1 year but less than 2 years	2
752.797(3)(c)	Variable	F	Using computer to commit crime punishable by a maximum term of imprisonment of at least 2 years but less than 4 years	4

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752.797(3)(d)	Variable	D	Using computer to commit crime punishable by a maximum term of imprisonment of at least 4 years but less than 10 years	7
752.797(3)(e)	Variable	D	Using computer to commit crime punishable by a maximum term of imprisonment of at least 10 years but less than 20 years	10
752.797(3)(f)	Variable	B	Using computer to commit crime punishable by a maximum term of imprisonment of at least 20 years or for life	20

(2) For a violation of section 797(3) of 1979 PA 53, MCL 752.797, determine the offense category, offense variable level, and prior record variable level based on the underlying offense.

History: Add. 2002, Act 28, Eff. Apr. 1, 2002.

777.17d Applicability of chapter to certain felonies; MCL 752.802 to 752.1084.

Sec. 17d. This chapter applies to the following felonies enumerated in chapter 752 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
752.802	Property	H	Manufacture or sale of slugs for use in vending machines	5
752.811	Property	H	Breaking and entering a coin operated device	3
752.861	Person	G	Careless discharge of firearm causing injury or death	2
752.881	Person	G	Reckless use of bow and arrow resulting in injury or death	2
752.1003	Property	F	False claim, statement, or representation to obtain health care benefits	4
752.1004	Property	F	Soliciting, paying, or receiving kickback or receiving referral fee for health care payment	4
752.1005	Property	H	Conspiring to commit health care fraud	10
752.1006	Property	D	Health care fraud — subsequent offense	20
752.1054(2)	Property	G	Copying audio or video recordings for gain	5
752.1084	Property	E	Organized retail crime act violation	5

History: Add. 2002, Act 28, Eff. Apr. 1, 2002;—Am. 2012, Act 456, Eff. Mar. 31, 2013;—Am. 2013, Act 124, Imd. Eff. Oct. 1, 2013.

777.17f Applicability of chapter to certain felonies; MCL 764.1e to 791.236(17).

Sec. 17f. This chapter applies to the following felonies enumerated in chapters 760 to 799 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
764.1e	Pub trst	C	Peace officer — making false statement in a complaint	15
767.4a	Pub trst	F	Disclosing or possessing grand jury information	4
767A.9(1)(a)	Pub trst	C	Perjury committed in prosecutor's investigative hearing	15
767A.9(1)(b)	Pub trst	B	Perjury committed in prosecutor's investigative hearing regarding a crime punishable by imprisonment for life or by imprisonment for life or any term of years	Life

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771.3f	Pub ord	G	Tampering with or removing electronic monitoring device	2
791.236(17)	Pub ord	F	Failure to provide correct notice of proposed domicile by sex offender	4

History: Add. 2002, Act 28, Eff. Apr. 1, 2002;—Am. 2006, Act 404, Eff. Dec. 1, 2006;—Am. 2012, Act 611, Eff. Mar. 1, 2013.

777.17g Applicability of chapter to certain felonies; MCL 800.281(1) to 801.263(2).

Sec. 17g. This chapter applies to the following felonies enumerated in chapters 800 to 830 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
800.281(1)	Pub saf	H	Furnishing prisoner with contraband	5
800.281(2)	Pub saf	H	Furnishing prisoner with contraband outside	5
800.281(3)	Pub saf	H	Bringing contraband into prisons	5
800.281(4)	Pub saf	E	Prisoner possessing contraband	5
800.283(1)	Pub saf	E	Furnishing weapon to prisoner in prison	5
800.283(2)	Pub saf	E	Prisons — knowledge of a weapon in a correctional facility	5
800.283(3)	Pub saf	E	Bringing weapon into prison	5
800.283(4)	Pub saf	E	Prisoner possessing weapon	5
800.283a	Pub saf	E	Furnishing cell phone to prisoner	5
801.262(1)(a)	Pub saf	E	Bringing weapon into jail	5
801.262(1)(b)	Pub saf	E	Furnishing weapon to prisoner in jail	5
801.262(2)	Pub saf	E	Prisoner in jail possessing weapon	5
801.262a	Pub saf	E	Furnishing cell phone or other wireless device to prisoner in jail	5
801.263(1)	Pub saf	H	Furnishing contraband to prisoner in jail	5
801.263(2)	Pub saf	H	Prisoner in jail possessing contraband	5

History: Add. 2002, Act 28, Eff. Apr. 1, 2002;—Am. 2006, Act 541, Imd. Eff. Dec. 29, 2006;—Am. 2013, Act 124, Imd. Eff. Oct. 1, 2013.

777.18 MCL 333.7410 to 750.367a; felonies to which chapter applicable.

Sec. 18. This chapter applies to the following felonies:

M.C.L.	Category	Description	Stat Max
333.7410	CS	Controlled substance offense or offense involving GBL on or near school property or library	Variable
333.7413(2) or (3)	Pub trst	Subsequent controlled substance violations	Variable
333.7416(1)(a)	CS	Recruiting or inducing a minor to commit a controlled substance felony	Variable
750.157a(a)	Pub saf	Conspiracy	Variable
750.157c	Person	Inducing minor to commit a felony	Variable
750.188	Pub ord	Voluntarily suffering prisoner to escape	Variable
750.237a	Pub saf	Felony committed in a weapon-free school zone	Variable
750.367a	Property	Larceny of rationed goods	Variable

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 304, Eff. Jan. 1, 2001;—Am. 2006, Act 553, Eff. Mar. 30, 2007.

777.19 Attempt to commit offense; applicability of chapter.

Sec. 19. (1) This chapter applies to an attempt to commit an offense enumerated in this part if the attempted violation is a felony. This chapter does not apply to an attempt to commit a class H offense enumerated in this part.

(2) For an attempt to commit an offense enumerated in this part, the offense category is the same as the

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attempted offense.

(3) For an attempt to commit an offense enumerated in this part, the offense class is as follows:

(a) Class E if the attempted offense is in class A, B, C, or D.

(b) Class H if the attempted offense is in class E, F, or G.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

PART 3

SCORING INSTRUCTIONS FOR SENTENCING GUIDELINES

777.21 Minimum sentence range; determination.

Sec. 21. (1) Except as otherwise provided in this section, for an offense enumerated in part 2 of this chapter, determine the recommended minimum sentence range as follows:

(a) Find the offense category for the offense from part 2 of this chapter. From section 22 of this chapter, determine the offense variables to be scored for that offense category and score only those offense variables for the offender as provided in part 4 of this chapter. Total those points to determine the offender's offense variable level.

(b) Score all prior record variables for the offender as provided in part 5 of this chapter. Total those points to determine the offender's prior record variable level.

(c) Find the offense class for the offense from part 2 of this chapter. Using the sentencing grid for that offense class in part 6 of this chapter, determine the recommended minimum sentence range from the intersection of the offender's offense variable level and prior record variable level. The recommended minimum sentence within a sentencing grid is shown as a range of months or life.

(2) If the defendant was convicted of multiple offenses, subject to section 14 of chapter XI, score each offense as provided in this part.

(3) If the offender is being sentenced under section 10, 11, or 12 of chapter IX, determine the offense category, offense class, offense variable level, and prior record variable level based on the underlying offense. To determine the recommended minimum sentence range, increase the upper limit of the recommended minimum sentence range determined under part 6 for the underlying offense as follows:

(a) If the offender is being sentenced for a second felony, 25%.

(b) If the offender is being sentenced for a third felony, 50%.

(c) If the offender is being sentenced for a fourth or subsequent felony, 100%.

(4) If the offender is being sentenced for a violation described in section 18 of this chapter, both of the following apply:

(a) Determine the offense variable level by scoring the offense variables for the underlying offense and any additional offense variables for the offense category indicated in section 18 of this chapter.

(b) Determine the offense class based on the underlying offense. If there are multiple underlying felony offenses, the offense class is the same as that of the underlying felony offense with the highest crime class. If there are multiple underlying offenses but only 1 is a felony, the offense class is the same as that of the underlying felony offense. If no underlying offense is a felony, the offense class is G.

(5) If the offender is being sentenced for an attempted felony described in section 19 of this chapter, determine the offense variable level and prior record variable level based on the underlying attempted offense.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.22 Offense variables; scoring.

Sec. 22. (1) For all crimes against a person, score offense variables 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 19, and 20. Score offense variables 5 and 6 for homicide, attempted homicide, conspiracy or solicitation to commit a homicide, or assault with intent to commit murder. Score offense variable 16 under this subsection for a violation or attempted violation of section 110a of the Michigan penal code, 1931 PA 328, MCL 750.110a. Score offense variables 17 and 18 if the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

(2) For all crimes against property, score offense variables 1, 2, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

(3) For all crimes involving a controlled substance, score offense variables 1, 2, 3, 12, 13, 14, 15, 19, and 20.

(4) For all crimes against public order and all crimes against public trust, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

(5) For all crimes against public safety, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20. Score offense variable 18 if the offense or attempted offense involves the operation of a vehicle, vessel, ORV,

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snowmobile, aircraft, or locomotive.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2002, Act 143, Eff. Apr. 22, 2002;—Am. 2003, Act 134, Eff. Sept. 30, 2003.

PART 4

OFFENSE VARIABLES

777.31 Aggravated use of weapon; definitions.

Sec. 31. (1) Offense variable 1 is aggravated use of a weapon. Score offense variable 1 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

```
     (a) A firearm was discharged at or toward a
human being or a victim was cut or stabbed with a
knife or other cutting or stabbing weapon..........  25 points
     (b) The victim was subjected or exposed to a
harmful biological substance, harmful biological
device, harmful chemical substance, harmful
chemical device, harmful radioactive material,
harmful radioactive device, incendiary device,
or explosive device................................  20 points
     (c) A firearm was pointed at or toward a
victim or the victim had a reasonable apprehension
of an immediate battery when threatened with a
knife or other cutting or stabbing weapon..........  15 points
     (d) The victim was touched by any other type
of weapon..........................................  10 points
     (e) A weapon was displayed or implied.........   5 points
     (f) No aggravated use of a weapon occurred.....   0 points
```

(2) All of the following apply to scoring offense variable 1:

(a) Count each person who was placed in danger of injury or loss of life as a victim.

(b) In multiple offender cases, if 1 offender is assessed points for the presence or use of a weapon, all offenders shall be assessed the same number of points.

(c) Score 5 points if an offender used an object to suggest the presence of a weapon.

(d) Score 5 points if an offender used a chemical irritant, chemical irritant device, smoke device, or imitation harmful substance or device.

(e) Do not score 5 points if the conviction offense is a violation of section 82 or 529 of the Michigan penal code, 1931 PA 328, MCL 750.82 and 750.529.

(3) As used in this section:

(a) "Chemical irritant", "chemical irritant device", "harmful biological substance", "harmful biological device", "harmful chemical substance", "harmful chemical device", "harmful radioactive material", "harmful radioactive device", and "imitation harmful substance or device" mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

(b) "Incendiary device" includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999;—Am. 2001, Act 136, Imd. Eff. Oct. 23, 2001;—Am. 2002, Act 137, Eff. Apr. 22, 2002.

777.32 Lethal potential of weapon possessed or used.

Sec. 32. (1) Offense variable 2 is lethal potential of the weapon possessed or used. Score offense variable 2 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

```
     (a) The offender possessed or used a harmful
biological substance, harmful biological device,
harmful chemical substance, harmful chemical device,
harmful radioactive material, or harmful radioactive
device.................................................        15 points
     (b) The offender possessed or used an incendiary
device, an explosive device, or a fully automatic
weapon.................................................        15 points
     (c) The offender possessed or used a short-
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barreled rifle or a short-barreled shotgun..... 10 points

(d) The offender possessed or used a pistol, rifle, shotgun, or knife or other cutting or stabbing weapon..... 5 points

(e) The offender possessed or used any other potentially lethal weapon..... 1 point

(f) The offender possessed or used no weapon..... 0 points

(2) In multiple offender cases, if 1 offender is assessed points for possessing a weapon, all offenders shall be assessed the same number of points.

(3) As used in this section:

(a) "Harmful biological substance", "harmful biological device", "harmful chemical substance", "harmful chemical device", "harmful radioactive material", and "harmful radioactive device" mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

(b) "Fully automatic weapon" means a firearm employing gas pressure or force of recoil or other means to eject an empty cartridge from the firearm after a shot, and to load and fire the next cartridge from the magazine, without renewed pressure on the trigger for each successive shot.

(c) "Pistol", "rifle", or "shotgun" includes a revolver, semi-automatic pistol, rifle, shotgun, combination rifle and shotgun, or other firearm manufactured in or after 1898 that fires fixed ammunition, but does not include a fully automatic weapon or short-barreled shotgun or short-barreled rifle.

(d) "Incendiary device" includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2001, Act 136, Imd. Eff. Oct. 23, 2001.

777.33 Physical injury to victim; "requiring medical treatment" defined.

Sec. 33. (1) Offense variable 3 is physical injury to a victim. Score offense variable 3 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) A victim was killed..... 100 points

(b) A victim was killed..... 50 points

(c) Life threatening or permanent incapacitating injury occurred to a victim..... 25 points

(d) Bodily injury requiring medical treatment occurred to a victim..... 10 points

(e) Bodily injury not requiring medical treatment occurred to a victim..... 5 points

(f) No physical injury occurred to a victim..... 0 points

(2) All of the following apply to scoring offense variable 3:

(a) In multiple offender cases, if 1 offender is assessed points for death or physical injury, all offenders shall be assessed the same number of points.

(b) Score 100 points if death results from the commission of a crime and homicide is not the sentencing offense.

(c) Score 50 points if death results from the commission of a crime and the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive and any of the following apply:

(*i*) The offender was under the influence of or visibly impaired by the use of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(*ii*) The offender had an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2018, the offender had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(*iii*) The offender's body contained any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214.

(d) Do not score 5 points if bodily injury is an element of the sentencing offense.

(3) As used in this section, "requiring medical treatment" refers to the necessity for treatment and not the victim's success in obtaining treatment.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2003, Act 134, Eff. Sept. 30, 2003;—Am. 2013, Act 24, Imd. Eff. May 9, 2013.

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777.34 Psychological injury to victim.

Sec. 34. (1) Offense variable 4 is psychological injury to a victim. Score offense variable 4 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

```
     (a) Serious psychological injury requiring
professional treatment occurred to a victim.........  10 points
     (b) No serious psychological injury requiring
professional treatment occurred to a victim.........   0 points
```

(2) Score 10 points if the serious psychological injury may require professional treatment. In making this determination, the fact that treatment has not been sought is not conclusive.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.35 Psychological injury to member of victim's family.

Sec. 35. (1) Offense variable 5 is psychological injury to a member of a victim's family. Score offense variable 5 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

```
     (a) Serious psychological injury
requiring professional treatment occurred
to a victim's family................................  15 points
     (b) No serious psychological injury
requiring professional treatment occurred
to a victim's family................................   0 points
```

(2) Score 15 points if the serious psychological injury to the victim's family may require professional treatment. In making this determination, the fact that treatment has not been sought is not conclusive.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.36 Intent to kill or injure another individual.

Sec. 36. (1) Offense variable 6 is the offender's intent to kill or injure another individual. Score offense variable 6 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender had premeditated intent to kill or the killing was committed while committing or attempting to commit arson, criminal sexual conduct in the first or third degree, child abuse in the first degree, a major controlled substance offense, robbery, breaking and entering of a dwelling, home invasion in the first or second degree, larceny of any kind, extortion, or kidnapping or the killing was the murder of a peace officer or a corrections officer ...	50 points
(b) The offender had unpremeditated intent to kill, the intent to do great bodily harm, or created a very high risk of death or great bodily harm knowing that death or great bodily harm was the probable result ...	25 points
(c) The offender had intent to injure or the killing was committed in an extreme emotional state caused by an adequate provocation and before a reasonable amount of time elapsed for the offender to calm or there was gross negligence amounting to an unreasonable disregard for life ...	10 points
(d) The offender had no intent to kill or injure ...	0 points

(2) All of the following apply to scoring offense variable 6.

(a) The sentencing judge shall score this variable consistent with a jury verdict unless the judge has information that was not presented to the jury.

(b) Score 10 points if a killing is intentional within the definition of second degree murder or voluntary manslaughter, but the death occurred in a combative situation or in response to victimization of the offender by the decedent.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.37 Offense variable 7; aggravated physical abuse; “sadism” defined.

Sec. 37. (1) Offense variable 7 is aggravated physical abuse. Score offense variable 7 by determining which of the following apply and by assigning the number of points attributable to the 1 that has the highest number of points:

```
     (a) A victim was treated with sadism,
torture, excessive brutality, or similarly
egregious conduct designed to substantially
increase the fear and anxiety a victim suffered
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during the offense..... 50 points

(b) No victim was treated with sadism, torture, excessive brutality, or similarly egregious conduct designed to substantially increase the fear and anxiety a victim suffered during the offense..... 0 points

(2) Count each person who was placed in danger of injury or loss of life as a victim.

(3) As used in this section, "sadism" means conduct that subjects a victim to extreme or prolonged pain or humiliation and is inflicted to produce suffering or for the offender's gratification.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2002, Act 137, Eff. Apr. 22, 2002;—Am. 2015, Act 137, Eff. Jan. 5, 2016.

777.38 Victim asportation or captivity.

Sec. 38. (1) Offense variable 8 is victim asportation or captivity. Score offense variable 8 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) A victim was asported to another place of greater danger or to a situation of greater danger or was held captive beyond the time necessary to commit the offense..... 15 points

(b) No victim was asported or held captive..... 0 points

(2) All of the following apply to scoring offense variable 8:

(a) Count each person who was placed in danger of injury or loss of life as a victim.

(b) Score 0 points if the sentencing offense is kidnapping.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.39 Offense variable 9; number of victims; scoring.

Sec. 39. (1) Offense variable 9 is number of victims. Score offense variable 9 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Multiple deaths occurred..... 100 points

(b) There were 10 or more victims who were placed in danger of physical injury or death, or 20 or more victims who were placed in danger of property loss..... 25 points

(c) There were 2 to 9 victims who were placed in danger of physical injury or death, or 4 to 19 victims who were placed in danger of property loss..... 10 points

(d) There were fewer than 2 victims who were placed in danger of physical injury or death, or fewer than 4 victims who were placed in danger of property loss..... 0 points

(2) All of the following apply to scoring offense variable 9:

(a) Count each person who was placed in danger of physical injury or loss of life or property as a victim.

(b) Score 100 points only in homicide cases.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 548, Eff. Mar. 30, 2007.

777.40 Exploitation of vulnerable victim.

Sec. 40. (1) Offense variable 10 is exploitation of a vulnerable victim. Score offense variable 10 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Predatory conduct was involved..... 15 points

(b) The offender exploited a victim's physical disability, mental disability, youth or agedness, or a domestic relationship, or the offender abused his or her authority status..... 10 points

(c) The offender exploited a victim by his or her difference in size or strength, or both, or exploited a victim who was intoxicated, under the influence of drugs, asleep, or unconscious..... 5 points

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(d) The offender did not exploit a victim's vulnerability..... 0 points

(2) The mere existence of 1 or more factors described in subsection (1) does not automatically equate with victim vulnerability.

(3) As used in this section:

(a) "Predatory conduct" means preoffense conduct directed at a victim, or a law enforcement officer posing as a potential victim, for the primary purpose of victimization.

(b) "Exploit" means to manipulate a victim for selfish or unethical purposes.

(c) "Vulnerability" means the readily apparent susceptibility of a victim to injury, physical restraint, persuasion, or temptation.

(d) "Abuse of authority status" means a victim was exploited out of fear or deference to an authority figure, including, but not limited to, a parent, physician, or teacher.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2014, Act 350, Imd. Eff. Oct. 17, 2014.

777.41 Criminal sexual penetration.

Sec. 41. (1) Offense variable 11 is criminal sexual penetration. Score offense variable 11 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Two or more criminal sexual penetrations occurred ...	50 points
(b) One criminal sexual penetration occurred ...	25 points
(c) No criminal sexual penetration occurred ...	0 points

(2) All of the following apply to scoring offense variable 11:

(a) Score all sexual penetrations of the victim by the offender arising out of the sentencing offense.

(b) Multiple sexual penetrations of the victim by the offender extending beyond the sentencing offense may be scored in offense variables 12 or 13.

(c) Do not score points for the 1 penetration that forms the basis of a first- or third-degree criminal sexual conduct offense.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.42 Contemporaneous felonious criminal acts.

Sec. 42. (1) Offense variable 12 is contemporaneous felonious criminal acts. Score offense variable 12 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Three or more contemporaneous felonious criminal acts involving crimes against a person were committed ...	25 points
(b) Two contemporaneous felonious criminal acts involving crimes against a person were committed ...	10 points
(c) Three or more contemporaneous felonious criminal acts involving other crimes were committed ...	10 points
(d) One contemporaneous felonious criminal act involving a crime against a person was committed ...	5 points
(e) Two contemporaneous felonious criminal acts involving other crimes were committed ...	5 points
(f) One contemporaneous felonious criminal act involving any other crime was committed ...	1 point
(g) No contemporaneous felonious criminal acts were committed ...	0 points

(2) All of the following apply to scoring offense variable 12:

(a) A felonious criminal act is contemporaneous if both of the following circumstances exist:

(*i*) The act occurred within 24 hours of the sentencing offense.

(*ii*) The act has not and will not result in a separate conviction.

(b) A violation of section 227b of the Michigan penal code, 1931 PA 328, MCL 750.227b, should not be considered for scoring this variable.

(c) Do not score conduct scored in offense variable 11.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

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777.43 Continuing pattern of criminal behavior.

Sec. 43. (1) Offense variable 13 is continuing pattern of criminal behavior. Score offense variable 13 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offense was part of a pattern of felonious criminal activity involving 3 or more sexual penetrations against a person or persons less than 13 years of age	50 points
(b) The offense was part of a pattern of felonious criminal activity directly related to causing, encouraging, recruiting, soliciting, or coercing membership in a gang or communicating a threat with intent to deter, punish, or retaliate against another for withdrawing from a gang	25 points
(c) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against a person	25 points
(d) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more crimes against a person or property or a violation of section 7401(2)(a)(*i*) to (*iii*) or section 7403(2)(a)(*i*) to (*iii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403	10 points
(e) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more violations of section 7401(2)(a)(*i*) to (*iii*) or section 7403(2)(a)(*i*) to (*iii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403	10 points
(f) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against property	5 points
(g) No pattern of felonious criminal activity existed	0 points

(2) All of the following apply to scoring offense variable 13:

(a) For determining the appropriate points under this variable, all crimes within a 5-year period, including the sentencing offense, shall be counted regardless of whether the offense resulted in a conviction.

(b) The presence or absence of multiple offenders, the age of the offenders, or the degree of sophistication of the organized criminal group is not as important as the fact of the group's existence, which may be reasonably inferred from the facts surrounding the sentencing offense.

(c) Except for offenses related to membership in an organized criminal group or that are gang-related, do not score conduct scored in offense variable 11 or 12.

(d) Score 50 points only if the sentencing offense is first degree criminal sexual conduct.

(e) Do not count more than 1 controlled substance offense arising out of the criminal episode for which the person is being sentenced.

(f) Do not count more than 1 crime involving the same 1 controlled substance. For example, do not count conspiracy and a substantive offense involving the same amount of controlled substances or possession and delivery of the same amount of controlled substances.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2002, Act 666, Eff. Mar. 1, 2003;—Am. 2008, Act 562, Eff. Apr. 1, 2009.

Compiler's note: In subsection (2)(f), the numeral "1" was not included in the language "the same 1 controlled subtance" as passed by the legislature, but was incorrectly inserted during the electronic formatting of the bill. Subsection (2)(f) should read as follows:

"(f) Do not count more than 1 crime involving the same controlled substance. For example, do not count conspiracy and a substantive offense involving the same amount of controlled substances or posession and delivery of the same amount of controlled substances."

777.44 Offender's role.

Sec. 44. (1) Offense variable 14 is the offender's role. Score offense variable 14 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

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(a) The offender was a leader in a multiple offender situation..... 10 points

(b) The offender was not a leader in a multiple offender situation..... 0 points

(2) All of the following apply to scoring offense variable 14:

(a) The entire criminal transaction should be considered when scoring this variable.

(b) If 3 or more offenders were involved, more than 1 offender may be determined to have been a leader.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.45 Aggravated controlled substance offenses; definitions.

Sec. 45. (1) Offense variable 15 is aggravated controlled substance offenses. Score offense variable 15 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offense involved the manufacture, creation, delivery, possession, or possession with intent to manufacture, create, or deliver of 1,000 or more grams of any mixture containing a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*)..... 100 points

(b) The offense involved the manufacture, creation, delivery, possession, or possession with intent to manufacture, create, or deliver of 450 grams or more but less than 1,000 grams of any mixture containing a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*)..... 75 points

(c) The offense involved the manufacture, creation, delivery, possession, or possession with intent to manufacture, create, or deliver of 50 or more grams but less than 450 grams of any mixture containing a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*)..... 50 points

(d) The offense involved traveling from another state or country to this state while in possession of any mixture containing a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7212 or 7214 with the intent to deliver that mixture in this state..... 50 points

(e) The offense involved the sale or delivery of a controlled substance other than marihuana or a mixture containing a controlled substance other than marihuana by the offender who was 18 years of age or older to a minor who was 3 or more years younger than the offender..... 25 points

(f) The offense involved the sale, delivery, or possession with intent to sell or deliver 45 kilograms or more of marihuana or 200 or more of marihuana plants..... 10 points

(g) The offense is a violation of section 7401(2)(a)(*i*) to (*iii*) pertaining to a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*) and was committed in a minor's abode, settled home, or domicile, regardless of whether the minor was present..... 10 points

(h) The offense involved the delivery or possession with intent to deliver marihuana or any other controlled substance or a counterfeit controlled substance or possession of controlled substances or

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```
counterfeit controlled substances having a value or
under such circumstances as to indicate trafficking....    5  points
      (i) The offense was not an offense described
in subdivisions (a) through (h)........................    0  points
```

(2) As used in this section:

(a) "Deliver" means the actual or constructive transfer of a controlled substance from 1 individual to another regardless of remuneration.

(b) "Minor" means an individual 17 years of age or less.

(c) "Trafficking" means the sale or delivery of controlled substances or counterfeit controlled substances on a continuing basis to 1 or more other individuals for further distribution.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2002, Act 666, Eff. Mar. 1, 2003;—Am. 2013, Act 203, Eff. Mar. 19, 2014.

777.46 Property obtained, damaged, lost, or destroyed.

Sec. 46. (1) Offense variable 16 is property obtained, damaged, lost, or destroyed. Score offense variable 16 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

```
     (a) Wanton or malicious damage occurred
beyond that necessary to commit the crime for
which the offender is not charged and will not be
charged...............................................  10 points
     (b) The property had a value of more than
$20,000.00 or had significant historical, social,
or sentimental value..................................  10 points
     (c) The property had a value of $1,000.00
or more but not more than $20,000.00................   5 points
     (d) The property had a value of $200.00
or more but not more than $1,000.00.................   1 point
     (e) No property was obtained, damaged,
lost, or destroyed or the property had a value of
less than $200.00....................................   0 points
```

(2) All of the following apply to scoring offense variable 16:

(a) In multiple offender or victim cases, the appropriate points may be determined by adding together the aggregate value of the property involved, including property involved in uncharged offenses or charges dismissed under a plea agreement.

(b) In cases in which the property was obtained unlawfully, lost to the lawful owner, or destroyed, use the value of the property in scoring this variable. If the property was damaged, use the monetary amount appropriate to restore the property to pre-offense condition in scoring this variable.

(c) The amount of money or property involved in admitted but uncharged offenses or in charges that have been dismissed under a plea agreement may be considered.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999.

777.47 Degree of negligence exhibited.

Sec. 47. (1) Offense variable 17 is degree of negligence exhibited. Score offense variable 17 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

```
     (a) The offender showed a wanton or
reckless disregard for the life or property
of another person....................................  10 points
     (b) The offender failed to show the degree
of care that a person of ordinary prudence in a
similar situation would have shown...................   5 points
     (c) The offender was not negligent..............   0 points
```

(2) Do not score 10 points if points are given in offense variable 6.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.48 Operator ability affected by alcohol or drugs; “any bodily alcohol content” defined.

Sec. 48. (1) Offense variable 18 is operator ability affected by alcohol or drugs. Score offense variable 18 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

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(a) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive when his or her bodily alcohol content was 0.20 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine..... 20 points

(b) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive when his or her bodily alcohol content was 0.15 grams or more but less than 0.20 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine..... 15 points

(c) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive while the offender was under the influence of alcoholic or intoxicating liquor, a controlled substance, or a combination of alcoholic or intoxicating liquor and a controlled substance; or while the offender's body contained any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or a controlled substance described in section 7214(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7214; or while the offender had an alcohol content of 0.08 grams or more but less than 0.15 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2018, the offender had an alcohol content of 0.10 grams or more but less than 0.15 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine..... 10 points

(d) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive while he or she was visibly impaired by the use of alcoholic or intoxicating liquor or a controlled substance or a combination of alcoholic or intoxicating liquor and a controlled substance, or was less than 21 years of age and had any bodily alcohol content..... 5 points

(e) The offender's ability to operate a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive was not affected by an alcoholic or intoxicating liquor or a controlled substance or a combination of alcoholic or intoxicating liquor and a controlled substance..... 0 points

(2) As used in this section, "any bodily alcohol content" means either of the following:

(a) An alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2018, 0.02 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within an individual's body resulting from the consumption of alcoholic or intoxicating liquor other than the consumption of alcoholic or intoxicating liquor as part of a generally recognized religious service or ceremony.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2003, Act 134, Eff. Sept. 30, 2003;—Am. 2013, Act 24, Imd. Eff. May 9, 2013.

777.49 Security threat to penal institution or court or interference with administration of justice or emergency services.

Sec. 49. Offense variable 19 is threat to the security of a penal institution or court or interference with the administration of justice or the rendering of emergency services. Score offense variable 19 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest

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number of points:

(a) The offender by his or her conduct threatened the security of a penal institution or court..... 25 points

(b) The offender used force or the threat of force against another person or the property of another person to interfere with, attempt to interfere with, or that results in the interference with the administration of justice or the rendering of emergency services..... 15 points

(c) The offender otherwise interfered with or attempted to interfere with the administration of justice..... 10 points

(d) The offender did not threaten the security of a penal institution or court or interfere with or attempt to interfere with the administration of justice or the rendering of emergency services by force or threat of force..... 0 points

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2001, Act 136, Imd. Eff. Oct. 23, 2001;—Am. 2002, Act 137, Eff. Apr. 22, 2002.

777.49a Terrorism; definitions.

Sec. 49a. (1) Offense variable 20 is terrorism. Score offense variable 20 by determining which of the following applies and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender committed an act of terrorism by using or threatening to use a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device ...	100 points
(b)The offender committed an act of terrorism without using or threatening to use a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device ...	50 points
(c) The offender supported an act of terrorism, a terrorist, or a terrorist organization ...	25 points
(d) The offender did not commit an act of terrorism or support an act of terrorism, a terrorist, or a terrorist organization ...	0 points

(2) As used in this section:

(a) “Act of terrorism” and “terrorist” mean those terms as defined in section 543b of the Michigan penal code, 1931 PA 328, MCL 750.543b.

(b) “Harmful biological substance”, “harmful biological device”, “harmful chemical substance”, “harmful chemical device”, “harmful radioactive material”, and “harmful radioactive device” mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

(c) “Incendiary device” includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

(d) “Terrorist organization” means that term as defined in section 543c of the Michigan penal code, 1931 PA 328, MCL 750.543c.

History: Add. 2002, Act 137, Eff. Apr. 22, 2002.

PART 5
PRIOR RECORD VARIABLES

777.50 Conviction or juvenile adjudication 10 or more years from discharge and commission of next offense.

Sec. 50. (1) In scoring prior record variables 1 to 5, do not use any conviction or juvenile adjudication that precedes a period of 10 or more years between the discharge date from a conviction or juvenile adjudication and the defendant's commission of the next offense resulting in a conviction or juvenile adjudication.

(2) Apply subsection (1) by determining the time between the discharge date for the prior conviction or juvenile adjudication most recently preceding the commission date of the sentencing offense. If it is 10 or more years, do not use that prior conviction or juvenile adjudication and any earlier conviction or juvenile adjudication in scoring prior record variables. If it is less than 10 years, use that prior conviction or juvenile adjudication in scoring prior record variables and determine the time between the commission date of that

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prior conviction and the discharge date of the next earlier prior conviction or juvenile adjudication. If that period is 10 or more years, do not use that prior conviction or juvenile adjudication and any earlier conviction or juvenile adjudication in scoring prior record variables. If it is less than 10 years, use that prior conviction or juvenile adjudication in scoring prior record variables and repeat this determination for each remaining prior conviction or juvenile adjudication until a period of 10 or more years is found or no prior convictions or juvenile adjudications remain.

(3) If a discharge date is not available, add either the time defendant was sentenced to probation or the length of the minimum incarceration term to the date of the conviction and use that date as the discharge date.

(4) As used in this part:

(a) “Conviction” includes any of the following:

(*i*) Assignment to youthful trainee status under sections 11 to 15 of chapter II.

(*ii*) A conviction set aside under 1965 PA 213, MCL 780.621 to 780.624.

(b) “Discharge date” means the date an individual is discharged from the jurisdiction of the court or the department of corrections after being convicted of or adjudicated responsible for a crime or an act that would be a crime if committed by an adult.

(c) “Juvenile adjudication” includes an adjudication set aside under section 18e of chapter XIIA of 1939 PA 288, MCL 712A.18e, or expunged.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.51 Prior high severity felony convictions.

Sec. 51. (1) Prior record variable 1 is prior high severity felony convictions. Score prior record variable 1 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

```
     (a) The offender has 3 or more prior high
severity felony convictions.....................  75  points
     (b) The offender has 2 prior high severity
felony convictions..............................  50  points
     (c) The offender has 1 prior high severity
felony conviction...............................  25  points
     (d) The offender has no prior high severity
felony convictions..............................   0  points
```

(2) As used in this section, "prior high severity felony conviction" means a conviction for any of the following, if the conviction was entered before the sentencing offense was committed:

(a) A crime listed in offense class M2, A, B, C, or D.

(b) A felony under a law of the United States or another state corresponding to a crime listed in offense class M2, A, B, C, or D.

(c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

(d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.52 Prior low severity felony convictions.

Sec. 52. (1) Prior record variable 2 is prior low severity felony convictions. Score prior record variable 2 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

```
     (a) The offender has 4 or more prior low
severity felony convictions.....................  30 points
     (b) The offender has 3 prior low severity
felony convictions..............................  20 points
     (c) The offender has 2 prior low severity
felony convictions..............................  10 points
     (d) The offender has 1 prior low severity
felony conviction...............................   5 points
     (e) The offender has no prior low severity
felony convictions..............................   0 points
```

(2) As used in this section, "prior low severity felony conviction" means a conviction for any of the following, if the conviction was entered before the sentencing offense was committed:

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(a) A crime listed in offense class E, F, G, or H.

(b) A felony under a law of the United States or another state that corresponds to a crime listed in offense class E, F, G, or H.

(c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.

(d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.53 Prior high severity juvenile adjudications.

Sec. 53. (1) Prior record variable 3 is prior high severity juvenile adjudications. Score prior record variable 3 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

```
     (a) The offender has 3 or more prior high
severity juvenile adjudications.................  50 points
     (b) The offender has 2 prior high severity
juvenile adjudications..........................  25 points
     (c) The offender has 1 prior high severity
juvenile adjudication...........................  10 points
     (d) The offender has no prior high severity
juvenile adjudications..........................   0 points
```

(2) As used in this section, "prior high severity juvenile adjudication" means a juvenile adjudication for conduct that would be any of the following if committed by an adult, if the order of disposition was entered before the sentencing offense was committed:

(a) A crime listed in offense class M2, A, B, C, or D.

(b) A felony under a law of the United States or another state corresponding to a crime listed in offense class M2, A, B, C, or D.

(c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

(d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.54 Prior low severity juvenile adjudications.

Sec. 54. (1) Prior record variable 4 is prior low severity juvenile adjudications. Score prior record variable 4 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

```
     (a) The offender has 6 or more prior low
severity juvenile adjudications.................  20 points
     (b) The offender has 5 prior low severity
juvenile adjudications..........................  15 points
     (c) The offender has 3 or 4 prior low
severity juvenile adjudications.................  10 points
     (d) The offender has 2 prior low severity
juvenile adjudications..........................   5 points
     (e) The offender has 1 prior low severity
juvenile adjudication...........................   2 points
     (f) The offender has no prior low severity
juvenile adjudications..........................   0 points
```

(2) As used in this section, "prior low severity juvenile adjudication" means a juvenile adjudication for conduct that would be any of the following if committed by an adult, if the order of disposition was entered before the sentencing offense was committed:

(a) A crime listed in offense class E, F, G, or H.

(b) A felony under a law of the United States or another state corresponding to a crime listed in offense class E, F, G, or H.

(c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.

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(d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.55 Prior misdemeanor convictions or prior misdemeanor juvenile adjudications.

Sec. 55. (1) Prior record variable 5 is prior misdemeanor convictions or prior misdemeanor juvenile adjudications. Score prior record variable 5 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender has 7 or more prior misdemeanor convictions or prior misdemeanor juvenile adjudications.....	20 points
(b) The offender has 5 or 6 prior misdemeanor convictions or prior misdemeanor juvenile adjudications.....	15 points
(c) The offender has 3 or 4 prior misdemeanor convictions or prior misdemeanor juvenile adjudications.....	10 points
(d) The offender has 2 prior misdemeanor convictions or prior misdemeanor juvenile adjudications.....	5 points
(e) The offender has 1 prior misdemeanor conviction or prior misdemeanor juvenile adjudication.	2 points
(f) The offender has no prior misdemeanor convictions or prior misdemeanor juvenile adjudications.....	0 points

(2) All of the following apply to scoring record variable 5:

(a) Except as provided in subdivision (b), count a prior misdemeanor conviction or prior misdemeanor juvenile adjudication only if it is an offense against a person or property, a controlled substance offense, or a weapon offense. Do not count a prior conviction used to enhance the sentencing offense to a felony.

(b) Count all prior misdemeanor convictions and prior misdemeanor juvenile adjudications for operating or attempting to operate a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive while under the influence of or impaired by alcohol, a controlled substance, or a combination of alcohol and a controlled substance. Do not count a prior conviction used to enhance the sentencing offense to a felony.

(3) As used in this section:

(a) "Prior misdemeanor conviction" means a conviction for a misdemeanor under a law of this state, a political subdivision of this state, another state, a political subdivision of another state, or the United States if the conviction was entered before the sentencing offense was committed.

(b) "Prior misdemeanor juvenile adjudication" means a juvenile adjudication for conduct that if committed by an adult would be a misdemeanor under a law of this state, a political subdivision of this state, another state, a political subdivision of another state, or the United States if the order of disposition was entered before the sentencing offense was committed.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.56 Relationship to criminal justice system.

Sec. 56. (1) Prior record variable 6 is relationship to the criminal justice system. Score prior record variable 6 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender is a prisoner of the department of corrections or serving a sentence in jail ...	20 points
(b) The offender is incarcerated in jail awaiting adjudication or sentencing on a conviction or probation violation ...	15 points
(c) The offender is on parole, probation, or delayed sentence status or on bond awaiting adjudication or sentencing for a felony ...	10 points
(d) The offender is on probation or delayed sentence status or on bond awaiting adjudication or sentencing for a misdemeanor ...	5 points
(e) The offender has no relationship to the criminal justice system ...	0 points

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(2) Score the appropriate points under this section if the offender is involved with the criminal justice system in another state or United States.

(3) As used in this section:

(a) "Delayed sentence status" includes, but is not limited to, an individual assigned or deferred under any of the following:

(*i*) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(*ii*) Section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(*iii*) Section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a.

(*iv*) Section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(*v*) Sections 11 to 15 of chapter II.

(*vi*) Section 4a of chapter IX.

(b) "Prisoner of the department of corrections or serving a sentence in jail" includes an individual who is an escapee.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2004, Act 220, Eff. Jan. 1, 2005.

777.57 Subsequent or concurrent felony convictions.

Sec. 57. (1) Prior record variable 7 is subsequent or concurrent felony convictions. Score prior record variable 7 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

```
     (a) The offender has 2 or more subsequent or
concurrent convictions..............................  20  points
     (b) The offender has 1 subsequent or concurrent
conviction..........................................  10  points
     (c) The offender has no subsequent or concurrent
convictions.........................................   0  points
```

(2) All of the following apply to scoring record variable 7:

(a) Score the appropriate point value if the offender was convicted of multiple felony counts or was convicted of a felony after the sentencing offense was committed.

(b) Do not score a felony firearm conviction in this variable.

(c) Do not score a concurrent felony conviction if a mandatory consecutive sentence or a consecutive sentence imposed under section 7401(3) of the public health code, 1978 PA 368, MCL 333.7401, will result from that conviction.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999;—Am. 2002, Act 666, Eff. Mar. 1, 2003.

PART 6
SENTENCING GRIDS

777.61 Minimum sentence ranges for class M2.

Sec. 61. The following are the minimum sentence ranges for class M2:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-49 points	90-150	144-240	162-270	180-300 or life	225-375 or life	270-450 or life
II 50-99 points	144-240	162-270	180-300 or life	225-375 or life	270-450 or life	315-525 or life
III 100+ points	162-270 or life	180-300 or life	225-375 or life	270-450 or life	315-525 or life	365-600 or life

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.62 Minimum sentence ranges for class A.

Sec. 62. The following are the minimum sentence ranges for class A:

PRIOR RECORD VARIABLE LEVEL

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Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-19 points	21-35	27-45	42-70	51-85	81-135	108-180
II 20-39 points	27-45	42-70	51-85	81-135	108-180	126-210
III 40-59 points	42-70	51-85	81-135	108-180	126-210	135-225
IV 60-79 points	51-85	81-135	108-180	126-210	135-225	171-285
V 80-99 points	81-135	108-180	126-210	135-225	171-285	225-375 or life
VI 100+ points	108-180	126-210	135-225	171-285	225-375 or life	270-450 or life

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.63 Minimum sentence ranges for class B.

Sec. 63. The following are the minimum sentence ranges for class B:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-9 points	0-18	12-20	24-40	36-60	51-85	72-120
II 10-24 points	12-20	15-25	30-50	51-85	72-120	78-130
III 25-34 points	15-25	21-35	36-60	57-95	78-130	84-140
IV 35-49 points	21-35	24-40	45-75	72-120	84-140	87-145
V 50-74 points	24-40	36-60	51-85	78-130	87-145	99-160
VI 75+ points	36-60	45-75	57-95	84-140	99-160	117-160

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.64 Minimum sentence ranges for class C.

Sec. 64. The following are the minimum sentence ranges for class C:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points

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I 0-9 points	0-11	0-17	10-19	12-24	19-38	29-57
II 10-24 points	0-17	5-17	12-24	19-38	29-57	36-71
III 25-34 points	10-19	12-24	19-38	29-57	36-71	43-86
IV 35-49 points	12-24	19-38	29-57	36-71	43-86	50-100
V 50-74 points	19-38	29-57	36-71	43-86	50-100	58-114
VI 75+ points	29-57	36-71	43-86	50-100	58-114	62-114

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.65 Minimum sentence ranges for class D.

Sec. 65. The following are the minimum sentence ranges for class D:

	PRIOR RECORD VARIABLE LEVEL					
Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-9 points	0-6	0-9	0-11	0-17	5-23	10-23
II 10-24 points	0-9	0-11	0-17	5-23	10-23	19-38
III 25-34 points	0-11	0-17	5-23	10-23	19-38	29-57
IV 35-49 points	0-17	5-23	10-23	19-38	29-57	34-67
V 50-74 points	5-23	10-23	19-38	29-57	34-67	38-76
VI 75+ points	10-23	19-38	29-57	34-67	38-76	43-76

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.66 Minimum sentence ranges for class E.

Sec. 66. The following are the minimum sentence ranges for class E:

	PRIOR RECORD VARIABLE LEVEL					
Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-9 points	0-3	0-6	0-9	5-23	7-23	9-23
II						

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10-24 points	0-6	0-9	0-11	7-23	10-23	12-24
III 25-34 points	0-9	0-11	0-17	10-23	12-24	14-29
IV 35-49 points	0-11	0-17	5-23	12-24	14-29	19-38
V 50-74 points	0-14	5-23	7-23	14-29	19-38	22-38
VI 75+ points	0-17	7-23	12-24	19-38	22-38	24-38

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.67 Minimum sentence ranges for class F.

Sec. 67. The following are the minimum sentence ranges for class F:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-9 points	0-3	0-6	0-9	2-17	5-23	10-23
II 10-34 points	0-6	0-9	0-17	5-23	10-23	12-24
III 35-74 points	0-9	0-17	2-17	10-23	12-24	14-29
IV 75+ points	0-17	2-17	5-23	12-24	14-29	17-30

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.68 Minimum sentence ranges for class G.

Sec. 68. The following are the minimum sentence ranges for class G:

PRIOR RECORD VARIABLE LEVEL

Offense Variable Level	A 0 points	B 1-9 points	C 10-24 points	D 25-49 points	E 50-74 points	F 75+ points
I 0-9 points	0-3	0-6	0-9	0-11	0-17	2-17
II 10-15 points	0-6	0-9	0-11	0-17	2-17	5-23
III 16+ points	0-9	0-11	0-17	2-17	5-23	7-23

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.69 Minimum sentence ranges for class H.

Sec. 69. The following are the minimum sentence ranges for class H:

PRIOR RECORD VARIABLE LEVEL

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Offense Variable Level	A	B	C	D	E	F
	0 points	1-9 points	10-24 points	25-49 points	50-74 points	75+ points
I 0-9 points	0-1	0-3	0-6	0-9	0-11	0-17
II 10-15 points	0-3	0-6	0-9	0-11	0-17	2-17
III 16+ points	0-6	0-9	0-11	0-17	2-17	5-17

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

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