

HOUSE BILL No. 5214

December 13, 2011, Introduced by Reps. Santana, Jackson, Irwin, Tlaib, Stallworth, Talabi, Durhal, Howze, Bledsoe and Oakes and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 11 of chapter II (MCL 762.11), as amended by
2004 PA 239.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER II

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-first~~ **TWENTY-SIXTH** 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.

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

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

3 (b) A major controlled substance offense.

4 (c) A traffic offense.

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

10 (e) A violation, attempted violation, or conspiracy to violate
11 section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g,
12 with the intent to commit a violation of section 520b, 520c, 520d,
13 or 520e of the Michigan penal code, 1931 PA 328, MCL 750.520b,
14 750.520c, 750.520d, and 750.520e, other than section 520d(1)(a) or
15 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d
16 and 750.520e.

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

19 (a) The individual was previously convicted of or adjudicated
20 for a listed offense for which registration is required under the
21 sex offenders registration act, 1994 PA 295, MCL 28.721 to
22 ~~28.732-28.736~~.

23 (b) If the individual is charged with a listed offense for
24 which registration is required under the sex offenders registration
25 act, 1994 PA 295, MCL 28.721 to ~~28.732-28.736~~, the individual
26 fails to carry the burden of proving by clear and convincing
27 evidence that he or she is not likely to engage in further listed

1 offenses.

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

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

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

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

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

12 **(4) IF THE COURT ASSIGNS AN INDIVIDUAL TO THE STATUS OF**
13 **YOUTHFUL TRAINEE, ALL OF THE FOLLOWING SHALL APPLY TO THE**
14 **INDIVIDUAL DURING HIS OR HER PROBATIONARY PERIOD:**

15 **(A) EXCEPT AS PROVIDED IN SUBDIVISION (B), THE INDIVIDUAL**
16 **SHALL BE REQUIRED TO MAINTAIN EMPLOYMENT OF AT LEAST 40 HOURS PER**
17 **WEEK OR TO ATTEND A HIGH SCHOOL, HIGH SCHOOL EQUIVALENCY PROGRAM,**
18 **COMMUNITY COLLEGE, COLLEGE, UNIVERSITY, OR TRADE SCHOOL WITH**
19 **SUFFICIENT CREDIT HOURS TO QUALIFY AS A FULL-TIME STUDENT. IN**
20 **ADDITION, THE INDIVIDUAL SHALL BE REQUIRED TO PERFORM 8 HOURS OF**
21 **COMMUNITY SERVICE EACH WEEK.**

22 **(B) IF THE INDIVIDUAL IS NOT EMPLOYED OR ATTENDING A HIGH**
23 **SCHOOL, COMMUNITY COLLEGE, COLLEGE, UNIVERSITY, OR TRADE SCHOOL AS**
24 **PROVIDED IN SUBDIVISION (A), THE INDIVIDUAL SHALL BE REQUIRED TO**
25 **PERFORM NOT LESS THAN 40 HOURS OF COMMUNITY SERVICE PER WEEK AND TO**
26 **ACTIVELY SEEK EMPLOYMENT OR ENTRY INTO A HIGH SCHOOL, HIGH SCHOOL**
27 **EQUIVALENCY PROGRAM, COMMUNITY COLLEGE, COLLEGE, UNIVERSITY, OR**

1 TRADE SCHOOL WITH SUFFICIENT CREDIT HOURS TO QUALIFY AS A FULL-TIME
2 STUDENT.

3 (C) IF THE OFFENSE FOR WHICH THE INDIVIDUAL IS ASSIGNED TO THE
4 STATUS OF YOUTHFUL TRAINEE STATUS WAS COMMITTED ON OR AFTER THE
5 INDIVIDUAL'S TWENTY-FIRST BIRTHDAY, THE INDIVIDUAL SHALL, IN
6 ADDITION TO THE OTHER REQUIREMENTS OF THIS SUBSECTION, BE SUBJECT
7 TO ELECTRONIC MONITORING DURING HIS OR HER ENTIRE PROBATIONARY
8 TERM. THE INDIVIDUAL SHALL BE REQUIRED TO PAY THE COSTS OF
9 ELECTRONIC MONITORING UNDER THIS SUBDIVISION. HOWEVER, IF THE
10 INDIVIDUAL'S HOUSEHOLD INCOME IS LESS THAN 200% OF THE FEDERAL
11 POVERTY INCOME STANDARDS AS DEFINED AND DETERMINED ANNUALLY BY THE
12 UNITED STATES OFFICE OF MANAGEMENT AND BUDGET, THE COURT SHALL
13 ORDER THE INDIVIDUAL TO PAY A PORTION OF THE COSTS OF ELECTRONIC
14 MONITORING, WHICH SHALL NOT EXCEED 1 HOUR OF THE STATE MINIMUM WAGE
15 FOR EACH 24-HOUR PERIOD OF MONITORING.

16 (5) THE INDIVIDUAL'S COMPLIANCE WITH THE REQUIREMENTS OF
17 SUBSECTION (4) SHALL BE VERIFIED ON A MONTHLY BASIS BY A PROBATION
18 OFFICER. THE VERIFICATION OF EMPLOYMENT STATUS OR SCHOOL ATTENDANCE
19 UNDER THIS SUBDIVISION SHALL INCLUDE A REVIEW OF EMPLOYMENT AND
20 SCHOOL RECORDS.

21 (6) COMMUNITY SERVICE UNDER THIS SECTION SHALL MEET 1 OR MORE
22 OF THE FOLLOWING REQUIREMENTS:

23 (A) BE MEANINGFUL WORK AT PAID EMPLOYMENT IN THE COMMUNITY.

24 (B) PROVIDE LABOR ON PUBLIC WORKS PROJECTS.

25 (C) PROVIDE MEANINGFUL WORK ON PROJECTS THAT SERVE THE PUBLIC
26 INTEREST OR A CHARITABLE PURPOSE AND ARE OPERATED BY ORGANIZATIONS
27 THAT ARE EXEMPT FROM TAXATION UNDER SECTION 501(C) (3) OF THE

1 INTERNAL REVENUE CODE.

2 (7) AN INDIVIDUAL PERFORMING COMMUNITY SERVICE DESCRIBED IN
3 SUBSECTION (6) (C) SHALL NOT BE ASSIGNED TO WORK ON PROJECTS IN A
4 MANNER THAT RESULTS IN THE DISPLACEMENT OF EMPLOYED PERSONS IN THE
5 COMMUNITY OR THE REPLACEMENT OF WORKERS ON STRIKE OR LOCKED OUT OF
6 WORK. IF A COLLECTIVE BARGAINING AGREEMENT IS IN EFFECT AT A PLACE
7 OF EMPLOYMENT THAT IS THE SITE OF A PROPOSED WORK PROJECT UNDER
8 SUBSECTION (6) (C), THAT BARGAINING UNIT MUST AGREE TO THE
9 ASSIGNMENT OF INDIVIDUALS UNDER THIS SECTION AT THE PLACE OF
10 EMPLOYMENT BEFORE THE ASSIGNMENT IS MADE.

11 (8) ~~(4)~~—As used in this section:

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

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