

SENATE BILL No. 417

May 3, 1989, Introduced by Senator V. SMITH and referred to the Committee on Judiciary.

A bill to amend sections 139, 215, 248, 308, 371, 524, 537, and 538 of Act No. 328 of the Public Acts of 1931, entitled "The Michigan penal code," being sections 750.139, 750.215, 750.248, 750.308, 750.371, 750.524, 750.537, and 750.538 of the Michigan Compiled Laws; and sections 26, 27, 28, and 30 of chapter 158 of the Revised Statutes of 1846, entitled "Of offences against chastity, morality and decency," being sections 752.526, 752.527, 752.528, and 752.530 of the Michigan Compiled Laws, to harmonize provisions of law relating to the abolished office of justice of the peace in regard to criminal law; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 139, 215, 248, 308, 371, 524, 537, and
2 538 of Act No. 328 of the Public Acts of 1931, being sections

1 750.139, 750.215, 750.248, 750.308, 750.371, 750.524, 750.537,
2 and 750.538 of the Michigan Compiled Laws, are amended to read as
3 follows:

4 Sec. 139. (1) ~~Confinement and trial of minors under 16~~
5 ~~years of age~~ — No child under 16 years of age while under
6 arrest, confinement, or conviction for any crime, shall be placed
7 in any apartment or cell of any prison or place of confinement
8 with any adult who shall be under arrest, confinement, or convic-
9 tion for any crime, or be permitted to remain in any court room
10 during the trial of adults, or be transported in any vehicle of
11 transportation in company with adults charged with or convicted
12 of crime.

13 (2) All cases involving the commitment or trial of children
14 under 16 years of age for any crime or misdemeanor, before any
15 ~~magistrate or justice of the peace, or in any~~ court, shall be
16 heard and determined by such court at a suitable time, to be des-
17 ignated ~~therefor~~ by it, separate and apart from the trial of
18 other criminal cases.

19 (3) Any person who shall violate any of the provisions of
20 this section shall be guilty of a misdemeanor.

21 Sec. 215. Any person who falsely assumes or pretends to be
22 a ~~justice of the peace,~~ sheriff, deputy sheriff, conservation
23 officer, coroner, constable, police officer, or member of the
24 Michigan state police, and shall take upon himself OR HERSELF to
25 act as such, or to require any person to aid and assist him OR
26 HER in any matter pertaining to the duty of a ~~justice of the~~
27 ~~peace,~~ sheriff, deputy sheriff, conservation officer, coroner,

1 constable, police officer, or member of the Michigan state
2 police, or shall falsely take upon himself OR HERSELF to act or
3 officiate in any office or place of authority, shall be guilty of
4 a misdemeanor, punishable by imprisonment ~~in the county jail~~
5 FOR not more than 1 year, or by fine of not more than \$500.00.

6 Sec. 248. (1) Any person who shall falsely make, alter,
7 forge, or counterfeit any public record, or any certificate,
8 return, or attestation of any clerk of a court, public register,
9 notary public, ~~justice of the peace,~~ township clerk, or any
10 other public officer, in relation to any matter wherein such cer-
11 tificate, return, or attestation may be received as legal proof,
12 or any charter, deed, will, testament, bond, ~~or~~ writing obliga-
13 tory, letter of attorney, policy of insurance, bill of lading,
14 bill of exchange, promissory note, or any order, acquittance of
15 discharge for money or other property, or any waiver, release,
16 claim or demand, or any acceptance of a bill of exchange, or
17 indorsement, or assignment of a bill of exchange or promissory
18 note for the payment of money, or any accountable receipt for
19 money, goods, or other property, with intent to injure or defraud
20 any person, shall be guilty of a felony, punishable by imprison-
21 ment ~~in the state prison~~ FOR not more than 14 years.

22 (2) The venue in a prosecution under this section may be
23 either in the county in which the forgery was performed, or in a
24 county in which any false, forged, altered, or counterfeit
25 record, deed, instrument, or other writing is uttered and pub-
26 lished with intent to injure or defraud.

1 Sec. 308. If a person makes oath before ~~justice of the~~
 2 ~~peace or committing magistrate~~ A JUDGE that he OR SHE has
 3 probable cause to believe and does believe that a house or other
 4 building, room, or place is used as and for a common gaming
 5 house, for gaming for money or other property, or is occupied,
 6 used, or kept for promoting a lottery, or for the sale of lottery
 7 tickets, or for promoting the game known as a policy lottery or
 8 policy, or for the buying or selling of pools or registering of
 9 bets upon any race, game, contest, act, or event, and that per-
 10 sons resort thereto for any such purpose, ~~such magistrate or~~
 11 ~~trial justice~~ THE JUDGE, whether the names of the persons last
 12 mentioned are known to the complainant or not, shall, if he OR
 13 SHE be satisfied there is reasonable cause for such belief, issue
 14 a warrant commanding the sheriff or ~~his~~ deputy SHERIFF or ~~any~~
 15 ~~constable or~~ police officer to enter and search such house,
 16 building, room, or place, and if any lottery, policy or pool
 17 tickets, slips, checks, manifold books or sheets, memoranda of
 18 any bet, or other implements, apparatus, or material of any form
 19 of gaming be found in ~~said~~ THE place, to take into his OR HER
 20 custody all the implements, apparatus, or material of gaming, ~~as~~
 21 ~~aforsaid,~~ including any articles, equipment, furniture, loud
 22 speakers and amplifying apparatus, adding machines, calculators,
 23 money changers and boxes, and money found therein or in or on
 24 gambling apparatus, or material used in connection with or the
 25 promotion of gambling or a gambling place; and upon the finding
 26 of such apparatus and material of any form of gaming, ~~as~~
 27 ~~aforsaid,~~ the officers shall be authorized to arrest the

1 keepers of ~~such~~ THE place, all persons in any way assisting in
 2 keeping the same, whether as capper, tout, guard, doorkeep, look-
 3 out, or otherwise, and all persons who are there found, and to
 4 keep ~~said~~ THE persons, implements, apparatus, or material of
 5 gaming, including any punch board prizes, articles, equipment,
 6 furniture, loud speakers and amplifying apparatus, adding
 7 machines, calculators, money changers and boxes, and money found
 8 therein or in or on gambling apparatus, or material used in con-
 9 nection with or the promotion of gambling or a gambling place, so
 10 that they may be forthcoming before some court or magistrate to
 11 be dealt with according to law. The provisions of law relative
 12 to destroying or other disposition of gaming articles shall apply
 13 to all articles and property seized as herein provided. ~~for.~~

14 Sec. 371. ~~Second or subsequent violations No justice~~
 15 ~~shall have jurisdiction to try any person for a second or subse-~~
 16 ~~quent violation of this chapter. Whenever it shall appear from~~
 17 ~~the complaint that any person has been charged with a second or~~
 18 ~~subsequent violation of this chapter, the justice before whom the~~
 19 ~~complaint is made shall proceed therein, as provided by chapter 6~~
 20 ~~of Act No. 175 of the Public Acts of Michigan for 1927, being~~
 21 ~~sections 17193 to 17214 inclusive of the Compiled Laws of 1929,~~
 22 ~~and acts and parts of acts amendatory thereof.~~

23 Any person who shall be convicted of a second or subsequent
 24 violation of the provisions of this chapter shall be guilty of a
 25 misdemeanor, punishable by imprisonment ~~in the county jail of~~
 26 FOR not more than 1 year or by fine ~~or {of}~~ OF not less than 50
 27 dollars or more than 500 dollars. ~~Provided, That no~~

~~1 complaint for a second or subsequent offense under this chapter~~
~~2 can be made before the justice who issued the first or any prior~~
~~3 complaint against the same person for the same offense.~~

4 Sec. 524. ~~Neglect of officers to suppress unlawful~~
5 ~~assemblies~~— Any mayor, alderman, supervisor, president, trustee
6 or member of a common council, ~~justice of the peace,~~ sheriff,
7 or deputy sheriff, having notice of any such riotous or tumultu-
8 ous and unlawful assembly as is mentioned in this chapter, in the
9 township, city, or village in which he OR SHE lives, who shall
10 neglect or refuse immediately to proceed to the place of such
11 assembly, or as near ~~thereto~~ as he OR SHE can with safety, or
12 shall omit or neglect to exercise the authority with which he OR
13 SHE is invested by this chapter, for suppressing such riotous or
14 unlawful assembly, and for arresting and securing the offenders,
15 shall be guilty of a misdemeanor, punishable by imprisonment ~~in~~
16 ~~the county jail~~ FOR not more than 6 months or a fine of not more
17 than \$250.00. ~~dollars.~~

18 Sec. 537. ~~Bartering in stolen copper and silver ore,~~
19 ~~etc.~~— No person working in any copper or silver mine of this
20 state, or any person in behalf of such person, shall sell,
21 barter, transfer, or ship any copper or silver ore, bullion, pig
22 or copper or silver in the raw or unmanufactured state, and no
23 person shall be a party to any barter, transfer, or sale,
24 ~~aforsaid,~~ or aid or assist therein, unless a memorandum
25 ~~thereof~~ be filed with the county clerk of the county where such
26 barter, transfer, or sale shall take place, giving the names of
27 the parties making such barter, transfer, sale, or shipment, the

1 dates, consideration, and the origin of the copper or silver so
2 bartered, transferred, sold, or shipped, and in all cases where
3 the origin of said copper or silver is not known to the parties,
4 no barter, transfer, sale, or shipment ~~—~~ shall be made without
5 a certificate being attached to such memorandum of sale duly
6 signed by the county clerk or by a constable, deputy sheriff, or
7 ~~— of the justices of the peace of said county~~ JUDGE, stating in
8 substance that he OR SHE has investigated the source or origin of
9 the copper or silver so to be bartered, transferred, sold, or
10 shipped and that in his OR HER opinion the articles have not been
11 stolen, and that the parties thereto have a right to transfer or
12 sell the same. This section shall not apply to any person autho-
13 rized to act in behalf of a person, firm, or corporation engaged
14 in the business of mining copper or silver as owner. ~~—thereof.~~
15 Any person violating the provisions of this section shall be
16 guilty of a misdemeanor, punishable by imprisonment in the county
17 jail not more than 1 year or by a fine of not more than \$500.00.
18 ~~—dollars.~~

19 Sec. 538. (1) ~~Sales or shipments of copper and silver ore~~
20 ~~in county where copper and silver are mined~~ Any sales,
21 transfers, or shipments of copper or silver ore, bullion, pig or
22 copper or silver in the raw or unmanufactured state in any county
23 of ~~the~~ THIS state where copper and silver are mined, by any
24 person not engaged in the business of mining or producing copper
25 or silver ore, bullion, pig or copper or silver in the unmanufac-
26 tured state, shall be unlawful unless and until a memorandum
27 thereof shall be filed with the county clerk of the county where

1 such sale or transfer shall take place, giving the names of the
 2 parties, the dates, consideration, and origin of the copper or
 3 silver so sold, transferred, or shipped or offered for sale,
 4 transfer, or shipping; and in all cases where the origin of the
 5 copper or silver is not known, no sale, transfer, or shipment
 6 shall be made without a certificate being attached to such memo-
 7 randum of sale duly signed by the county clerk, constable, deputy
 8 sheriff, or ~~or of the justices of the peace of said county~~
 9 JUDGE, stating in substance that he OR SHE has investigated the
 10 source or origin of the copper or silver offered for sale,
 11 transfer, or shipment, and that in his OR HER opinion the arti-
 12 cles have not been stolen, and that the parties thereto have a
 13 right to sell, transfer, and ship the same.

14 (2) Any person violating the provisions of this section
 15 shall be guilty of a misdemeanor, punishable by imprisonment in
 16 the county jail not more than 1 year or by a fine of not more
 17 than \$500.00. ~~dollars.~~

18 Section 2. Sections 26, 27, 28, and 30 of chapter 158 of
 19 the Revised Statutes of 1846, being sections 752.526, 752.527,
 20 752.528, and 752.530 of the Michigan Compiled Laws, are amended
 21 to read as follows:

22 Sec. 26. Whoever shall violate either of the provisions of
 23 the foregoing section, may be convicted ~~summarily~~ before ~~any~~
 24 ~~justice of the peace of the county, or any mayor, recorder,~~
 25 ~~alderman or other magistrate of any city or township~~ THE DIS-
 26 TRICT OR MUNICIPAL COURT OF JURISDICTION where the ~~offence shall~~
 27 ~~be~~ OFFENSE WAS committed, and on such conviction shall ~~forfeit~~

1 BE FINED a sum not exceeding \$25.00, ~~dollars,~~ for the benefit
2 of the township libraries. ~~, in the township in which such con-~~
3 ~~viction is had.~~

4 Sec. 27. It shall be the duty of all sheriffs, and their
5 deputies, coroners, marshals, constables, and other peace offi-
6 cers, all presiding elders, and ministers of the gospel, deacons,
7 stewards and official members of any church or religious society,
8 who may be present at the meeting of any assembly for religious
9 worship, which shall be interrupted or disturbed in the manner
10 ~~herein~~ prohibited, on sight to apprehend the offender, and take
11 him OR HER before ~~some justice of the peace, or other magistrate~~
12 ~~authorized to convict as aforesaid~~ THE DISTRICT OR MUNICIPAL
13 COURT OF JURISDICTION, to be proceeded against according to law.

14 Sec. 28. All judges, mayors, aldermen, AND recorders, ~~and~~
15 ~~justices of the peace,~~ within their respective jurisdictions,
16 upon their own view of any person offending against the provi-
17 sions of either of the last 3 preceding sections of this chapter,
18 may order the offender into the custody of any officer in the
19 preceding section named, or any official member of the church or
20 society so assembled or disturbed, for safe keeping, until he OR
21 SHE shall be held to bail, or a trial for such offense be had.

22 Sec. 30. It shall be lawful for any person complained of,
23 for the violation of any of the provisions of either of the last
24 2 preceding sections of this chapter, before the court shall pro-
25 ceed to investigate the merits of the cause, to demand of such
26 court, that he OR SHE may be tried by a jury; upon such demand,
27 it shall be the duty of such court to issue a venire to any

1 constable of the county or marshal of the city where the case is
2 to be tried, commanding such officer to summon the same number of
3 jurors, and in the same manner as is provided for in the summon-
4 ing of jurors before ~~courts of justices of the peace~~ THE DIS-
5 TRICT OR MUNICIPAL COURT. The ~~said~~ court shall proceed to
6 ~~impanel~~ EMPANEL a jury for the trial of ~~said~~ THE cause, in
7 the same manner, and shall be subject to all the rules and regu-
8 lations prescribed in the act providing for trial by jury in
9 ~~courts of justices of the peace; and the~~ THE DISTRICT OR MUNIC-
10 IPAL COURT. THE costs of suit shall be paid by the party offend-
11 ing in case of conviction, and shall be the same as is allowed by
12 law in civil cases.

13 Section 3. Section 484 of Act No. 328 of the Public Acts of
14 1931, being section 750.484 of the Michigan Compiled Laws, is
15 repealed.

16 Section 4. Section 26 of chapter 171 of the Revised
17 Statutes of 1846, being section 801.26 of the Michigan Compiled
18 Laws, is repealed.