

**[No. 108]****(HB 4937)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending section 43532 (MCL 324.43532), as amended by 1996 PA 585.

*The People of the State of Michigan enact:*

**324.43532 Restricted fishing license; fees; rights of licensee; all-species fishing license.**

Sec. 43532. (1) A person 17 years of age or older shall not take aquatic species, except aquatic insects, in the waters over which this state has jurisdiction without a license. The fee for a resident restricted fishing license is \$15.00. The fee for a nonresident restricted fishing license is \$34.00.

(2) The restricted fishing license entitles the licensee to take aquatic species as prescribed by law other than trout or salmon.

(3) A person under 17 years of age may take aquatic species in the waters over which this state has jurisdiction without a license. However, a person under 17 years of age may obtain an all-species fishing license. The fee for a resident or nonresident who is under 17 years of age, for an all-species fishing license is \$2.00. The department shall not sell or vendor the list of licensees under this subsection.

(4) The fee for a resident all-species fishing license is \$28.00. The fee for a nonresident all-species fishing license is \$42.00.

(5) The all-species fishing license entitles the licensee to take all species of aquatic species as prescribed by law.

(6) A person to whom a valid restricted fishing license has been issued may return the restricted license to the department or its authorized agent and receive an all-species fishing license by paying a fee equal to the difference in cost between the all-species fishing license and the restricted fishing license for which that person is eligible.

This act is ordered to take immediate effect.

Approved March 27, 2002.

Filed with Secretary of State March 27, 2002.

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**[No. 109]****(SB 543)**

AN ACT to amend 1915 PA 312, entitled “An act to establish, protect and enforce by lien the rights of garage keepers who furnish labor or material for storing, repairing, maintaining, keeping or otherwise supplying automobiles or other vehicles,” by amending

sections 2, 3, 4, 5, and 6 (MCL 570.302, 570.303, 570.304, 570.305, and 570.306), sections 2 and 3 as amended and sections 4, 5, and 6 as added by 1998 PA 236, and by adding section 10.

*The People of the State of Michigan enact:*

### **570.302 Definitions.**

Sec. 2. As used in this act:

(a) “Bureau” means the bureau of automotive regulation.

(b) “Department” means the department of state.

(c) “Garage keeper” means a person or the person’s heir, personal representative, successor, assignee, or authorized agent who for hire or reward, publicly offers to maintain or repair a vehicle or an accessory used in the operation of a vehicle or to furnish accessories and supplies for a vehicle or an accessory used in the operation of a vehicle.

(d) “Last known address” means the address provided by the owner in the most recent contract for storage, labor, material, or supplies entered into between the garage keeper and the owner, or in a subsequent written notice of change of address to the garage keeper or as shown by the records of the department.

(e) “Lienholder” means any person or legal entity that is noted on the motor vehicle certificate of title as a lienholder, or, if the motor vehicle certificate of title contains the term lessee, the person or legal entity that is noted on the motor vehicle certificate of title as the lessor or as shown by the records of the department.

(f) “Market value” means the trade-in value as determined by the issue of the national auto dealers association official used car guide in effect at the time the garage keeper performs the first labor or first furnishes supplies for which the garage keeper claims a lien under this act.

(g) “Owner” means that term as defined in section 37 of the Michigan vehicle code, 1949 PA 300, MCL 257.37, or as shown by the records of the department.

(h) “Vehicle” means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

### **570.303 Garage keeper; attachment of lien upon vehicle; manner; amount.**

Sec. 3. (1) Except as otherwise provided in this act, a garage keeper who, in pursuance of a contract that is expressed, implied, written, or unwritten, furnishes labor, material, storage, diagnosis, an estimate of repairs, or supplies for a vehicle, shall have a lien upon the vehicle for the charges due for the storage, maintenance, keeping, diagnosis, estimate of repairs, and repair of the vehicle and for gasoline, electric current, or other accessories and supplies furnished, expenses bestowed, or labor performed on the vehicle at the request or with the consent of the owner of the vehicle. If a vehicle remains in the possession of a garage keeper after the completion of repairs or after a diagnosis and subsequent storage of the vehicle when repairs are not authorized, a garage keeper’s lien attaches to the vehicle in the manner and amount provided in this section.

(2) The lien attaches to the vehicle on the day the garage keeper performs the last labor or furnishes the last supplies for which a lien is claimed against the vehicle. The garage keeper may keep a vehicle for not more than 225 days after performing the last labor or furnishing the last supplies for which a lien is claimed against the vehicle.

(3) The portion of a lien that is for labor and material furnished in making repairs upon a vehicle has priority over all other liens upon the vehicle. The lien has no effect against

the holder of a security interest, conditional sales agreement, or other lien that attached before the attachment of the garage keeper's lien upon the payment by a prior lienholder to the garage keeper of the amount of the lien calculated under subsection (4) and section 4.

(4) Except as provided in section 4, the maximum amount of a lien that a prior lienholder shall pay a garage keeper under this section is calculated as follows:

(a) If a repaired vehicle has a market value of more than \$5,000.00, then the amount of the lien shall be not more than 20% of the market value of the repaired vehicle or \$5,000.00, whichever is less.

(b) If a repaired vehicle has a market value of \$5,000.00 or less, then the amount of the lien shall be not more than \$1,000.00.

#### **570.304 Garage keeper's lien; amounts not included; storage charge.**

Sec. 4. (1) A garage keeper's lien under section 3 shall not include an amount for labor and materials for any of the following if the materials used were custom materials that are not normally available from the manufacturer or, in the case of a vehicle manufactured in a foreign country, a distributor of the vehicle or that are not normally installed on the vehicle by the original manufacturer:

(a) The repair or replacement of all or a part of the interior or exterior of the repaired vehicle.

(b) The installation, repair, or replacement of electronic and related parts.

(c) The installation, repair, or replacement of any other materials or parts that are not essential to the normal operation of the repaired vehicle.

(2) Unless otherwise agreed to in writing, a garage keeper's lien under section 3 may include an amount of not more than \$10.00 per day for the storage of the vehicle, for the storage of an accessory used in the operation of a vehicle, or for the storage of accessories and supplies furnished for the vehicle or an accessory used in the operation of the vehicle. Unless otherwise agreed to in writing, the charge shall be for not more than 120 days' storage. However, a lienholder who pays a garage keeper's lien under section 5(8) is not liable for and is not required to pay for any storage charges that accrued prior to 45 days after the garage keeper's notification to the lienholder under section 5. Charges described in this subsection may be in addition to the maximum allowance under section 3(4).

#### **570.305 Garage keeper's lien; enforcement; sale of vehicle at public sale.**

Sec. 5. (1) A lien under section 3 shall be enforced only as provided in this section.

(2) If charges described in section 3 are not paid, the garage keeper may sell the vehicle at a public sale described in this section.

(3) To enforce a lien under section 3, a garage keeper or authorized agent shall, not more than 105 days after the date the lien attached as provided in section 3, apply to the department, in a format prescribed by the department, for a certificate of foreclosure of garage keeper's lien and bill of sale accompanied by a fee of \$10.00 paid to the department. The department shall, not more than 30 days after the postmark date of a complete application received by mail or the date a complete application is hand-delivered by the garage keeper or authorized agent to the department, provide to the garage keeper or authorized agent the names and addresses of all owners of record and of all lienholders of the vehicle as shown by the records of the department.

(4) After complying with the requirements of subsection (3), the garage keeper shall notify the owner or owners, all lienholders, and the department of state, bureau of

automotive regulation, Lansing, Michigan, of the proposed sale of the vehicle in order to satisfy the lien of the garage keeper by a notice sent by certified mail return receipt requested to the last known address of the owner or owners, the lienholders and the bureau. The garage keeper shall send all the notices required by this subsection not more than 30 days after the date placed on the certificate of foreclosure of garage keeper's lien and bill of sale by the department. The notice shall include all of the following:

(a) An itemized statement of the garage keeper's lien showing the amount due at the time of the notice and the date on which the amount became due.

(b) A demand for payment in the amount necessary to satisfy the lien authorized under section 3(1). The demand for payment must give the owner or owners not less than 30 calendar days after the postmark date of the notice to satisfy the garage keeper's lien.

(c) A statement that all lienholders are being notified of the delinquency, that a lienholder has the right to satisfy the garage keeper's lien plus any storage charges provided for under section 4 and obtain possession of the vehicle as provided in section 5(8), and that a lienholder is required to notify the garage keeper before the proceeds are distributed under section 6 if the lienholder desires to claim any of the proceeds from the sale of the vehicle under section 6(1)(a).

(d) A statement of daily storage fees, if any.

(e) A statement of the date, time, manner, and place that the vehicle will be sold.

(5) Except as otherwise provided in this subsection, the sale shall be held not less than 75 calendar days after the date placed on the certificate of foreclosure of the garage keeper's lien and bill of sale by the department. The bureau may object to a sale only if it has reason to believe that the garage keeper has failed to substantially comply with this act, the rules promulgated under this act, the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, or the rules promulgated under the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, in the repair transaction involving the vehicle that is the subject of the lien. If the bureau objects to the sale within the 75-day period, all of the following conditions shall apply:

(a) The bureau shall complete an investigation of its objection within 150 calendar days after the date placed on the certificate of foreclosure of the garage keeper's lien and bill of sale by the department.

(b) Upon completion of the investigation or the expiration of the 150-calendar-day period, whichever occurs first, the bureau shall do 1 of the following:

(i) Remove the objection to the sale.

(ii) Complete service upon the garage keeper of a written notice of alleged violation that alleges a specific violation of the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, or the rules promulgated under that act, and extends the bureau's objection to the sale indefinitely until resolution under this section.

(c) The garage keeper may, within 10 days after the personal service or postmarked date of the notice of alleged violation, notify the bureau, in writing, that the garage keeper wants to contest the notice of alleged violation. If the garage keeper contests the notice, the bureau shall conduct an immediate review of its reasons for the objection. After this review, the bureau shall do 1 of the following:

(i) Remove the objection to the sale.

(ii) If the objection is sustained, the bureau shall, in writing, offer the garage keeper an opportunity to have the bureau's objection resolved under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as a contested case proceeding

under the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340. If a contested case proceeding is pursued under this section, the bureau may include in that proceeding's complaint any other outstanding alleged repair act or rule violation against the garage keeper that may be pursued through a contested case proceeding. If the garage keeper fails to respond to the offer for a contested case proceeding within 10 days of receiving the offer from the bureau, the bureau's objection to the lien shall be deemed permanent.

(d) Storage charges provided for under this act shall not accrue during the period that the bureau objects to the sale.

(e) The 225-day period provided for in section 3(2) shall be extended by the number of days that the bureau objects to the sale.

(6) A sale of the vehicle shall be held at the facility of the garage keeper or at the nearest suitable place.

(7) Before a sale of a vehicle pursuant to this section, the owner or owners may pay the amount necessary to satisfy the lien, in addition to the reasonable expenses or fees incurred by the garage keeper under this act, and redeem the vehicle. Upon receipt of this payment, the garage keeper shall return the vehicle to the owner or owners in the same condition, or substantially the same condition, as the vehicle was in when the lien attached under section 3(1).

(8) Not less than 30 calendar days after the garage keeper's notice is mailed to the owner or owners, and prior to the sale, a lienholder may pay the garage keeper the amount of the garage keeper's lien as calculated under sections 3(4) and 4, or another amount to which the lienholder and garage keeper agree. Upon receipt of this payment, the garage keeper shall return the vehicle to the lienholder in the same condition, or substantially the same condition, as the vehicle was in when repairs were completed and it was stored by the garage keeper or, if no repairs were authorized by the owner, in the same condition or substantially the same condition, as the vehicle was in when it was received by the garage keeper. If the garage keeper performed diagnostic tests on the vehicle for which a lien is claimed, the garage keeper shall include a written explanation of the results of the diagnostic tests performed when the garage keeper returns the vehicle to the lienholder. The amount of a payment made under this section shall be added to the amount of the prior lienholder's lien.

(9) The amount payable to the garage keeper shall not exceed the market value of the vehicle.

(10) Upon the public sale of a vehicle under this act, the garage keeper shall complete the certificate described in subsection (3) as indicated on its face and give the completed certificate to the purchaser of the vehicle. In addition to other information that may be required by the secretary of state, the purchaser shall submit this certificate to the department when making an original application for a certificate of title or a vehicle registration for the vehicle in the name of the purchaser.

(11) The garage keeper may bid for and purchase the vehicle at the sale. If the garage keeper directly or indirectly purchases the vehicle at the sale, the lien granted under this act is extinguished in full.

(12) A person who in good faith buys a vehicle at a sale conducted pursuant to this act takes the vehicle free of a security interest created by the seller even though the security interest is perfected and even though the buyer knows of its existence.

**570.306 Proceeds of sale; distribution; order of priority; return of remaining proceeds to vehicle owner; disposition of unclaimed money.**

Sec. 6. (1) After the amount of the lien under section 3 is paid to the garage keeper and the costs of the sale are deducted, any remaining money shall be paid to the following persons in this descending order of priority:

(a) A prior lienholder who gives notice to the garage keeper of his or her claim of lien before the distribution of the money realized from a sale under this act is complete.

(b) The reasonable charges of the garage keeper.

(c) The owner or owners of the vehicle as described in subsection (2).

(2) Proceeds of the sale remaining after the distribution is made under subsection (1) shall be returned to the owner of the vehicle by mailing the proceeds to the owner's last known address by certified mail. If the garage keeper cannot locate the owner within 14 calendar days after the date of the sale, the remaining money shall be transmitted to the department. If the owner does not claim the remaining money within 2 years after the date of the sale, it shall escheat to the state.

**570.310 False statement; violation as misdemeanor; penalty.**

Sec. 10. A person, agent, or employee of a garage keeper who knowingly makes a false statement on an application for a garage keeper's lien, the documents filed by the applicant with the department in support of the application for a garage keeper's lien, or a certification required under this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 90 days, or both, for the first conviction under this section, and a fine of not more than \$5,000.00 or imprisonment for not more than 1 year, or both, for any subsequent conviction under this section.

**Effective date.**

Enacting section 1. This amendatory act takes effect July 1, 2002.

This act is ordered to take immediate effect.

Approved March 27, 2002.

Filed with Secretary of State March 27, 2002.

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**[No. 110]**

**(SB 678)**

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 3 (MCL 205.93), as amended by 1999 PA 117.

*The People of the State of Michigan enact:*

**205.93 Tax rate; penalties and interest; presumption; collection; price tax base; exemptions; services, information, or records.**

Sec. 3. (1) There is levied upon and there shall be collected from every person in this state a specific tax for the privilege of using, storing, or consuming tangible personal

property in this state at a rate equal to 6% of the price of the property or services specified in section 3a. Penalties and interest shall be added to the tax if applicable as provided in this act. For the purpose of the proper administration of this act and to prevent the evasion of the tax, it is presumed that tangible personal property purchased is subject to the tax if brought into the state within 90 days of the purchase date and is considered as acquired for storage, use, or other consumption in this state.

(2) The tax imposed by this section for the privilege of using, storing, or consuming a vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft shall be collected before the transfer of the vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft, except a transfer to a licensed dealer or retailer for purposes of resale that arises by reason of a transaction made by a person who does not transfer vehicles, ORVs, mobile homes, aircraft, snowmobiles, or watercraft in the ordinary course of his or her business done in this state. The tax on a vehicle, ORV, snowmobile, and watercraft shall be collected by the secretary of state before the transfer of the vehicle, ORV, snowmobile, or watercraft registration. The tax on a mobile home shall be collected by the department of consumer and industry services, mobile home commission, or its agent before the transfer of the certificate of title. The tax on an aircraft shall be collected by the department of treasury. Notwithstanding any limitation contained in section 2 and except as provided in this subsection, the price tax base of any vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft subject to taxation under this act shall be not less than its retail dollar value at the time of acquisition as fixed pursuant to rules promulgated by the department. The price tax base of a new or previously owned car or truck held for resale by a dealer and that is not exempt under section 4(1)(c) is the purchase price of the car or truck multiplied by 2.5% plus \$30.00 per month beginning with the month that the dealer uses the car or truck in a nonexempt manner.

(3) The following transfers or purchases are not subject to use tax:

(a) A transaction or a portion of a transaction if the transferee or purchaser is the spouse, mother, father, brother, sister, child, stepparent, stepchild, stepbrother, stepsister, grandparent, grandchild, legal ward, or a legally appointed guardian with a certified letter of guardianship, of the transferor.

(b) A transaction or a portion of a transaction if the transfer is a gift to a beneficiary in the administration of an estate.

(c) If a vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft that has once been subjected to the Michigan sales or use tax is transferred in connection with the organization, reorganization, dissolution, or partial liquidation of an incorporated or unincorporated business and the beneficial ownership is not changed.

(d) If an insurance company licensed to conduct business in this state acquires ownership of a late model distressed vehicle as defined in section 12a of the Michigan vehicle code, 1949 PA 300, MCL 257.12a, through payment of damages in response to a claim or when the person who owned the vehicle before the insurance company reacquires ownership from the company as part of the settlement of a claim.

(4) The department may utilize the services, information, or records of any other department or agency of state government in the performance of its duties under this act, and other departments or agencies of state government are required to furnish those services, information, or records upon the request of the department.

This act is ordered to take immediate effect.

Approved March 27, 2002.

Filed with Secretary of State March 27, 2002.

**[No. 111]****(HB 5327)**

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” (MCL 380.1 to 380.1852) by adding section 1165.

*The People of the State of Michigan enact:*

**380.1165 Financial education programs.**

Sec. 1165. (1) Not later than July 1, 2002, the department shall develop or adopt, and shall make available to schools, 1 or more model programs for youth financial education. A program under this section shall be designed to incorporate financial education throughout the curriculum for grades K to 12 and shall be based on the concept of achieving financial literacy through the teaching of personal financial management skills and the basic principles involved with earning, spending, saving, borrowing, and investing.

(2) Each school district, local act school district, and public school academy is encouraged to adopt and implement the model financial education programs developed under subsection (1) or 1 or more similar financial education programs.

(3) To the extent that federal funds are available for these purposes, the department shall use those funds for grants to public schools and other measures to encourage implementation of financial education programs.

This act is ordered to take immediate effect.

Approved April 1, 2002.

Filed with Secretary of State April 1, 2002.

**[No. 112]****(SB 730)**

AN ACT to amend 1966 PA 189, entitled “An act to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts,” by amending sections 4 and 5 (MCL 780.654 and 780.655).

*The People of the State of Michigan enact:*

**780.654 Search warrant; direction of warrant; contents; order to suppress affidavit.**

Sec. 4. (1) A search warrant shall be directed to the sheriff or any peace officer, commanding the sheriff or peace officer to search the house, building, or other location or



place, where any property or other thing for which the sheriff or peace officer is required to search is believed to be concealed. Each warrant shall designate and describe the house or building or other location or place to be searched and the property or thing to be seized.

(2) The warrant shall either state the grounds or the probable or reasonable cause for its issuance or shall have attached to it a copy of the affidavit.

(3) Upon a showing that it is necessary to protect an ongoing investigation or the privacy or safety of a victim or witness, the magistrate may order that the affidavit be suppressed and not be given to the person whose property was seized or whose premises were searched until that person is charged with a crime or named as a claimant in a civil forfeiture proceeding involving evidence seized as a result of the search.

**780.655 Property seized upon search; tabulation; filing; custody; restoration to owner; disposition of other property.**

Sec. 5. (1) When an officer in the execution of a search warrant finds any property or seizes any of the other things for which a search warrant is allowed by this act, the officer, in the presence of the person from whose possession or premises the property or thing was taken, if present, or in the presence of at least 1 other person, shall make a complete and accurate tabulation of the property and things that were seized. The officer taking property or other things under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and shall give to the person a copy of the tabulation upon completion, or shall leave a copy of the warrant and tabulation at the place from which the property or thing was taken. The officer is not required to give a copy of the affidavit to that person or to leave a copy of the affidavit at the place from which the property or thing was taken.

(2) The officer shall file the tabulation promptly with the court or magistrate. The tabulation may be suppressed by order of the court until the final disposition of the case unless otherwise ordered. The property and things that were seized shall be safely kept by the officer so long as necessary for the purpose of being produced or used as evidence in any trial.

(3) As soon as practicable, stolen or embezzled property shall be restored to the owner of the property. Other things seized under the warrant shall be disposed of under direction of the court or magistrate, except that money and other useful property shall be turned over to the state, county or municipality, the officers of which seized the property under the warrant. Money turned over to the state, county, or municipality shall be credited to the general fund of the state, county, or municipality.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**[No. 113]**

**(SB 930)**

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of

evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 750.1 to 750.568) by adding chapter LXXXIII-A.

*The People of the State of Michigan enact:*

CHAPTER LXXXIII-A

**750.543a Short title.**

Sec. 543a. This chapter shall be known and may be cited as the “Michigan anti-terrorism act”.

**750.543b Definitions.**

Sec. 543b. As used in this chapter:

(a) “Act of terrorism” means a willful and deliberate act that is all of the following:

(i) An act that would be a violent felony under the laws of this state, whether or not committed in this state.

(ii) An act that the person knows or has reason to know is dangerous to human life.

(iii) An act that is intended to intimidate or coerce a civilian population or influence or affect the conduct of government or a unit of government through intimidation or coercion.

(b) “Dangerous to human life” means that which causes a substantial likelihood of death or serious injury or that is a violation of section 349 or 350.

(c) “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.

(d) “Material support or resources” means currency or other financial securities, financial services, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, including any related physical assets or intangible property, or expert services or expert assistance.

(e) “Person” means an individual, agent, association, charitable organization, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, or any other legal or commercial entity.

(f) “Renders criminal assistance” means that the person with the intent to avoid, prevent, hinder, or delay the discovery, apprehension, prosecution, trial, or sentencing of a person who he or she knows or has reason to know has violated this chapter or is wanted as a material witness in connection with an act of terrorism pursuant to section 39 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.39, does any of the following:

(i) Harbors or conceals that other person.

(ii) Warns that other person of impending discovery or apprehension.

(iii) Provides that other person with money, transportation, a weapon, a disguise, or false identification, or any other means of avoiding discovery or apprehension.

(iv) Prevents or obstructs, by means of force, intimidation, or deception, anyone from performing an act that might aid in the discovery, apprehension, or prosecution of that other person.

(v) Suppresses, by any act of concealment, alteration, or destruction, any physical evidence that might aid in the discovery, apprehension, or prosecution of that other person.

(vi) Engages in conduct proscribed under section 120, 120a, or 122 or chapter XXXII.

(g) “Terrorist” means any person who engages or is about to engage in an act of terrorism.

(h) “Violent felony” means a felony in which an element is the use, attempted use, or threatened use of physical force against an individual, or the use, attempted use, or threatened use of a harmful biological substance, a harmful biological device, a harmful chemical substance, a harmful chemical device, a harmful radioactive substance, a harmful radioactive device, an explosive device, or an incendiary device.

### **750.543f Terrorism; action; felony; penalty.**

Sec. 543f. (1) A person is guilty of terrorism when that person knowingly and with premeditation commits an act of terrorism.

(2) Terrorism is a felony punishable by imprisonment for life or any term of years or a fine of not more than \$100,000.00, or both. However, if death was caused by the terrorist act, the person shall be punished by imprisonment for life without eligibility for parole.

### **750.543h Hindering prosecution of terrorism; conduct; felony; penalty.**

Sec. 543h. (1) A person is guilty of hindering prosecution of terrorism when he or she knowingly renders criminal assistance to a person who has committed an act of terrorism.

(2) This section does not apply to conduct for which a person may be punished as if he or she had committed the offense committed by another person as allowed under section 39 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.39.

(3) Hindering prosecution of terrorism is a felony punishable by imprisonment for life or any term of years or a fine of not more than \$100,000.00, or both.

### **750.543k Providing material support for terrorist acts or soliciting material support for terrorism as felonies; penalty.**

Sec. 543k. (1) Any person who does any of the following is guilty of a crime punishable as provided in subsection (2):

(a) Knowingly raises, solicits, or collects material support or resources intending that the material support or resources will be used, in whole or in part, to plan, prepare, carry out, or avoid apprehension for committing an act of terrorism against the United States or its citizens, this state or its citizens, or a political subdivision or any other instrumentality of this state or of a local unit of government who knows that the material support or resources raised, solicited, or collected will be used by a terrorist or terrorist organization.

(b) Knowingly provides material support or resources to a person knowing that the person will use that support or those resources in whole or in part to plan, prepare, carry out, facilitate, or avoid apprehension for committing an act of terrorism against the United States or its citizens, this state or its citizens, or a political subdivision or any other instrumentality of this state or of a local unit of government.

(2) A person who violates subsection (1)(a) is guilty of soliciting material support for terrorism. A person who violates subsection (1)(b) is guilty of providing material support for terrorist acts. Soliciting material support for terrorism and providing material support for terrorist acts are felonies punishable by imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both.

**750.543m Making terrorist threat or false report of terrorism; intent or capability as defense prohibited; violation as felony; penalty.**

Sec. 543m. (1) A person is guilty of making a terrorist threat or of making a false report of terrorism if the person does either of the following:

(a) Threatens to commit an act of terrorism and communicates the threat to any other person.

(b) Knowingly makes a false report of an act of terrorism and communicates the false report to any other person, knowing the report is false.

(2) It is not a defense to a prosecution under this section that the defendant did not have the intent or capability of committing the act of terrorism.

(3) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5495 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler's note:** House Bill No. 5495, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 131, Eff. Apr. 22, 2002.

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**[No. 114]**

**(SB 936)**

AN ACT to amend 1927 PA 175, entitled "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," by amending section 19f of chapter VII (MCL 767.19f).

*The People of the State of Michigan enact:*

## CHAPTER VII

### **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.

#### **Effective date.**

Enacting section 1. This amendatory act takes effect May 1, 2002.

#### **Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

**[No. 115]****(SB 939)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 750.1 to 750.568) by adding section 543r.

*The People of the State of Michigan enact:*

**750.543r Obtaining or possessing certain information about vulnerable target; intent; felony; penalty; “vulnerable target” defined.**

Sec. 543r. (1) A person shall not obtain or possess a blueprint, an architectural or engineering diagram, security plan, or other similar information of a vulnerable target, with the intent to commit an offense prohibited under this chapter.

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both.

(3) As used in this section, “vulnerable target” means that term as defined in section 212a.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler’s note:** Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State March 29, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

**[No. 116]****(SB 940)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 212a (MCL 750.212a), as added by 1998 PA 207.

*The People of the State of Michigan enact:*

**750.212a Violation as felony; term of imprisonment; definitions.**

Sec. 212a. (1) If a person violates this chapter, the violation is committed in or is directed at a vulnerable target, and the violation results in the death of another individual or results in serious impairment of a body function of another individual, the person is guilty of a felony punishable by imprisonment for not more than 20 years. A term of imprisonment imposed under this section shall be served concurrently to the term of imprisonment for the underlying violation.

(2) As used in this section:

(a) “Serious impairment of a body function” means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(b) “Vulnerable target” means any of the following:

(i) A child care center or day care center as defined in section 1 of 1973 PA 116, MCL 722.111.

(ii) A health care facility or agency as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(iii) A building or structure open to the general public.

(iv) A church, synagogue, mosque, or other place of religious worship.

(v) A public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade 1 through 12.

(vi) An institution of higher education.

(vii) A stadium.

(viii) A transportation structure or facility open to the public, including, but not limited to, a bridge, a tunnel, a public highway, or a railroad.

(ix) A vehicle, locomotive or railroad car, aircraft, or watercraft used to provide transportation services to the public or to provide for the movement of goods in commerce.

(x) An airport. As used in this subparagraph, “airport” means that term as defined in section 9 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.9.

(xi) Port facilities. As used in this subparagraph, “port facilities” means that term as defined in section 2 of the Hertel-Law-T. Stopczynski port authority act, 1978 PA 639, MCL 120.102.

(xii) A public services provider. As used in this subparagraph, “public services provider” means any of the following:

(A) A natural gas company subject to the jurisdiction of the federal energy regulatory commission.

(B) An electric, steam, gas, telephone, power, water, or pipeline company, nuclear reactor, or nuclear waste storage facility.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5511 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.  
Approved March 29, 2002.  
Filed with Secretary of State April 1, 2002.

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**Compiler's note:** House Bill No. 5511, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 140, Eff. Apr. 22, 2002.

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**[No. 117]**

**(SB 942)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 750.1 to 750.568) by adding section 543p.

*The People of the State of Michigan enact:*

**750.543p Internet or telecommunications or electronic device; prohibited use; violation as felony; penalty; definitions.**

Sec. 543p. (1) A person shall not use the internet or a telecommunications device or system or other electronic device or system so as to disrupt the functions of the public safety, educational, commercial, or governmental operations within this state with the intent to commit a willful and deliberate act that is all of the following:

(a) An act that would be a felony under the laws of this state, whether or not committed in this state.

(b) An act that the person knows or has reason to know is dangerous to human life as that term is defined in section 543b of the Michigan penal code, 1931 PA 328, MCL 750.543b.

(c) An act that is intended to intimidate or coerce a civilian population or influence or affect the conduct of government or a unit of government through intimidation or coercion.

(2) A person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both.

(3) As used in this section:

(a) “Computer network”, “computer system”, and “internet” mean those terms as defined in section 145d.

(b) “Electronic device” means any instrument, equipment, or device having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(c) “Electronic system” includes, but is not limited to, a computer system or computer network, digital broadcast system, or satellite network.

(d) “Telecommunications device” means that term as defined in section 540c.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.



**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler's note:** Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

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**[No. 118]****(SB 943)**

AN ACT to amend 1963 PA 181, entitled "An act to promote safety upon the public highways by regulating the operation of certain vehicles; to provide consistent regulation of these areas by state agencies and local units of government; to establish the qualifications of persons necessary for the safe operation of such vehicles; to limit the hours of service of persons engaged in operating such vehicles; to require the keeping of records of such operations; to provide penalties for the violation of this act; to prescribe the powers and duties of certain state agencies; and to repeal certain acts and parts of acts," by amending section 7c (MCL 480.17c), as amended by 2000 PA 298.

*The People of the State of Michigan enact:*

**480.17c Owner or use of certain vehicles; transporting package or hazardous material required to be marked, labeled, or endorsed; violation; penalty; owner or user of hazardous materials vehicle inspection or repair facility; violation as misdemeanor.**

Sec. 7c. (1) A driver or operator or an owner or user of a bus, truck, truck tractor, or trailer, or certain other motor vehicles, or an officer or agent of an individual, partnership, corporation, or association, or their lessees or receiver appointed by a court that is the owner or user of a vehicle, who requires or permits the driver or operator to operate or drive a bus, truck, truck tractor, or trailer, or certain other motor vehicles, that violates this act or a rule promulgated under this act if the vehicle is transporting a package required to be marked or labeled under 49 C.F.R. parts 100 to 180, upon conviction, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both, for each violation.

(2) A person or entity identified in subsection (1) shall not transport, or require, permit, or allow to be transported, hazardous material for which a placard is required under 49 C.F.R. parts 100 to 199, in a vehicle identified in subsection (1) if the person that is transporting the hazardous material does not have a hazardous material endorsement on his or her operator's or chauffeur's license. A person or entity that violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both, for each violation.

(3) An officer, employee, owner, or agent of an individual, partnership, corporation, or association, or their lessees or receiver appointed by a court that is the owner or user of any hazardous materials vehicle inspection or repair facility that violates a section of this

act, or a rule promulgated under this act, related to the transportation of hazardous materials, is guilty of a misdemeanor punishable as prescribed in this section.

**Effective date.**

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**[No. 119]**

**(SB 948)**

AN ACT to amend 1927 PA 175, entitled “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,” by amending section 24 of chapter VII (MCL 767.24), as amended by 2001 PA 6.

*The People of the State of Michigan enact:*

CHAPTER VII

**767.24 Indictments; finding and filing; limitations.**

Sec. 24. (1) An indictment for murder, or criminal sexual conduct in the first degree, or a violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, or a violation of chapter XXXIII of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a, that is punishable by life imprisonment may be found and filed at any time.

(2) 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 violation is obtained and that evidence contains DNA that is determined to be from an unidentified individual, an indictment against that individual for the violation may be found and filed at any time after the offense is committed. However, after the individual is identified, the indictment shall 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.

(3) An indictment for kidnapping, extortion, assault with intent to commit murder, attempted murder, manslaughter, conspiracy to commit murder, or first-degree home invasion shall be found and filed within 10 years after the offense is committed.

(4) All other indictments shall be found and filed within 6 years after the offense is committed.

(5) 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 shall be found and filed.

### **Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

### **Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler's note:** Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

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**[No. 120]**

**(SB 949)**

AN ACT to amend 1927 PA 175, entitled "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,” by amending section 1f of chapter IX (MCL 769.1f), as amended by 2001 PA 208.

*The People of the State of Michigan enact:*

#### CHAPTER IX

### **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 625(1), (3), (4), (5), (6), or (7) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or of a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m.

(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 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.81135.

(e) A violation or attempted violation of section 185 of the aeronautics code of the state of Michigan, 1945 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 or 355 of the railroad code of 1993, 1993 PA 354, MCL 462.353 and 462.355.

(h) A violation or attempted violation of section 411a(2) 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.

(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 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 4 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.4.

(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.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler's note:** Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

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**[No. 121]**

**(SB 994)**

AN ACT to amend 1955 PA 133, entitled “An act to provide for the granting of military leaves and providing reemployment protection for officers and enlisted men of the military or naval forces of the state or of the United States,” by amending section 3 (MCL 32.273).

*The People of the State of Michigan enact:*

**32.273 Members of military or naval forces; leave of absence from employment for military purposes; reemployment; priority; seniority, rights, and benefits; exception; definitions.**

Sec. 3. (1) An employee who requests a leave from his or her employment shall not be denied a leave of absence by his or her employer for the purpose of being inducted into or entering into active service, active state service, or the service of the United States, for the purpose of determining his or her physical fitness to enter the service, or for performing training duty as an officer or enlisted member of the military or naval forces of this state or of the United States. Following release from service, training duty, or rejection, the employee shall, if he or she makes application to his or her employer for reemployment within 15 days following service, release, or rejection, be reemployed in a position of employment in the following order of priority:

(a) Following service of 1 to 90 days, in the position of employment in which the person would have been employed if the continuous employment of the person with the employer had not been interrupted by service, the duties of which the person is qualified to perform.

(b) Following service of 1 to 90 days, in the position of employment in which the person was employed on the date of the commencement of service, only if the person is not qualified to perform the duties of the position referred to in subdivision (a) and after reasonable efforts by the employer to qualify the person have been made.

(c) Following service of 91 or more days, a position described under subdivision (a) or (b) or in any other position of lesser status or pay that the person is qualified to perform, only

if the person is not qualified and cannot become qualified with reasonable efforts by the employer to be employed as described in subdivision (b).

(2) A person who is reemployed under this section is entitled to the seniority and other rights and benefits that are determined by seniority that the person had on the date of the commencement of service plus the additional seniority and rights and benefits that the person would have attained if the person had been continually employed.

(3) In addition to the seniority, rights, and benefits under subsection (2), a person who is reemployed under this section is entitled to rights and benefits, not determined by seniority, that are generally provided by the employer to employees who have similar seniority, status, and pay who are on furlough or leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of service or established while the person performs service.

(4) The employee is not entitled to reemployment under this section if the employee who is absent by reason of active service, active state service, or the service of the United States has a cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, that exceeds 5 years, except that any period of service shall not include any of the following:

(a) Any service that is required, beyond 5 years, to complete an initial period of obligated service.

(b) Any service during which the person was unable to obtain orders releasing him or her from a period of service in the uniformed services before the expiration of the 5-year period and the inability was through no fault of the person.

(c) Any service performed as required pursuant to 10 U.S.C. 10147, under 32 U.S.C. 502(a) or 503, or to fulfill additional training requirements determined and certified in writing by the appropriate service secretary to be necessary for professional development or for completion of skill training or retraining.

(d) Any service performed by a member in active service, active state service, or the service of the United States if any of the following occur:

(i) The member is ordered to or retained on active duty, active service, or active state service under 10 U.S.C. 688, 12301(a), 12301(g), 12302, 12304, or 12305, or under 14 U.S.C. 331, 332, 359, 360, 367, or 712.

(ii) The member is ordered to or retained on active duty, active service, or active state service, other than for training, under any provision of law because of a war or national emergency declared by the president, the congress, or the governor.

(iii) The member is ordered to active duty, other than for training, in support, as determined by the appropriate service secretary, of an operational mission for which personnel have been ordered to active duty under 10 U.S.C. 12304.

(iv) The member is ordered to active duty in support, as determined by the appropriate service secretary, of a critical mission or requirement of the uniformed services.

(v) The member is called into federal service as a member of the national guard under 10 U.S.C. 331 to 335 or under 10 U.S.C. 12406.

(5) An employee is not entitled to the benefits under this section if the service of the employee in any of the uniformed services is terminated under any of the following circumstances:

(a) A separation of the person from the uniformed service or national guard with a dishonorable or bad conduct discharge.



(b) A separation of the person from the uniformed service or national guard under other than honorable conditions, as characterized pursuant to regulations prescribed by the appropriate service secretary.

(c) A dismissal of the person under 10 U.S.C. 1161(a).

(d) A dropping from the rolls pursuant to 10 U.S.C. 1161(b).

(6) As used in this section:

(a) “Active service” means service, including active state service or special duty required by law, regulation, or pursuant to order of the governor. Active service includes continuing service of an active member of the national guard and the defense force in fulfilling that active member’s commission, appointment, or enlistment.

(b) “Active state service”, as applied to the national guard and the defense force, means military service in support of civil authorities, at the request of local authorities, including, but not limited to, support in the enforcement of laws prohibiting the importation, sale, delivery, possession, or use of a controlled substance, if ordered by the governor or as otherwise provided in this act. As used in this subdivision, “controlled substance” means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(c) “Service” means active service, active state service, or in the service of the United States.

(d) “Service secretary” means the secretary of the army, secretary of the navy, or secretary of the air force as defined in 10 U.S.C. 101(9).

(e) “Uniformed service” means the armed forces, the reserve component, the national guard in active service or active state service, the commissioned corps of the public health service, and any other category of persons designated by the president or governor in time of war or national emergency.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**[No. 122]**

**(SB 995)**

AN ACT to amend 1927 PA 175, entitled “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,” by amending section 16z of chapter XVII (MCL 777.16z), as amended by 2000 PA 279.

*The People of the State of Michigan enact:*

CHAPTER XVII

**777.16z §§ 750.535 to 750.552b; 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
750.535a(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
750.539c	Pub ord	H	Eavesdropping	2
750.539d	Pub ord	H	Installing eavesdropping device	2
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
750.540	Pub ord	H	Tapping or cutting telephone lines	2
750.540c(3)	Property	F	Manufacturing or delivering a counterfeit communications device	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 telecommunications services having a value of \$20,000 or more or with prior convictions	10
750.543f	Person	A	Terrorism without causing death	Life

750.543h	Pub ord	A	Hindering prosecution of terrorism	Life
750.543k	Pub saf	B	Soliciting material support for terrorism or terrorist acts	20
750.543m	Pub ord	B	Threat or false report of terrorism	20
750.543p	Pub saf	B	Use of internet or telecommunications to commit terrorism	20
750.543r	Pub saf	B	Surveillance of vulnerable target with intent to commit terrorism	20
750.545	Pub ord	E	Misprision of treason	5
750.552b	Property	F	Trespassing on correctional facility property	4

### Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

### Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

- (a) Senate Bill No. 930.
- (b) Senate Bill No. 939.
- (c) Senate Bill No. 942.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

**Compiler's note:** The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 930 was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

Senate Bill No. 939 was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 115, Eff. Apr. 22, 2002.

Senate Bill No. 942 was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 117, Eff. Apr. 22, 2002.

## [No. 123]

### (SB 996)

AN ACT to amend 1927 PA 175, entitled "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," by amending section 16v of chapter XVII (MCL 777.16v), as amended by 2000 PA 279.

*The People of the State of Michigan enact:*

CHAPTER XVII

**777.16v §§ 750.422 to 750.443; 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
750.423	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
750.442	Pub ord	G	Participating in prizefights	4
750.443	Pub ord	G	Prizefights — training	4

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5507 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler's note:** House Bill No. 5507, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 135, Eff. Apr. 22, 2002.

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**[No. 124]****(SB 997)**

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 159g (MCL 750.159g), as amended by 1997 PA 75.

*The People of the State of Michigan enact:*

**750.159g "Racketeering" defined.**

Sec. 159g. As used in this chapter, "racketeering" means committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit an offense for financial gain, involving any of the following:

(a) A felony violation of section 8 of the tobacco products tax act, 1993 PA 327, MCL 205.428, concerning tobacco product taxes, or section 9 of former 1947 PA 265, concerning cigarette taxes.

(b) A violation of section 11151(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11151, or section 48(3) of former 1979 PA 64, concerning felonious disposal of hazardous waste.

(c) A felony violation of part 74 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, concerning controlled substances or androgenic anabolic steroids.

(d) A felony violation of section 60 of the social welfare act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

(e) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607, concerning medicaid fraud.

(f) A felony violation of section 18 of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.218, concerning the business of gaming.

(g) A violation of section 409 of the uniform securities act, 1964 PA 265, MCL 451.809, concerning securities fraud.

(h) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677, concerning the display or dissemination of obscene matter to minors.

- (i) A felony violation of section 72, 73, 74, 75, or 77, concerning arson.
- (j) A violation of section 93, 94, 95, or 96, concerning bank bonds, bills, notes, and property.
- (k) A violation of section 110 or 110a, concerning breaking and entering or home invasion.
- (l) A violation of section 117, 118, 119, 120, 121, or 124, concerning bribery.
- (m) A violation of section 120a, concerning jury tampering.
- (n) A violation of section 145c, concerning child sexually abusive activity or material.
- (o) A felony violation of section 157n, 157p, 157q, 157r, 157s, 157t, or 157u, concerning credit cards or financial transaction devices.
- (p) A felony violation of section 174, 175, 176, 180, 181, or 182, concerning embezzlement.
- (q) A felony violation of chapter XXXIII, concerning explosives and bombs.
- (r) A violation of section 213, concerning extortion.
- (s) A felony violation of section 218, concerning false pretenses.
- (t) A felony violation of section 223(2), 224(1)(a), (b), or (c), 224b, 224c, 224e(1), 226, 227, 234a, 234b, or 237a, concerning firearms or dangerous weapons.
- (u) A felony violation of chapter XLI, concerning forgery and counterfeiting.
- (v) A violation of section 271, 272, 273, or 274, concerning securities fraud.
- (w) A violation of section 300a, concerning food stamps or coupons or access devices.
- (x) A violation of section 301, 302, 303, 304, 305, 305a, or 313, concerning gambling.
- (y) A violation of section 316 or 317, concerning murder.
- (z) A violation of section 330, 331, or 332, concerning horse racing.
- (aa) A violation of section 349, 349a, or 350, concerning kidnapping.
- (bb) A felony violation of chapter LII, concerning larceny.
- (cc) A violation of section 411k, concerning money laundering.
- (dd) A violation of section 422, 423, 424, or 425, concerning perjury or subornation of perjury.
- (ee) A violation of section 452, 455, 457, 458, or 459, concerning prostitution.
- (ff) A violation of section 529, 529a, 530, or 531, concerning robbery.
- (gg) A felony violation of section 535, 535a, or 536a, concerning stolen, embezzled, or converted property.
- (hh) A violation of chapter LXXXIII-A, concerning terrorism.
- (ii) A violation of section 5 of 1984 PA 343, MCL 752.365, concerning obscenity.
- (jj) An offense committed within this state or another state that constitutes racketeering activity as defined in section 1961(1) of title 18 of the United States Code, 18 U.S.C. 1961.
- (kk) An offense committed within this state or another state in violation of a law of the United States that is substantially similar to a violation listed in subdivisions (a) through (ii).
- (ll) An offense committed in another state in violation of a statute of that state that is substantially similar to a violation listed in subdivisions (a) through (ii).

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler's note:** Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

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**[No. 125]****(SB 1005)**

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 21513 (MCL 333.21513), as amended by 1993 PA 79.

*The People of the State of Michigan enact:*

**333.21513 Owner, operator, and governing body of hospital; responsibilities and duties generally.**

Sec. 21513. The owner, operator, and governing body of a hospital licensed under this article:

(a) Are responsible for all phases of the operation of the hospital, selection of the medical staff, and quality of care rendered in the hospital.

(b) Shall cooperate with the department in the enforcement of this part, and require that the physicians, dentists, and other personnel working in the hospital who are required to be licensed or registered are in fact currently licensed or registered.

(c) Shall assure that physicians and dentists admitted to practice in the hospital are granted hospital privileges consistent with their individual training, experience, and other qualifications.

(d) Shall assure that physicians and dentists admitted to practice in the hospital are organized into a medical staff to enable an effective review of the professional practices in the hospital for the purpose of reducing morbidity and mortality and improving the care provided in the hospital for patients. The review shall include the quality and necessity of the care provided and the preventability of complications and deaths occurring in the hospital.

(e) Shall not discriminate because of race, religion, color, national origin, age, or sex in the operation of the hospital including employment, patient admission and care, room assignment, and professional or nonprofessional selection and training programs, and shall not discriminate in the selection and appointment of individuals to the physician staff of the hospital or its training programs on the basis of licensure or registration or professional education as doctors of medicine, osteopathic medicine and surgery, or podiatry.

(f) Shall assure that the hospital adheres to medical control authority protocols according to section 20918.

(g) Shall assure that the hospital develops and maintains a plan for biohazard detection and handling.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**[No. 126]**

**(HB 4037)**

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending section 310 (MCL 257.310), as amended by 2001 PA 216.

*The People of the State of Michigan enact:*

**257.310 Operator’s or chauffeur’s license; issuance; motorcycle indorsement or vehicle group designation or indorsement application; contents of license; digitized license; unlawful acts; penalties; temporary driver’s permit; medical data or anatomical gift; designation of patient advocate or emancipated status.**

Sec. 310. (1) The secretary of state shall issue an operator’s license to each person licensed as an operator and a chauffeur’s license to each person licensed as a chauffeur.



An applicant for a motorcycle indorsement under section 312a or a vehicle group designation or indorsement shall first qualify for an operator's or chauffeur's license before the indorsement or vehicle group designation application is accepted and processed.

(2) The license issued under subsection (1) shall contain all of the following information:

(a) The distinguishing number permanently assigned to the licensee.

(b) The full name, date of birth, address of residence, height, eye color, sex, an image, and the signature of the licensee.

(c) An indication that the license contains 1 or more of the following:

(i) The blood type of the licensee.

(ii) Immunization data of the licensee.

(iii) Medication data of the licensee.

(iv) A statement that the licensee is deaf.

(v) A statement that the licensee is an organ and tissue donor pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(vi) Emergency contact information of the licensee.

(vii) A sticker or decal as specified by the secretary of state to indicate that the licensee has designated 1 or more patient advocates in accordance with section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506, or a statement that the licensee carries an emergency medical information card.

(d) If the licensee has made a statement described in subdivision (c)(v), the signature of the licensee following the indication of his or her organ and tissue donor intent identified in subdivision (c)(v), along with the signature of at least 1 witness.

(e) The sticker or decal described in subdivision (c)(vii) may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing the emergency medical information card, but shall meet the specifications of the secretary of state. The emergency medical information card may contain the information described in subdivision (c)(vi), information concerning the licensee's patient advocate designation, other emergency medical information, or an indication as to where the licensee has stored or registered emergency medical information.

(3) Except as otherwise required in this chapter, other information required on the license pursuant to this chapter may appear on the license in a form prescribed by the secretary of state.

(4) The license shall not contain a fingerprint or finger image of the licensee.

(5) A digitized license may contain an identifier for voter registration purposes. The digitized license may contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's driver license number, birth date, license expiration date, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the person's name, address, driving record, or other personal identifier. The license shall identify the encoded information.

(6) The license shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the license without ready detection. In addition, a license with a vehicle group designation shall contain the information required pursuant to 49 C.F.R. part 383.

(7) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates a license photograph, the negative of the photograph, an image, a license, or the electronic

data contained on a license or a part of a license or who uses a license, an image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated is subject to 1 of the following:

(a) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for 10 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 10 years or a fine of not more than \$20,000.00, or both.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by imprisonment for 6 months or more, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$10,000.00, or both.

(c) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a misdemeanor punishable by imprisonment for less than 6 months, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(8) A person who sells, or who possesses with the intent to deliver to another, a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(9) A person who is in possession of 2 or more reproduced, altered, counterfeited, forged, or duplicated license photographs, negatives of the photograph, images, licenses, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(10) A person who is in possession of a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(11) Subsections (7)(a) and (b), (8), and (9) do not apply to a minor whose intent is to violate section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(12) The secretary of state, upon determining after an examination that an applicant is mentally and physically qualified to receive a license, may issue to that person a temporary driver's permit entitling the person while having the permit in his or her immediate possession to drive a motor vehicle upon the highway for a period not exceeding 60 days before issuance to the person of an operator's or chauffeur's license by the secretary of state.

(13) An operator or chauffeur may indicate on the license in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, or a statement that the licensee is deaf, or a statement that the licensee is an organ and tissue donor and has made an anatomical gift pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(14) An operator or chauffeur may indicate on the license in a place designated by the secretary of state that he or she has designated a patient advocate in accordance with sections 5506 to 5513 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5513.

(15) If the applicant provides proof to the secretary of state that he or she is a minor who has been emancipated pursuant to 1968 PA 293, MCL 722.1 to 722.6, the license shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**[No. 127]**

**(HB 5041)**

AN ACT to amend 1927 PA 175, entitled "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," by amending section 12d of chapter XVII (MCL 777.12d), as added by 2002 PA 34.

*The People of the State of Michigan enact:*

CHAPTER XVII

**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:

<b>M.C.L.</b>	<b>Category</b>	<b>Class</b>	<b>Description</b>	<b>Stat Max</b>
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

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4037 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler's note:** House Bill No. 4037, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 126, Eff. Apr. 22, 2002.

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**[No. 128]**

**(HB 5270)**

AN ACT to amend 1966 PA 189, entitled "An act to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts," by amending section 1 (MCL 780.651), as amended by 1990 PA 43.

*The People of the State of Michigan enact:*

**780.651 Issuance of search warrant; requirements; making affidavit for search warrant or search warrant by electronic or electromagnetic means; proof; paper quality and durability standards; oath or affirmation administered by electronic or electromagnetic means; impression seal; nonpublic information.**

Sec. 1. (1) When an affidavit is made on oath to a magistrate authorized to issue warrants in criminal cases, and the affidavit establishes grounds for issuing a warrant pursuant to this act, the magistrate, if he or she is satisfied that there is probable cause for the search, shall issue a warrant to search the house, building, or other location or place where the property or thing to be searched for and seized is situated.

(2) An affidavit for a search warrant may be made by any electronic or electromagnetic means of communication if both of the following occur:

(a) The judge or district court magistrate orally administers the oath or affirmation to an applicant for a search warrant who submits an affidavit under this subsection.

(b) The affiant signs the affidavit. Proof that the affiant has signed the affidavit may consist of an electronically or electromagnetically transmitted facsimile of the signed affidavit.

(3) A judge may issue a written search warrant in person or by any electronic or electromagnetic means of communication. If a court order required pursuant to section 625a of the Michigan vehicle code, 1949 PA 300, MCL 257.625a, is issued as a search warrant, the written search warrant may be issued in person or by any electronic or electromagnetic means of communication by a judge or by a district court magistrate.

(4) The peace officer or department receiving an electronically or electromagnetically issued search 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) The state court administrator shall establish paper quality and durability standards for warrants issued under this section.

(6) If an oath or affirmation is orally administered by electronic or electromagnetic means of communication under this section, the oath or affirmation is considered to be administered before the judge or district court magistrate.

(7) If an affidavit for a search warrant is submitted by electronic or electromagnetic means of communication, or a search warrant is issued by electronic or electromagnetic means of communication, the transmitted copies of the affidavit or search warrant are duplicate originals of the affidavit or search warrant and are not required to contain an impression made by an impression seal.

(8) A search warrant, affidavit, or tabulation contained in any court file or record retention system is nonpublic information.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

**[No. 129]****(HB 5295)**

AN ACT to amend 1927 PA 175, entitled “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,” (MCL 760.1 to 777.69) by adding section 2 to chapter II.

*The People of the State of Michigan enact:*

## CHAPTER II

**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.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**[No. 130]**

**(HB 5349)**

AN ACT to amend 1976 PA 442, entitled “An act to provide for public access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to provide remedies and penalties; and to repeal certain acts and parts of acts,” by amending section 13 (MCL 15.243), as amended by 2001 PA 74.

*The People the State of Michigan enact:*

**15.243 Exemptions from disclosure; withholding of information required by law or in possession of executive office.**

Sec. 13. (1) A public body may exempt from disclosure as a public record under this act any of the following:

(a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual’s privacy.

(b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:

(i) Interfere with law enforcement proceedings.

(ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.

(iii) Constitute an unwarranted invasion of personal privacy.

(iv) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.

(v) Disclose law enforcement investigative techniques or procedures.

(vi) Endanger the life or physical safety of law enforcement personnel.

(c) A public record that if disclosed would prejudice a public body’s ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(d) Records or information specifically described and exempted from disclosure by statute.

(e) A public record or information described in this section that is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remain applicable.

(f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:

(i) The information is submitted upon a promise of confidentiality by the public body.

(ii) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.

(iii) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision does not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.

(g) Information or records subject to the attorney-client privilege.

(h) Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.

(i) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the deadline for submission of bids or proposals has expired.

(j) Appraisals of real property to be acquired by the public body until (i) an agreement is entered into; or (ii) 3 years have elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.

(k) Test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(l) Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation.

(m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption does not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under state law for purposes of section 8(h) of the open meetings act, 1976 PA 267, MCL 15.268. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under 1947 PA 336, MCL 423.201 to 423.217.

(n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.



(o) Information that would reveal the exact location of archaeological sites. The department of history, arts, and libraries may promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the disclosure of the location of archaeological sites for purposes relating to the preservation or scientific examination of sites.

(p) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. This subdivision does not apply after 1 year has elapsed from the time the public body completes the testing.

(q) Academic transcripts of an institution of higher education established under section 5, 6, or 7 of article VIII of the state constitution of 1963, if the transcript pertains to a student who is delinquent in the payment of financial obligations to the institution.

(r) Records of a campaign committee including a committee that receives money from a state campaign fund.

(s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:

(i) Identify or provide a means of identifying an informant.

(ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.

(iii) Disclose the personal address or telephone number of active or retired law enforcement officers or agents or a special skill that they may have.

(iv) Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of active or retired law enforcement officers or agents.

(v) Disclose operational instructions for law enforcement officers or agents.

(vi) Reveal the contents of staff manuals provided for law enforcement officers or agents.

(vii) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.

(viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.

(ix) Disclose personnel records of law enforcement agencies.

(x) Identify or provide a means of identifying residences that law enforcement agencies are requested to check in the absence of their owners or tenants.

(t) Except as otherwise provided in this subdivision, records and information pertaining to an investigation or a compliance conference conducted by the department of consumer and industry services under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before a complaint is issued. This subdivision does not apply to records or information pertaining to 1 or more of the following:

(i) The fact that an allegation has been received and an investigation is being conducted, and the date the allegation was received.

(ii) The fact that an allegation was received by the department of consumer and industry services; the fact that the department of consumer and industry services did not issue a complaint for the allegation; and the fact that the allegation was dismissed.

(u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.

(v) Records or information relating to a civil action in which the requesting party and the public body are parties.

(w) Information or records that would disclose the social security number of any individual.

(x) Except as otherwise provided in this subdivision, an application for the position of president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, materials submitted with such an application, letters of recommendation or references concerning an applicant, and records or information relating to the process of searching for and selecting an individual for a position described in this subdivision, if the records or information could be used to identify a candidate for the position. However, after 1 or more individuals have been identified as finalists for a position described in this subdivision, this subdivision does not apply to a public record described in this subdivision, except a letter of recommendation or reference, to the extent that the public record relates to an individual identified as a finalist for the position.

(y) Records or information of measures designed to protect the security or safety of persons or property, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543 to 750.543z, emergency response plans, risk planning documents, threat assessments, and domestic preparedness strategies, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

(2) A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with section 444 of subpart 4 of part C of the general education provisions act, title IV of Public Law 90-247, 20 U.S.C. 1232g, commonly referred to as the family educational rights and privacy act of 1974.

(3) This act does not authorize the withholding of information otherwise required by law to be made available to the public or to a party in a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Except as otherwise exempt under subsection (1), this act does not authorize the withholding of a public record in the possession of the executive office of the governor or lieutenant governor, or an employee of either executive office, if the public record is transferred to the executive office of the governor or lieutenant governor, or an employee of either executive office, after a request for the public record has been received by a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of government that is subject to this act.

**Effective date.**

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

**[No. 131]****(HB 5495)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (MCL 750.1 to 750.568) by adding chapter LXXXIII-A.

*The People of the State of Michigan enact:*

## CHAPTER LXXXIII-A

**750.543c “Terrorist organization” defined.**

Sec. 543c. As used in this chapter, “terrorist organization” means an organization that, on the effective date of the amendatory act that added this section, is designated by the United States state department as engaging in or sponsoring an act of terrorism.

**750.543y Other violations arising out of same criminal transaction.**

Sec. 543y. This chapter does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law arising out of the same criminal transaction as the violation of this chapter.

**750.543z Constitutionally protected conduct; prosecution prohibited.**

Sec. 543z. Notwithstanding any provision in this chapter, a prosecuting agency shall not prosecute any person or seize any property for conduct presumptively protected by the first amendment to the constitution of the United States in a manner that violates any constitutional provision.

**Effective date.**

Enacting section 1. This amendatory act takes effect April 22, 2002.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved March 29, 2002.

Filed with Secretary of State April 1, 2002.

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**Compiler’s note:** Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

**[No. 132]****(HB 5496)**

AN ACT to amend 1976 PA 390, entitled “An act to provide for planning, mitigation, response, and recovery from natural and human-made disaster within this state; to create

the Michigan emergency management advisory council and prescribe its powers and duties; to prescribe the powers and duties of certain state and local agencies and officials; to prescribe immunities and liabilities; to provide for the acceptance of gifts; to repeal certain acts and parts of acts; and to repeal certain parts of the act," by amending sections 3, 7, 7a, 8, 9, 10, and 11 (MCL 30.403, 30.407, 30.407a, 30.408, 30.409, 30.410, and 30.411), sections 3, 7, 8, 9, 10, and 11 as amended and section 7a as added by 1990 PA 50, and by adding section 21; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

**30.403 Responsibility of governor; executive orders, proclamations, and directives; declaration, duration, and termination of state of disaster or state of emergency; contents and dissemination of executive order or proclamation.**

Sec. 3. (1) The governor is responsible for coping with dangers to this state or the people of this state presented by a disaster or emergency.

(2) The governor may issue executive orders, proclamations, and directives having the force and effect of law to implement this act. Except as provided in section 7(2), an executive order, proclamation, or directive may be amended or rescinded by the governor.

(3) The governor shall, by executive order or proclamation, declare a state of disaster if he or she finds a disaster has occurred or the threat of a disaster exists. The state of disaster shall continue until the governor finds that the threat or danger has passed, the disaster has been dealt with to the extent that disaster conditions no longer exist, or until the declared state of disaster has been in effect for 28 days. After 28 days, the governor shall issue an executive order or proclamation declaring the state of disaster terminated, unless a request by the governor for an extension of the state of disaster for a specific number of days is approved by resolution of both houses of the legislature. An executive order or proclamation issued pursuant to this subsection shall indicate the nature of the disaster, the area or areas threatened, the conditions causing the disaster, and the conditions permitting the termination of the state of disaster. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be promptly filed with the emergency management division of the department and the secretary of state, unless circumstances attendant upon the disaster prevent or impede its prompt filing.

(4) The governor shall, by executive order or proclamation, declare a state of emergency if he or she finds that an emergency has occurred or that the threat of an emergency exists. The state of emergency shall continue until the governor finds that the threat or danger has passed, the emergency has been dealt with to the extent that emergency conditions no longer exist, or until the declared state of emergency has been in effect for 28 days. After 28 days, the governor shall issue an executive order or proclamation declaring the state of emergency terminated, unless a request by the governor for an extension of the state of emergency for a specific number of days is approved by resolution of both houses of the legislature. An executive order or proclamation issued pursuant to this subsection shall indicate the nature of the emergency, the area or areas threatened, the conditions causing the emergency, and the conditions permitting the termination of the state of emergency. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be promptly filed with the emergency management division of the department and the secretary of state, unless circumstances attendant upon the emergency prevent or impede its prompt filing.

**30.407 Powers and duties of director.**

Sec. 7. (1) The director shall implement the orders and directives of the governor in the event of a disaster or an emergency and shall coordinate all federal, state, county, and municipal disaster prevention, mitigation, relief, and recovery operations within this state. At the specific direction of the governor, the director shall assume complete command of all disaster relief, mitigation, and recovery forces, except the national guard or state defense force, if it appears that this action is absolutely necessary for an effective effort.

(2) If the governor has issued a proclamation, executive order, or directive under section 3 regarding state of disaster or state of emergency declarations, section 5 regarding actions directed by the governor, or section 21 regarding heightened state of alert, the director may, with the concurrence of the governor, amend the proclamation or directive by adding additional counties or municipalities or terminating the orders and restrictions as considered necessary.

(3) The director shall comply with the applicable provisions of the Michigan emergency management plan in the performance of the director's duties under this act.

(4) The director's powers and duties shall include the administration of state and federal disaster relief funds and money; the mobilization and direction of state disaster relief forces; the assignment of general missions to the national guard or state defense force activated for active state duty to assist the disaster relief operations; the receipt, screening, and investigation of requests for assistance from county and municipal governmental entities; making recommendations to the governor; and other appropriate actions within the general authority of the director.

(5) In carrying out the director's responsibilities under this act, the director may plan for and utilize the assistance of any volunteer group or person having a pertinent service to render.

(6) The director may issue a directive relieving the donor or supplier of voluntary or private assistance from liability for other than gross negligence in the performance of the assistance.

**30.407a Emergency management division; establishment; purpose; employees; emergency management plan; grants; powers of division; definition.**

Sec. 7a. (1) The department shall establish an emergency management division for the purpose of coordinating within this state the emergency management activities of county, municipal, state, and federal governments. The department shall provide the division with professional and support employees as necessary for the performance of its functions.

(2) The division shall prepare and maintain a Michigan emergency management plan that is a comprehensive plan that encompasses mitigation, preparedness, response, and recovery for this state.

(3) The division shall receive available state and federal emergency management and disaster related grants-in-aid and shall administer and apportion the grants according to appropriately established guidelines to the agencies of this state and local political subdivisions.

(4) The division may do 1 or more of the following:

(a) Promulgate rules that establish standards and requirements for the appointment, training, and professional development of emergency management coordinators.

(b) Promulgate rules that establish standards and requirements for local and inter-jurisdictional emergency management programs.

- (c) Periodically review local and interjurisdictional emergency operations plans.
  - (d) Promulgate rules that establish standards and requirements for emergency training and exercising programs and public information programs.
  - (e) Make surveys of industries, resources, and facilities within this state, both public and private, necessary to carry out the purposes of this act.
  - (f) Prepare, for issuance by the governor, executive orders, proclamations, and regulations as necessary or appropriate in coping with disasters and emergencies.
  - (g) Provide for 1 or more state emergency operations centers to provide for the coordination of emergency response and disaster recovery in this state.
  - (h) Provide for the coordination and cooperation of state agencies and departments with federal and local government agencies and departments in emergency management activities.
  - (i) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this act and in implementing programs for disaster mitigation, preparation, response, and recovery.
  - (j) Propose and administer statewide mutual aid compacts and agreements.
  - (k) Do other activities necessary, incidental, or appropriate for the implementation of this act.
- (5) For purposes of this section, the judicial branch of this state is considered a department of state government.
- (6) As used in this section, “division” means the emergency management division of the department.

### **30.408 Emergency management coordinator; employment or appointment; duties; annexes to emergency management plan; cooperation of state agencies.**

Sec. 8. (1) The director of each department of state government, and those agencies of state government required by the Michigan emergency management plan to provide an annex to that plan, shall serve as emergency management coordinator for their respective departments or agencies. Each director may appoint or employ a designated representative as emergency management coordinator, provided that the representative shall act for and at the direction of that director while functioning in the capacity of emergency management coordinator upon the activation of the state emergency operations center, or the declaration of a state of disaster or emergency. Each department or agency emergency management coordinator shall act as liaison between his or her department or agency and the emergency management division of the department in all matters of emergency management, including the activation of the Michigan emergency management plan. Each department or agency of state government specified in the Michigan emergency management plan shall prepare and continuously update an annex to the plan providing for the delivery of emergency management activities by that agency or the department. The annexes shall be in a form prescribed by the director. The emergency management coordinator shall represent the agency or department head in the drafting and updating of the respective agency’s or the department’s emergency management annex and in coordinating the agency’s or department’s emergency management efforts with those of the other state agencies as well as with county and municipal governments.

(2) Upon the declaration of a state of disaster or a state of emergency by the governor, each state agency shall cooperate to the fullest possible extent with the director in the performance of the services that it is suited to perform, and as described in the Michigan

emergency management plan, in the prevention, mitigation, response to, or recovery from the disaster or emergency. For purposes of this section, the judicial branch of this state is considered a department of state government and the chief justice of the Michigan supreme court is considered the director of that department.

### **30.409 Emergency management coordinator; appointment; duties; eligibility.**

Sec. 9. (1) The county board of commissioners of each county shall appoint an emergency management coordinator. In the absence of an appointed person, the emergency management coordinator shall be the chairperson of the county board of commissioners. The emergency management coordinator shall act for, and at the direction of, the chairperson of the county board of commissioners in the coordination of all matters pertaining to emergency management in the county, including mitigation, preparedness, response, and recovery. In counties with an elected county executive, the county emergency management coordinator may act for and at the direction of the county executive. Pursuant to a resolution adopted by a county, the county boards of commissioners of not more than 3 adjoining counties may agree upon and appoint a coordinator to act for the multicounty area.

(2) A municipality with a population of 25,000 or more shall either appoint a municipal emergency management coordinator or appoint the coordinator of the county as the municipal emergency management coordinator pursuant to subsection (7). In the absence of an appointed person, the emergency management coordinator shall be the chief executive official of that municipality. The coordinator of a municipality shall be appointed by the chief executive official in a manner provided in the municipal charter. The coordinator of a municipality with a population of 25,000 or more shall act for and at the direction of the chief executive official of the municipality or the official designated in the municipal charter in the coordination of all matters pertaining to emergency management, disaster preparedness, and recovery assistance within the municipality.

(3) A municipality with a population of 10,000 or more may appoint an emergency management coordinator for the municipality. The coordinator of a municipality shall be appointed by the chief executive official in a manner provided in the municipal charter. The coordinator of a municipality with a population of 10,000 or more shall act for and at the direction of the chief executive official or the official designated by the municipal charter in the coordination of all matters pertaining to emergency management, disaster preparedness, and recovery assistance within the municipality.

(4) A municipality having a population of less than 10,000 may appoint an emergency management coordinator who shall serve at the direction of the county emergency management coordinator.

(5) A public college or university with a combined average population of faculty, students, and staff of 25,000 or more, including its satellite campuses within this state, shall appoint an emergency management coordinator for the public college or university. Public colleges or universities with a combined average population of faculty, students, and staff of 10,000 or more, including its satellite campuses within this state, may appoint an emergency management coordinator for the public college or university.

(6) A person is not ineligible for appointment as an emergency management coordinator, or as a member of a county or municipal emergency services or emergency management agency or organization, because that person holds another public office or trust, and that person shall not forfeit the right to a public office or trust by reason of his or her appointment as an emergency management coordinator.

(7) A county coordinator may be appointed a municipal coordinator for any municipality within the county and a municipal coordinator may be appointed a county coordinator.

**30.410 Powers of county and municipality; mutual aid or reciprocal aid agreements or compacts; assistance of emergency management coordinator.**

Sec. 10. (1) Each county and municipality that has appointed an emergency management coordinator under section 9 may do 1 or more of the following:

(a) Direct and coordinate the development of emergency operations plans and programs in accordance with the policies and plans established by the appropriate federal and state agencies. Each department or agency of a county or municipality specified in the emergency operations plan to provide an annex to the plan shall prepare and continuously update the annex providing for emergency management activities, including mitigation, preparedness, response, and recovery, by the department or agency and those other emergency activities the department or agency is specified to coordinate. Emergency operations plans and programs developed under this subsection shall include provisions for the dissemination of public information and local broadcasters shall be consulted in developing such provisions. Emergency operations plans and programs developed under this subdivision shall include local courts.

(b) Declare a local state of emergency if circumstances within the county or municipality indicate that the occurrence or threat of widespread or severe damage, injury, or loss of life or property from a natural or human-made cause exists and, under a declaration of a local state of emergency, issue directives as to travel restrictions on county or local roads. This power shall be vested in the chief executive official of the county or municipality or the official designated by charter and shall not be continued or renewed for a period in excess of 7 days except with the consent of the governing body of the county or municipality. The declaration of a local state of emergency shall be promptly filed with the emergency management division of the department, unless circumstances attendant upon the disaster prevent or impede its prompt filing.

(c) Appropriate and expend funds, make contracts, and obtain and distribute equipment, materials, and supplies for disaster purposes.

(d) Provide for the health and safety of persons and property, including emergency assistance to the victims of a disaster.

(e) Direct and coordinate local multi-agency response to emergencies within the county or municipality.

(f) Appoint, employ, remove, or provide, with or without compensation, rescue teams, auxiliary fire and police personnel, and other disaster workers.

(g) Appoint a local emergency management advisory council.

(h) If a state of disaster or emergency is declared by the governor, assign and make available for duty the employees, property, or equipment of the county or municipality relating to fire fighting; engineering; rescue; health, medical, and related services; police; transportation; construction; and similar items or service for disaster relief purposes within or without the physical limits of the county or municipality as ordered by the governor or the director.

(i) In the event of a foreign attack upon this state, waive procedures and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of permanent and temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and



distribution with or without compensation of supplies, materials, and facilities, and the appropriation and expenditure of public funds.

(2) For the purpose of providing assistance during a disaster or emergency, municipalities and counties may enter into mutual aid or reciprocal aid agreements or compacts with other counties, municipalities, public agencies, federally recognized tribal nations, or private sector agencies, or all of these entities. A compact entered into pursuant to this subsection is limited to the exchange of personnel, equipment, and other resources in times of emergency, disaster, or other serious threats to public health and safety. The arrangements shall be consistent with the Michigan emergency management plan.

(3) The emergency management coordinator may assist in the development or negotiation, or both, of a mutual aid or reciprocal aid agreement or compact made pursuant to section 4(3) and shall carry out the agreement or compact.

### **30.411 Powers and duties of personnel of disaster relief forces; liability for personal injury or property damage; right to benefits or compensation; disaster relief workers; immunity; additional authority of dentists, veterinarians, nurses, or paramedics; liability and legal obligation of persons owning or controlling real estate or other premises used for shelter.**

Sec. 11. (1) Personnel of disaster relief forces while on duty are subject to all of the following provisions:

(a) If they are an employee of this state, they have the powers, duties, rights, privileges, and immunities of and receive the compensation incidental to their employment.

(b) If they are employees of a political subdivision of this state, regardless of where serving, they have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment.

(c) If they are not employees of this state or a political subdivision of this state, they are entitled to the same rights and immunities as provided by law for the employees of this state. All personnel of disaster relief forces shall, while on duty, be subject to the operational control of the authority in charge of disaster relief activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses.

(2) This state, any political subdivision of this state, or the employees, agents, or representatives of this state or any political subdivision of this state are not liable for personal injury or property damage sustained by any person appointed or acting as a member of disaster relief forces. This act shall not affect the right of a person to receive benefits or compensation to which he or she may otherwise be entitled to under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, any pension law, or any act of congress.

(3) This state or a political subdivision of this state engaged in disaster relief activity is not liable for the death of or injury to a person or persons, or for damage to property, as a result of that activity. The employees, agents, or representatives of this state or a political subdivision of this state and nongovernmental disaster relief force workers or private or volunteer personnel engaged in disaster relief activity are immune from tort liability to the extent provided under section 7 of 1964 PA 170, MCL 691.1407. As used in this section, "disaster relief activity" includes training for or responding to an actual, impending, mock, or practice disaster or emergency.

(4) A person licensed to practice medicine or osteopathic medicine and surgery, or a licensed hospital, registered nurse, practical nurse, dentist, veterinarian, or paramedical

person, whether licensed in this or another state or by the federal government or a branch of the armed forces of the United States, or a student nurse undergoing training in a licensed hospital in this or another state, that renders services during a state of disaster declared by the governor and at the express or implied request of a state official or agency or county or local coordinator or executive body, is considered an authorized disaster relief worker or facility and is not liable for an injury sustained by a person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained. The immunity granted by this subsection does not apply in the event of a willful act or omission. If a civil action for malpractice is filed alleging a willful act or omission resulting in injuries, the services rendered that resulted in those injuries shall be judged according to the standards required of persons licensed in this state to perform those services.

(5) A licensed dentist, veterinarian, registered nurse, practical nurse, or licensed paramedical person, whether licensed in this or another state or by the federal government or a branch of the armed forces of the United States, or a student nurse undergoing training in a licensed hospital in this or another state, during a state of disaster declared by the governor, may practice, in addition to the authority granted by other statutes of this state, the administration of anesthetics; minor surgery; intravenous, subcutaneous, or intramuscular procedure; or oral and topical medication; or a combination of these under the supervision of a member of the medical staff of a licensed hospital of this state, and may assist the staff member in other medical and surgical proceedings.

(6) A person owning or controlling real estate or other premises who voluntarily and without compensation grants to this state or a political subdivision of this state a license or privilege, or otherwise permits this state or a political subdivision of this state to inspect, designate, and use the whole or any part or parts of the real estate or other premises for the purpose of sheltering persons during an actual, impending, mock, or practice disaster, together with his or her successors in interest, if any, is not civilly liable for negligently causing the death of or injury to any person on or about the real estate or premises under the license, privilege, or permission or for loss or damage to the property of the person.

(7) A person owning or controlling real estate or other premises who has gratuitously granted the use of the real estate or other premises for the purposes stated in this section is legally obligated to make known to the licensee any hidden dangers or safety hazards that are known to the owner or occupant of the real estate or premises that might possibly result in the death or injury or loss of property to a person using the real estate or premises.

### **30.421 Heightened state of alert; cause; powers of governor; violation as misdemeanor; penalty; civil action; definitions.**

Sec. 21. (1) If good cause exists to believe that terrorists or members of a terrorist organization are within this state or that acts of terrorism may be committed in this state or against a vital resource, the governor may by executive order or proclamation declare a heightened state of alert and subsequently exercise the authority provided in section 3(2) and section 5(1)(b), (c), (e), (f), (g), (h), (i), and (j) in an effort to safeguard the interests of this state or a vital resource, to prevent or respond to acts of terrorism, or to facilitate the apprehension of terrorists or members of a terrorist organization and those acting in concert with them. However, in exercising the authority under section 5(1)(h), the governor shall not suspend or limit the sale, dispensing, or transportation of alcoholic beverages under this section. Within 7 days after declaring a heightened state of alert, the governor shall notify the majority leader and minority leader of the senate and the