

Act No. 255
Public Acts of 1996
Approved by the Governor
June 11, 1996
Filed with the Secretary of State
June 12, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senators Bennett, Rogers, Gougeon, Hoffman and Cisky

ENROLLED SENATE BILL No. 867

AN ACT to amend section 15 of chapter II, sections 1f and 27 of chapter IV, and section 14 of chapter VI of Act No. 175 of the Public Acts of 1927, entitled as amended "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," section 15 of chapter II as amended by Act No. 293 of the Public Acts of 1993, section 1f of chapter IV and section 14 of chapter VI as amended by Act No. 195 of the Public Acts of 1994, and section 27 of chapter IV as amended by Act No. 67 of the Public Acts of 1988, being sections 762.15, 764.1f, 764.27, and 766.14 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 15 of chapter II, sections 1f and 27 of chapter IV, and section 14 of chapter VI of Act No. 175 of the Public Acts of 1927, section 15 of chapter II as amended by Act No. 293 of the Public Acts of 1993, section 1f of chapter IV and section 14 of chapter VI as amended by Act No. 195 of the Public Acts of 1994, and section 27 of chapter IV as amended by Act No. 67 of the Public Acts of 1988, being sections 762.15, 764.1f, 764.27, and 766.14 of the Michigan Compiled Laws, are amended to read as follows:

CHAPTER II

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

CHAPTER IV

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

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

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531 of the Michigan Compiled Laws.

(b) A violation of section 84 or 110a(2) of Act No. 328 of the Public Acts of 1931, being sections 750.84 and 750.110a of the Michigan Compiled Laws, if the juvenile is armed with a dangerous weapon. As used in this subdivision, "dangerous weapon" means 1 or more of the following:

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

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

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

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

(c) A violation of section 186a of Act No. 328 of the Public Acts of 1931, being section 750.186a of the Michigan Compiled Laws, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

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

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

(d) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws.

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

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

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

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

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

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

CHAPTER VI

Sec. 14. (1) If the court determines at the conclusion of the preliminary examination of a person charged with a felony that the offense charged is not a felony or that an included offense that is not a felony has been committed, the accused shall not be dismissed but the magistrate shall proceed in the same manner as if the accused had initially been charged with an offense that is not a felony.

(2) If at the conclusion of the preliminary examination of a juvenile the magistrate finds that a specified juvenile violation did not occur or that there is not probable cause to believe that the juvenile committed the violation, but that there is probable cause to believe that some other offense occurred and that the juvenile committed that other offense, the magistrate shall transfer the case to the juvenile division of the probate court of the county where the offense is alleged to have been committed.

(3) A transfer under subsection (2) does not prevent the juvenile division of the probate court from waiving jurisdiction over the juvenile under section 4 of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.4 of the Michigan Compiled Laws.

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

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531 of the Michigan Compiled Laws.

(b) A violation of section 84 or 110a(2) of Act No. 328 of the Public Acts of 1931, being sections 750.84 and 750.110a of the Michigan Compiled Laws, if the juvenile is armed with a dangerous weapon. As used in this subdivision, "dangerous weapon" means 1 or more of the following:

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

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

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

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

(c) A violation of section 186a of Act No. 328 of the Public Acts of 1931, being section 750.186a of the Michigan Compiled Laws, regarding escape or attempted escape from a juvenile facility, but only if the juvenile facility from which the individual escaped or attempted to escape was 1 of the following:

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

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

(d) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401 and 333.7403 of the Michigan Compiled Laws.

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

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

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

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

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

Section 2. This amendatory act applies to offenses committed on or after its effective date.

Section 3. This amendatory act shall take effect January 1, 1997.

Section 4. This amendatory act shall not take effect unless all of the following bills of the 88th Legislature are enacted into law:

(a) Senate Bill No. 281.

(b) Senate Bill No. 283.

(c) Senate Bill No. 682.

(d) Senate Bill No. 689.

(e) Senate Bill No. 699.

(f) Senate Bill No. 700.