

Act No. 76
Public Acts of 1999
Approved by the Governor
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STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 1999

Introduced by Senators North, Shugars and Gougeon

ENROLLED SENATE BILL No. 559

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 1 of chapter I and sections 1e, 9c, and 9f of chapter IV (MCL 761.1, 764.1e, 764.9c, and 764.9f), section 1 of chapter I as amended by 1998 PA 520, section 1e of chapter IV as added by 1980 PA 506, section 9c of chapter IV as amended by 1984 PA 366, and section 9f of chapter IV as amended by 1998 PA 264; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER I

Sec. 1. As used in this act:

- (a) "Person", "accused", or a similar word means an individual or, unless a contrary intention appears, a public or private corporation, partnership, or unincorporated or voluntary association.
- (b) "Act" or "doing of an act" includes "omission to act".
- (c) "Property" includes any matter or thing upon or in respect to which an offense may be committed.
- (d) "Indictment" means 1 or more of the following:
 - (i) An indictment.
 - (ii) An information.

(iii) A presentment.

(iv) A complaint.

(v) A warrant.

(vi) A formal written accusation.

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

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

(f) "Magistrate" means a judge of the district court or a judge of a municipal court. Magistrate does not include a district court magistrate, except that a district court magistrate may exercise the powers, jurisdiction, and duties of a magistrate if specifically provided in this act, the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948, or any other statute. This definition does not limit the power of a justice of the supreme court, a circuit judge, or a judge of a court of record having jurisdiction of criminal cases under this act, or deprive him or her of the power to exercise the authority of a magistrate.

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

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

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

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

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

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

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

(m) "Judicial district" means the following:

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

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

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

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

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

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

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

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

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

(t) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act.

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

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

(ii) Presence before a judge or district court magistrate by use of 2-way closed circuit television.

CHAPTER IV

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

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

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

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

(2) A public servant other than a police officer, who is specially authorized by law or ordinance to issue and serve appearance tickets with respect to a particular class of offenses of less than felony grade, may issue and serve upon a person an appearance ticket if the public servant has reasonable cause to believe that the person has committed an offense.

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

(a) A person arrested for a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a local ordinance substantially corresponding to section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81, if the victim of the assault is the offender's spouse, former spouse, an individual who has had a child in common with the offender, or an individual residing or having resided in the same household as the offender.

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

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

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

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

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

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

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

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

Enacting section 1. Section 9b of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9b, is repealed.

Enacting section 2. This amendatory act takes effect October 1, 1999.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 90th Legislature are enacted into law:

(a) Senate Bill No. 556.

(b) Senate Bill No. 557.

(c) Senate Bill No. 558.

(d) Senate Bill No. 560.

(e) House Bill No. 4580.

- (f) House Bill No. 4581.
- (g) House Bill No. 4582.
- (h) House Bill No. 4583.
- (i) House Bill No. 4584.
- (j) House Bill No. 4585.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Jay E. Randall

Clerk of the House of Representatives.

Approved _____

Governor.