

HOUSE BILL No. 4931

October 1, 2015, Introduced by Reps. Singh and Schor and referred to the Committee on Criminal Justice.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7403 and 7404 (MCL 333.7403 and 333.7404), as amended by 2012 PA 183.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7403. (1) ~~A person~~**AN INDIVIDUAL** shall not knowingly or
2 intentionally possess a controlled substance, a controlled
3 substance analogue, or a prescription form unless the controlled
4 substance, controlled substance analogue, or prescription form was
5 obtained directly from, or pursuant to, a valid prescription or
6 order of a practitioner while acting in the course of the
7 practitioner's professional practice, or except as otherwise
8 authorized by this article.

9 (2) ~~A person~~**EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3),**
10 **AN INDIVIDUAL** who violates this section as to:

1 (a) A controlled substance classified in schedule 1 or 2 that
2 is a narcotic drug or a drug described in section 7214(a) (iv), and:

3 (i) Which is in an amount of 1,000 grams or more of any
4 mixture containing that substance is guilty of a felony punishable
5 by imprisonment for life or any term of years or a fine of not more
6 than \$1,000,000.00, or both.

7 (ii) Which is in an amount of 450 grams or more, but less than
8 1,000 grams, of any mixture containing that substance is guilty of
9 a felony punishable by imprisonment for not more than 30 years or a
10 fine of not more than \$500,000.00, or both.

11 (iii) Which is in an amount of 50 grams or more, but less than
12 450 grams, of any mixture containing that substance is guilty of a
13 felony punishable by imprisonment for not more than 20 years or a
14 fine of not more than \$250,000.00, or both.

15 (iv) Which is in an amount of 25 grams or more, but less than
16 50 grams of any mixture containing that substance is guilty of a
17 felony punishable by imprisonment for not more than 4 years or a
18 fine of not more than \$25,000.00, or both.

19 (v) Which is in an amount less than 25 grams of any mixture
20 containing that substance is guilty of a felony punishable by
21 imprisonment for not more than 4 years or a fine of not more than
22 \$25,000.00, or both.

23 (b) Either of the following:

24 (i) A substance described in section 7212(1) (h) or 7214(c) (ii)
25 is guilty of a felony punishable by imprisonment for not more than
26 10 years or a fine of not more than \$15,000.00, or both.

27 (ii) A controlled substance classified in schedule 1, 2, 3, or

1 4, except a controlled substance for which a penalty is prescribed
2 in **SUBPARAGRAPH (i) OR IN** subdivision (a), ~~(b)(i)~~, (c), or (d), or
3 a controlled substance analogue is guilty of a felony punishable by
4 imprisonment for not more than 2 years or a fine of not more than
5 \$2,000.00, or both.

6 (c) Lysergic acid diethylamide, peyote, mescaline,
7 dimethyltryptamine, psilocyn, psilocybin, or a controlled substance
8 classified in schedule 5 is guilty of a misdemeanor punishable by
9 imprisonment for not more than 1 year or a fine of not more than
10 \$2,000.00, or both.

11 (d) Marihuana is guilty of a misdemeanor punishable by
12 imprisonment for not more than 1 year or a fine of not more than
13 \$2,000.00, or both.

14 (e) A prescription form is guilty of a misdemeanor punishable
15 by imprisonment for not more than 1 year or a fine of not more than
16 \$1,000.00, or both.

17 (3) **SUBSECTION (2) DOES NOT APPLY TO ANY OF THE FOLLOWING:**

18 (A) **AN INDIVIDUAL WHO IS EXPERIENCING MEDICAL PROBLEMS**
19 **RELATING TO A CONTROLLED SUBSTANCE OVERDOSE OR REACTION WHO IS IN**
20 **NEED OF MEDICAL ASSISTANCE AND THE EVIDENCE OF THE VIOLATION OF**
21 **THIS SECTION IS GAINED AS A RESULT OF THE INDIVIDUAL'S ACTING IN**
22 **GOOD FAITH TO SEEK MEDICAL ASSISTANCE OR BEING PRESENTED FOR**
23 **MEDICAL ASSISTANCE.**

24 (B) **AN INDIVIDUAL ACTING IN GOOD FAITH WHO SEEKS MEDICAL**
25 **ASSISTANCE FOR ANOTHER INDIVIDUAL WHO IS EXPERIENCING MEDICAL**
26 **PROBLEMS RELATING TO A CONTROLLED SUBSTANCE OVERDOSE OR REACTION**
27 **AND THE EVIDENCE OF THE VIOLATION OF THIS SECTION IS GAINED AS A**

1 RESULT OF THE INDIVIDUAL'S SEEKING MEDICAL ASSISTANCE FOR THE OTHER
2 INDIVIDUAL.

3 (C) AN INDIVIDUAL WHO PRESENTS HIMSELF OR HERSELF TO A HEALTH
4 FACILITY OR AGENCY FOR MEDICAL EXAMINATION AND TREATMENT FOR ANY
5 CONDITION ARISING FROM A VIOLATION OF SECTIONS 520B TO 520G OF THE
6 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B TO 750.520G, AND THE
7 EVIDENCE OF THE VIOLATION OF THIS SECTION IS GAINED AS A RESULT OF
8 THE INDIVIDUAL'S ACTING IN GOOD FAITH TO SEEK MEDICAL EXAMINATION
9 AND TREATMENT.

10 (D) AN INDIVIDUAL ACTING IN GOOD FAITH WHO ACCOMPANIES ANOTHER
11 INDIVIDUAL WHO PRESENTS HIMSELF OR HERSELF TO A HEALTH FACILITY OR
12 AGENCY FOR MEDICAL EXAMINATION AND TREATMENT FOR ANY CONDITION
13 ARISING FROM A VIOLATION OF SECTIONS 520B TO 520G OF THE MICHIGAN
14 PENAL CODE, 1931 PA 328, MCL 750.520B TO 750.520G, AND THE EVIDENCE
15 OF THE VIOLATION OF THIS SECTION IS GAINED AS A RESULT OF THE
16 INDIVIDUAL'S ACCOMPANYING THE OTHER INDIVIDUAL.

17 (4) SUBSECTION (3) IS NOT GROUNDS FOR SUPPRESSING THE EVIDENCE
18 IN OTHER CRIMINAL PROSECUTIONS.

19 (5) ~~(3)~~—If an individual was sentenced to lifetime probation
20 under subsection (2)(a)(iv) as it existed before March 1, 2003 and
21 the individual has served 5 or more years of that probationary
22 period, the probation officer for that individual may recommend to
23 the court that the court discharge the individual from probation.
24 If an individual's probation officer does not recommend discharge
25 as provided in this subsection, with notice to the prosecutor, the
26 individual may petition the court seeking resentencing under the
27 court rules. The court may discharge an individual from probation

1 as provided in this subsection. An individual may file more than 1
2 motion seeking resentencing under this subsection.

3 **(6) AS USED IN THIS SECTION, "HEALTH FACILITY OR AGENCY" MEANS**
4 **THAT TERM AS DEFINED IN SECTION 20106.**

5 Sec. 7404. (1) ~~A person~~**AN INDIVIDUAL** shall not use a
6 controlled substance or controlled substance analogue unless the
7 substance was obtained directly from, or pursuant to, a valid
8 prescription or order of a practitioner while acting in the course
9 of the practitioner's professional practice, or except as otherwise
10 authorized by this article.

11 (2) ~~A person~~**EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3),**
12 **AN INDIVIDUAL** who violates this section as to:

13 (a) A controlled substance classified in schedule 1 or 2 as a
14 narcotic drug or a drug described in section 7212(1)(h) or
15 7214(a)(iv) or (c)(ii) is guilty of a misdemeanor punishable by
16 imprisonment for not more than 1 year or a fine of not more than
17 \$2,000.00, or both.

18 (b) A controlled substance classified in schedule 1, 2, 3, or
19 4, except a controlled substance for which a penalty is prescribed
20 in subdivision (a), (c), or (d), or a controlled substance
21 analogue, is guilty of a misdemeanor punishable by imprisonment for
22 not more than 1 year or a fine of not more than \$1,000.00, or both.

23 (c) Lysergic acid diethylamide, peyote, mescaline,
24 dimethyltryptamine, psilocyn, psilocybin, or a controlled substance
25 classified in schedule 5 is guilty of a misdemeanor punishable by
26 imprisonment for not more than 6 months or a fine of not more than
27 \$500.00, or both.

1 (d) Marihuana, catha edulis, salvia divinorum, or a substance
2 described in section 7212(1)(i) is guilty of a misdemeanor
3 punishable by imprisonment for not more than 90 days or a fine of
4 not more than \$100.00, or both.

5 (3) SUBSECTION (2) DOES NOT APPLY TO ANY OF THE FOLLOWING:

6 (A) AN INDIVIDUAL EXPERIENCING MEDICAL PROBLEMS RELATING TO A
7 CONTROLLED SUBSTANCE OVERDOSE OR REACTION WHO IS IN NEED OF MEDICAL
8 ASSISTANCE AND THE EVIDENCE OF THE VIOLATION OF THIS SECTION IS
9 GAINED AS A RESULT OF THE INDIVIDUAL'S ACTING IN GOOD FAITH TO SEEK
10 MEDICAL ASSISTANCE OR BEING PRESENTED FOR MEDICAL ASSISTANCE.

11 (B) AN INDIVIDUAL ACTING IN GOOD FAITH WHO SEEKS MEDICAL
12 ASSISTANCE FOR ANOTHER INDIVIDUAL EXPERIENCING MEDICAL PROBLEMS
13 RELATING TO A CONTROLLED SUBSTANCE OVERDOSE OR REACTION AND THE
14 EVIDENCE OF THE VIOLATION OF THIS SECTION IS GAINED AS A RESULT OF
15 THE INDIVIDUAL'S SEEKING MEDICAL ASSISTANCE FOR THE OTHER
16 INDIVIDUAL.

17 (C) AN INDIVIDUAL WHO PRESENTS HIMSELF OR HERSELF TO A HEALTH
18 FACILITY OR AGENCY FOR MEDICAL EXAMINATION AND TREATMENT FOR ANY
19 CONDITION ARISING FROM A VIOLATION OF SECTIONS 520B TO 520G OF THE
20 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B TO 750.520G, AND THE
21 EVIDENCE OF THE VIOLATION OF THIS SECTION IS GAINED AS A RESULT OF
22 THE INDIVIDUAL'S ACTING IN GOOD FAITH TO SEEK MEDICAL EXAMINATION
23 AND TREATMENT.

24 (D) AN INDIVIDUAL ACTING IN GOOD FAITH WHO ACCOMPANIES ANOTHER
25 INDIVIDUAL WHO PRESENTS HIMSELF OR HERSELF TO A HEALTH FACILITY OR
26 AGENCY FOR MEDICAL EXAMINATION AND TREATMENT FOR ANY CONDITION
27 ARISING FROM A VIOLATION OF SECTIONS 520B TO 520G OF THE MICHIGAN

1 PENAL CODE, 1931 PA 328, MCL 750.520B TO 750.520G, AND THE EVIDENCE
2 OF THE VIOLATION OF THIS SECTION IS GAINED AS A RESULT OF THE
3 INDIVIDUAL'S ACCOMPANYING THE OTHER INDIVIDUAL.

4 (4) SUBSECTION (3) IS NOT GROUNDS FOR SUPPRESSING THE EVIDENCE
5 IN OTHER CRIMINAL PROSECUTIONS.

6 (5) AS USED IN THIS SECTION, "HEALTH FACILITY OR AGENCY" MEANS
7 THAT TERM AS DEFINED IN SECTION 20106.

8 Enacting section 1. This amendatory act takes effect 90 days
9 after the date it is enacted into law.