Legislative Analysis

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FIREARM POSSESSION PROHIBITION: EXPAND FELONIES AND ADD DOMESTIC VIOLENCE MISDEMEANORS

Senate Bills 471 (S-3) and 472 as reported from House committee
Sponsor: Sen. Stephanie Chang

Senate Bill 528 (H-1) as reported from House committee
Sponsor: Sen. Sue Shink

House Committee: Criminal Justice
Senate Committee: Civil Rights, Judiciary, and Public Safety
Revised 10-28-23

BRIEF SUMMARY:

Senate Bill 471 would amend the Michigan Penal Code to expand the list of crimes that now bar a person from possessing a firearm for three years after completing their sentence (or five years for specified crimes). The bill would also prohibit a person convicted of specified misdemeanors involving domestic violence from possessing a firearm for eight years after completing their sentence. (MCL 750.224f)

Senate Bill 472 would make complementary changes to the sentencing guidelines provisions in the Code of Criminal Procedure. (MCL 777.16m)

Senate Bill 528 would amend six sections of the Michigan Penal Code (those concerning breaking and entering or entering without breaking, vulnerable adult abuse in the fourth degree, malicious destruction of property, malicious destruction of real property, stalking, and malicious use of a telecommunications service or device). The bill would add new paragraphs to these provisions to create subset offenses whose elements include the relationships between offender and victim that define domestic violence. The bill would not change any current penalties for these offenses or any other elements of the underlying offense. Violations of the applicable sections are already misdemeanor offenses regardless of the relationship between the offender and the victim—that is, offenses involving domestic violence elements are already currently a subset of those existing crimes. The bill would simply create discrete paragraphs that prohibit committing a violation that additionally includes the domestic violence elements.

For individuals charged with and convicted for violations of those new provisions, the record of conviction would show that they committed a misdemeanor offense involving domestic violence and are consequently subject to the eight-year firearm possession prohibition that would apply to those crimes under SB 471. This separation of misdemeanor offenses that involve domestic violence and those that do not into different provisions would therefore provide an invaluable tool for prosecutors in charging crimes and for law enforcement in determining whether a person is subject to the eight-year ban. It also provides a clear way to reference in SB 471 the misdemeanors involving domestic violence that the firearm possession prohibition would apply to. (Senate Bill 528 amends MCL 750.115 et seq.)

The following detailed summary of the bills does not treat each bill separately, but instead describes current state law, the expansion of the three- and five-year possession bans (SB 471), and the possession ban for domestic violence misdemeanors (SBs 471 and 528), in that order. For purposes of that description, the changes made by SB 528, described above, are largely assumed, rather than described again at length.

DETAILED SUMMARY:

Current state law

Section 224f of the Michigan Penal Code now prohibits a person convicted of a ***felony*** from possessing, transporting, selling, purchasing, shipping, receiving, or distributing a firearm or ammunition in Michigan until three years have passed since the person paid any fines, served any imprisonment, and completed any conditions of parole or probation for the violation.

> ***Felony***, for purposes of section 224f, is defined as a violation of a law of this state, or of another state, or of the United States that is punishable by imprisonment for four years or more, or an attempt to violate such a law.[1]

In addition, the act prohibits a person convicted of a ***specified penalty*** from possessing, transporting, selling, purchasing, shipping, receiving, or distributing a firearm or ammunition in Michigan until five years have passed since the person paid any fines, served any imprisonment, and completed any conditions of parole or probation for the violation *and* the person's right to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm or ammunition has been restored by the circuit court upon petition as provided in section 4 of 1927 PA 372.[2]

> ***Specified felony*** is defined as a ***felony*** to which one or more of the following apply:
>
> - An element of the felony is the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature, the felony involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.
> - An element of the felony is the unlawful manufacture, possession, importation, exportation, distribution, or dispensing of a controlled substance.
> - An element of the felony is the unlawful possession or distribution of a firearm.
> - An element of the felony is the unlawful use of an explosive.
> - The felony is burglary of an occupied dwelling, breaking and entering an occupied dwelling, or arson.

A person who possesses, uses, transports, sells, purchases, carries, ships, receives, or distributes a firearm or ammunition in violation of the above prohibitions is guilty of a felony punishable by imprisonment for up to five years or a fine of up to $5,000, or both.

The above prohibitions do not apply to a conviction that has been expunged or set aside or for which the person has been pardoned, unless the expunction, order, or pardon expressly provides that the person cannot possess a firearm or ammunition.

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[1] Generally under Michigan law, including the Michigan Penal Code, a felony is a violation of law punishable by imprisonment for more than one year. Section 224f, however, has this specialized definition of *felony* that narrows its scope to only those felonies punishable by four or more years' imprisonment.

[2] See http://legislature.mi.gov/doc.aspx?mcl-28-424

Felony possession prohibitions

Senate Bill 471 would amend the specialized definition given to the term ***felony*** for purposes of section 224f to read as follows:

> ***Felony*** would mean a violation of a law of this state, or of another state, or of the United States that is punishable by imprisonment for *a term exceeding one year*, or an attempt to violate such a law.

This change would expand the scope of the section and increase the number of offenses to which the current three-year firearms and ammunition prohibition would apply. It also would expand the offenses that are considered *specified felonies* and are subject to that five-year prohibition and reinstatement requirement.[3] Both of these prohibitions now apply only to those violations of law that are punishable by imprisonment for four or more years.[4] Under Senate Bill 471, they would apply to all violations punishable by imprisonment for more than one year—that is, to all felonies and high court misdemeanors.[5] (Note that, since they would apply after a sentence is completed, and are not themselves part of a sentence, they would apply to all those whose sentences have not been completed when the bill takes effect, in addition to those convicted or sentenced after that date.[6])

Senate Bill 471 also would make violations of laws of other states and of the United States that are punishable by more than one year of imprisonment, but less than four, newly subject to these felony possession prohibitions. A list of those laws is beyond the scope of this summary.

Table 1 lists Michigan offenses to which these provisions would newly apply under Senate Bill 471.[7] Offenses that appear to clearly meet the criteria of *specified felony* are lightly shaded.

While the state firearm possession prohibitions would newly apply under the bill to the offenses in Table 1, many of those offenses are already subject to the federal possession ban under 18 USC 922,[8] which generally applies to convictions of a crime punishable by imprisonment for more than one year. However, the federal law expressly exempts misdemeanors punishable by imprisonment for two years or less and "offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices." The offenses that the federal law clearly does not apply to, but that would be subject to the state possession ban under the bill, are blue in Table 1.

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[3] As described above, for a specified felony, the possession prohibition does not automatically expire at the end of the five-year period. The circuit court must restore those rights by written order after the individual petitions for restoration and the court finds that the individual's record and reputation are such that the individual is not likely to act in a manner that endangers the safety of others. For a judicial decision addressing the application of that requirement, see https://www.courts.michigan.gov/497ceb/siteassets/case-documents/uploads/opinions/final/coa/20061010_c261805_34_161o.261805.opn.coa.pdf

[4] **Note**: Section 223 of the Michigan Penal Code, not included in Senate Bill 471 or 528, prohibits selling a firearm or ammunition to a person who is under indictment for a *felony*, defined in that section as a violation of state or federal law punishable by imprisonment for four years or more. This provision neither aligns with the bill's definition of *felony* nor takes into account the bills' proposed treatment of domestic violence misdemeanors.

[5] Offenses designated as misdemeanors that carry a maximum penalty of up to two years in prison are called "high court misdemeanors." They are generally treated as felonies under Michigan law.

[6] See https://scholar.google.com/scholar_case?case=17756376557084677813

[7] Part 2 of Chapter XVII of the Code of Criminal Procedure lists felonies subject to sentencing guidelines and shows their maximum term of imprisonment. https://www.legislature.mi.gov/documents/mcl/pdf/mcl-175-1927-XVII-2.pdf

[8] https://www.law.cornell.edu/uscode/text/18/922

Table 1 – Offenses to be included in felony possession ban after change from 4+ years of imprisonment to 1+ years

MCL	Act	Brief description	Type	Maximum imprisonment
4.421(1)	1978 PA 472 (lobbyist registration act)	Lobbyist employed for compensation contingent on the outcome of a legislative or administrative action	Felony	3 years
4.421(2)	1978 PA 472 (lobbyist registration act)	Lobbyist giving gift or loan with value of more than $3,000	Felony	3 years
28.435(14)(c)	1927 PA 372 (firearm licensure act)	Firearm sale without trigger lock, gun case, or storage container – third or subsequent offense	Felony	2 years
28.729(2)	Sex Offenders Registration Act	Failure to report to verify sex offender registration information (violation of MCL 28.725a)	Misdemeanor	2 years
35.929	Veterans' Military Pay Act	Willful false statement in application for veterans benefits	Felony	3 years
35.980	Korean Veterans' Military Pay Fund Act	Willful false statement in application for Korean veterans benefits	Felony	3 years
35.1029	Vietnam Veteran Era Bonus Act	Willful false statement in application for Vietnam veterans benefits	Felony	3 years
38.516	1937 PA 78 (fire and police civil service act)	Appointing or employing someone contrary to the act or otherwise violating the act	Misdemeanor	2 years
47.8	1913 PA 275 (board of county auditors act)	Payment of claim against county before audit	Misdemeanor	2 years
47.13[9]	1913 PA 275 (board of county auditors)	Any other violation of the act	Misdemeanor	2 years
51.364	1966 PA 298 (sheriff's department civil service act)	Appointing or employing someone contrary to the act or otherwise violating the act	Misdemeanor	2 years

[9] This offense is not listed in the sentencing guidelines provisions of the Code of Criminal Procedure.

MCL	Act	Brief description	Type	Maximum imprisonment
110.28	Fourth Class City Act	Misappropriation of city money or property	[not specified][10]	3 years
168.731(4)	Michigan Election Law	Filing false statement regarding election challengers or failing to perform duties under section	Felony	2 years
168.734	Michigan Election Law	Election officer or board preventing presence of election challenger or refusing conveniences needed to perform challenger's duties	[not specified]	2 years
169.224b(5)	Michigan Campaign Finance Act	Unlawful independent expenditure committee contributions	Felony	3 years
169.233(12)	Michigan Campaign Finance Act	Failure to file certain campaign statements for two consecutive years	Felony	3 years
169.254(5)	Michigan Campaign Finance Act	Unlawful corporate or labor union campaign contributions	Felony	3 years
169.255(9)	Michigan Campaign Finance Act	Violation of the section, which concerns separate segregated funds for political purposes	Felony	3 years
169.266(4)	Michigan Campaign Finance Act	Unlawful treatment of funds received from the State Campaign Fund	Felony	3 years
257.602a(2)	Michigan Vehicle Code	Fourth-degree fleeing and eluding	Felony	2 years
257.616a(2)(b)	Michigan Vehicle Code	Unauthorized use of signal disruption device	Felony	2 years
257.616a(2)(f)	Michigan Vehicle Code	Unauthorized sale or purchase of signal disruption device	Felony	2 years
257.625(10)(c)	Michigan Vehicle Code	Allowing vehicle to be operated by someone intoxicated or visibly impaired causing serious impairment of body function	Felony	2 years

[10] In general, offenses punishable by imprisonment for more than one year are considered felonies under Michigan law unless otherwise specified.

MCL	Act	Brief description	Type	Maximum imprisonment
257.653a(3)	Michigan Vehicle Code	Failure to slow and use due caution when passing emergency vehicle causing injury	Felony	2 years
257.904(7)	Michigan Vehicle Code	Allowing vehicle to be operated by someone without a license causing serious impairment	Felony	2 years
257.1353	1986 PA 119	Failure by used motor vehicle parts dealer to record material matter, subsequent violation	Felony	2 years
257.1354(2)	1986 PA 119	Violation of certain record and payment requirements (MCL 257.1352(3), (4), or (5) or 257.1352a), subsequent violation	Felony	2 years
257.1355	1986 PA 119	Failure to record transaction or falsifying record	Felony	2 years
259.83(2)(b)	Aeronautics Code	Operating civil aircraft not in compliance with certification requirements, second violation within five years of first	Felony	2 years
290.629(1)	Weights and Measures Act	Assaulting or injuring inspector or other official performing duties under act	Misdemeanor	2 years
290.650	Motor Fuels Quality Act	Assaulting or obstructing director or authorized representative performing duties under act	Misdemeanor	2 years
290.650b(3)	Motor Fuels Quality Act	Violation of the section, which prohibits specific kinds of tampering, record falsification, failure to report, or removal of seals	Felony	2 years
324.1608	Natural Resources and Environmental Protection Act (NREPA)	Assaulting, resisting, or obstructing corrections officer or other peace officer (penalty as provided in MCL 750.479(2))	Felony	2 years
324.3115(2)	NREPA	Knowing discharge of water pollutant, making false statement, or tampering with monitoring device	Felony	2 years

MCL	Act	Brief description	Type	Maximum imprisonment
324.5531(4)	NREPA	Knowing release of air pollutant placing another in imminent danger of death or serious bodily injury	Felony	2 years
324.8905(2)	NREPA	Littering involving infectious waste, pathological waste, or sharps	Felony	2 years
324.11151(2)	NREPA	Hazardous waste violation, false statement, or failure to report, second or subsequent violation	Misdemeanor	2 years
324.11151(3)	NREPA	Hazardous waste violation endangering another in disregard for human life	[not specified]	2 years
324.11549(2)	NREPA	Violation of MCL 324.11526e, which concerns solid waste generated in another country	Felony	2 years
324.11719(2)	NREPA	False statement in septage waste servicing license application or report (see MCL 324.11703)	Felony	2 years
324.12116(2)	NREPA	False statement in application or shipping document under Part 121 (Liquid Industrial By-Products)	Felony	2 years
324.20139(3)	NREPA	Knowing release of hazardous substance, making false statement, tampering with monitoring device, or misrepresenting credentials	Felony	2 years
324.30316(3)	NREPA	Willful or reckless violation of permit under Part 303 (Wetlands Protection)	Felony	2 years
324.31525	NREPA	Willful or reckless violation of Part 315 (Dam Safety) endangering another or property or natural resources, second or subsequent violation	Felony	2 years
324.41309(3)(b)	NREPA	Possession of a nonaquatic prohibited species (see MCL 324,41303(1)) or violation of a permit involving such a species	Felony	2 years

MCL	Act	Brief description	Type	Maximum imprisonment
324.41309(3)(c)	NREPA	Possession of an aquatic prohibited species (see MCL 324,41303(1)) or violation of a permit involving such a species	Felony	3 years
324.41309(4)(a)	NREPA	Possession of a restricted species (see MCL 324,41303(1)), or of a nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, with intent to damage resources or health	Felony	2 years
324.41309(8)	NREPA	Introduction of a nonaquatic prohibited species or of genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant (see MCL 324.41305) knowing the species identity or genetic engineering	Felony	2 years
324.41309(9)	NREPA	Introduction of an aquatic prohibited species knowing the species identity	Felony	3 years
324.41309(10)(a)	NREPA	Introduction of a restricted species or a nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant (see MCL 324.41305) knowing the introduction to be unlawful	Felony	2 years
324.41309(11)(a)	NREPA	Introduction of a restricted species or a nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant (see MCL 324.41305) with intent to damage resources or health	Felony	3 years
324.51120(2)	NREPA	Unlawfully removing forest products with value over $2,500	Felony	3 years
324.61521(1)	NREPA	False statement or entry to evade Part 615 (Supervisor of Wells)	Felony	3 years
324.80172	NREPA	Careless, reckless, or negligent operation of water vessel causing serious injury or death	Misdemeanor	2 years

MCL	Act	Brief description	Type	Maximum imprisonment
324.80173	NREPA	Felonious operation of a vessel (operation in willful and wanton disregard for safety of others causing serious injury)	Felony	2 years
324.82126c(1)	NREPA	Careless, reckless, or negligent operation of snowmobile causing serious injury or death	Misdemeanor	2 years
324.82126c(2)	NREPA	Felonious operation of a snowmobile (operation in willful and wanton disregard for safety of others causing serious injury)	Felony	2 years
333.2835(9)	Public Health Code	Disclosure of certain confidential information related to fetal death or abortion	Felony	3 years
333.7341	Public Health Code	Manufacture, delivery, or possession with intent of an imitation controlled substance	Felony	2 years
333.7401(2)(e)	Public Health Code	Manufacture, delivery, or possession with intent of a schedule 5 controlled substance	Felony	2 years
333.7401b(3)(b)	Public Health Code	Possession of gamma-butyrolactone (GBL)	Felony	2 years
333.7402(2)(d)	Public Health Code	Manufacture, delivery, or possession with intent of a counterfeit schedule 5 controlled substance	Felony	2 years
333.7403(2)(b)(*ii*)	Public Health Code	Possession of certain schedule 1, 2, 3, or 4 controlled substances or analogues	Felony	2 years
333.7406	Public Health Code	Knowing or intentional violation of MCL 333.7405, which concerns certain controlled substance violations by licensees	Misdemeanor	2 years
333.7410a(1)	Public Health Code	Possession of GBL or delivery to a minor, in or near a public park	[not specified]	2 years

MCL	Act	Brief description	Type	Maximum imprisonment
333.8507(1)(c)[11]	Public Health Code	Third or subsequent violation, or intentional violation, of Article 8, concerning pharmaceutical-grade cannabis licensed facilities	Misdemeanor	2 years
333.13738(3)	Public Health Code	Low-level radioactive waste violation endangering another in disregard or extreme indifference for human life	Misdemeanor	2 years
333.16213a(3)	Public Health Code	Intentional violation regarding documentation in medical record of medical services involving vaginal or anal penetration	Felony	2 years
333.16279(1)	Public Health Code	Performing medical procedure involving vaginal or anal penetration on minor without complying with requirements, first offense	Felony	2 years
333.17748d(2)	Public Health Code	Violation of MCL 333.17748a or 333.17748b, concerning pharmaceutical compounding, or related prescription falsification	Felony	2 years
333.17764(3)	Public Health Code	Adulterating or misbranding drug or device, selling adulterated or misbranded drug or device, or substituting or removing drug or device	Felony	2 years
333.17766c(2)(b)	Public Health Code	Possession of more than 12 grams of ephedrine or pseudoephedrine	Felony	2 years
333.20175b(3)	Public Health Code	Intentional violation regarding documentation in medical record of medical services involving vaginal or anal penetration	Felony	2 years
333.26424(*l*)	Michigan Medical Marihuana Act	Registered patient or caregiver selling marijuana to someone not allowed medical use of marijuana	Felony	2 years
338.3471(1)(b)	Michigan Immigration Clerical Assistant Act	Intentional violation of the act, second or subsequent conviction	Felony	2 years

[11] This offense is not listed in the sentencing guidelines provisions of the Code of Criminal Procedure.

MCL	Act	Brief description	Type	Maximum imprisonment
338.3649a(2)	Michigan Unarmed Combat Regulatory Act	Knowingly allowing mixed martial arts or boxing professional to compete against amateur in amateur contest	Felony	3 years
339.601(6)(b)	Occupational Code	Unlicensed practice as a residential builder or a residential maintenance and alteration contractor, second or subsequent offense	Misdemeanor	2 years
380.1230d(3)(a)	Revised School Code	Failure to report arraignment or conviction for listed offense or felony	Felony	2 years
400.713(13)	Adult Foster Care Facility Licensing Act	Unlicensed adult foster care facility, first offense	Misdemeanor	2 years
408.1035(5) or 408.1035a(5)[12]	Michigan Occupational Safety and Health Act	Willful violation of the act or an order or rule causing death of an employee, second violation	Felony	3 years
409.122(2)	Youth Employment Standards Act	Employment of minor in position involving cash transactions after certain time, second offense	Misdemeanor	2 years
421.54(a)(*ii*)(B)	Michigan Employment Security Act	Intentional failure to comply with the act or rules, with $25,000 or more but less than $100,000 obtained or withheld from payment	[not specified]	2 years
421.54(a)(*iv*)(B)	Michigan Employment Security Act	Willful violation of the act or rules, with more than $100,000 obtained or withheld	[not specified]	2 years
421.54(b)(*iii*)(B)	Michigan Employment Security Act	False statement, misrepresentation, or failure to disclose a material fact, with more than $25,000 obtained or withheld	[not specified]	2 years
421.54(b)(*iii*)(C)	Michigan Employment Security Act	False statement, misrepresentation, or failure to disclose a material fact, without actual loss	[not specified]	2 years

[12] These sections both contain the described felony, cannot be in effect at the same time, and are subject to provisions specifying which is in effect.

MCL	Act	Brief description	Type	Maximum imprisonment
421.54(d)	Michigan Employment Security Act	Employee or agent disclosing confidential information for financial gain	Felony	1 year and 1 day
421.54b(1)(b)(*i*)	Michigan Employment Security Act	Conspiracy to violate the act, with $25,000 or less obtained or withheld	[not specified]	2 years
421.54b(1)(b)(*iii*)	Michigan Employment Security Act	Conspiracy to violate the act, without actual loss	[not specified]	2 years
421.54c(1)(b)(*ii*)	Michigan Employment Security Act	Embezzlement, with $25,000 or more but less than $100,000 obtained or withheld	[not specified]	2 years
421.54c(1)(b)(*iv*)	Michigan Employment Security Act	Embezzlement, with no actual loss	[not specified]	2 years
431.257	1951 PA 90	Violating the act, which concerns horse racing funds	Misdemeanor	2 years
440.9320(8)	Uniform Commercial Code	Certain knowing sale of farm products securing a debt without prior written consent	Felony	3 years
445.487(2)	Precious Metal and Gem Dealer Act	Failure to record material matter as required by MCL 445.484, subsequent violation	Felony	2 years
445.488(2)	Precious Metal and Gem Dealer Act	Violation of posting, notification, or recordkeeping requirements (see MCL 445.483(9) and (10)[13] and 445.484(1)(e), (3), (4), or (5)), subsequent violation	Felony	2 years
445.489	Precious Metal and Gem Dealer Act	Failure to make record, falsifying record, or improper purchase of precious item (see MCL 445.486)	Felony	2 years
445.490	Precious Metal and Gem Dealer Act	Failure to obtain certificate or registration from local government or retain precious item unaltered for nine days	Felony	2 years

[13] **Note**: While section 8 of the act now provides penalties for a violation of section 3(7) or (8), it should apparently refer instead to a violation of section 3(9) or (10). Subsections (7) and (8) of section 3 were renumbered by a 2006 amendatory act that did not make coordinating changes to section 8. The status of those penalties thus seems unclear. See the 2006 enrolled bill here: https://www.legislature.mi.gov/documents/2005-2006/billengrossed/House/pdf/2006-HEBS-5958.pdf

MCL	Act	Brief description	Type	Maximum imprisonment
445.667(1)	Reverse Vending Machine Antifraud Act	Altering a reverse vending machine (e.g., a machine that takes deposit beverage bottles or cans) or reverse vending machine data	Felony	2 years
445.779	Michigan Antitrust Reform Act	Unlawful conspiracy in restraint of trade or monopoly (see MCL 445.772 and 445.773)	Misdemeanor	2 years
450.775	1980 PA 428	Violation of the act or fraudulent procurement of state contract as minority owned or women owned business	Felony	2 years
450.795(2)	1988 PA 112	Violation of the act, including fraudulent procurement of state contract as business owned by persons with disabilities	Felony	2 years
451.319	1933 PA 89	Specified violations of the act, which concerns protective committees for securities	[not specified]	2 years
451.434	Debt Management Act	Violation of the act by a licensee	Felony	2 years
492.137	Motor Vehicle Sales Finance Act	Engaging in business as installment seller or sales finance company without being licensed	Misdemeanor	3 years
500.1371(5)	Insurance Code	False statement, report, or filing by officer or employee of insurance holding company system	[not specified]	2 years
500.3859(1)[14]	Insurance Code	Knowing sale of certain duplicate health coverage	Misdemeanor	2 years
500.3859(2)[15]	Insurance Code	False representation as government agent for gain or to sell insurance	Misdemeanor	2 years
565.371	1883 PA 98	Recording fraudulent conveyance of real estate with intent to deceive	[not specified]	3 years
570.152	1931 PA 259	Building contractor's fraudulent use of building contract fund	Felony	3 years

[14] This offense is not listed in the sentencing guidelines provisions of the Code of Criminal Procedure.
[15] This offense is not listed in the sentencing guidelines provisions of the Code of Criminal Procedure.

MCL	Act	Brief description	Type	Maximum imprisonment
600.2907a	Revised Judicature Act	Filing lien or other encumbrance against property without cause and intent to harass or intimidate (violation of MCL 565.25(3))	Felony	3 years
712A.6b(3)	Probate Code	Violation by nonparent adult of court order regarding case service plan, removal from the home of the child, or restriction of contact	Felony	2 years
722.115e(5)(a)	1973 PA 116 (child care licensing act)	Failure to report arraignment or conviction for listed offense or felony (child care center, group child care home, or family child care home)	Felony	2 years
722.115i	1973 PA 116 (child care licensing act)	Failure to report arraignment or conviction for listed offense or felony (foster family home or foster family group home)	Misdemeanor	2 years
750.16(1)	Michigan Penal Code	Adulterating, misbranding, substituting, or removing drug or medicine to make it injurious to health or selling such a drug or medicine	Felony	2 years
750.18(3)	Michigan Penal Code	Adding ingredient or material to drug or medicine to injuriously change its quality or potency or selling such a drug or medicine	Felony	2 years
750.50(4)(c)	Michigan Penal Code	Animal cruelty or neglect involving four to nine animals or with one prior conviction	Felony	2 years
750.50(4)(f)	Michigan Penal Code	Animal cruelty or neglect by a breeder or by a pet shop operator with five or more prior convictions for violating 1969 PA 287	Felony	2 years
750.50c(7)	Michigan Penal Code	Causing harm to police dog or horse or search and rescue dog, or interfering with their performance, while committing a crime	Felony	2 years

MCL	Act	Brief description	Type	Maximum imprisonment
750.81d(1)	Michigan Penal Code	Assaulting, battering, wounding, resisting, obstructing, opposing, or endangering a law enforcement officer, firefighter, EMS personnel, or search and rescue personnel engaged in their official duties	Felony	2 years
750.81e(2)	Michigan Penal Code	Assault or battery of public utility employee or contractor resulting in bodily injury	Felony	2 years
750.90e	Michigan Penal Code	Careless or reckless operation of motor vehicle causing accident resulting in miscarriage, stillbirth, or death of the embryo or fetus	Misdemeanor	2 years
750.90h	Michigan Penal Code	Performing or assisting in performance of partial-birth abortion as defined in the section	Felony	2 years
750.92[16]	Michigan Penal Code	Attempt to commit a crime when no penalty is otherwise provided for attempted violations and crime attempted is punishable by imprisonment for less than five years	Misdemeanor	2 years
750.128	Michigan Penal Code	Maintaining a bucket shop as defined in MCL 750.127	Felony	2 years
750.131(3)(b)(*ii*)	Michigan Penal Code	Writing check in amount of at least $100 but less than $500 with insufficient funds and intent to defraud, third or subsequent offense	Felony	2 years
750.131(3)(c)	Michigan Penal Code	Writing check in amount of $500 or more with insufficient funds and intent to defraud	Felony	2 years
750.131a(1)	Michigan Penal Code	Writing check without account with intent to defraud	Felony	2 years
750.131a(2)	Michigan Penal Code	Writing three or more checks within 10 days without sufficient funds with intent to defraud	Felony	2 years

[16] This offense is not listed in the sentencing guidelines provisions of the Code of Criminal Procedure.

MCL	Act	Brief description	Type	Maximum imprisonment
750.136b(6)(a)	Michigan Penal Code	Third degree child abuse (knowingly or intentionally causing physical harm to a child or presenting an unreasonable risk of harm with physical harm as the result), first offense	Felony	2 years
750.136b(8)(b)	Michigan Penal Code	Fourth degree child abuse (causing physical harm to a child through an omission or reckless act or presenting an unreasonable risk of harm regardless of whether physical harm is the result), second or subsequent offense	Felony	2 years
750.136d	Michigan Penal Code	Committing third degree child abuse in the presence of another child	Felony	2 years
750.145d	Michigan Penal Code	Using internet or computer to violate MCL 750.520e (fourth degree criminal sexual conduct) if the victim is a minor or to violate MCL 750.204b (importing, manufacturing, distributing, or storing explosives in violation of federal law)	Felony	2 years
750.145n(3)	Michigan Penal Code	Vulnerable adult abuse in the third degree (caregiver intentionally causing physical harm)	Misdemeanor	2 years
750.145p(1)	Michigan Penal Code	Caregiver commingling funds of vulnerable adult, interfering with investigation, or filing false information	Misdemeanor	2 years
750.145p(2)	Michigan Penal Code	Caregiver retaliating or discriminating against resident who provides information, makes complaint, or takes part in legal action	Misdemeanor	2 years
750.147b(2)	Michigan Penal Code	Ethnic intimidation (maliciously, and to intimidate or harass, causing physical contact with another person or damaging their personal property, or credibly threatening to do so, because of their race, color, religion, gender, or national origin)	Felony	2 years

MCL	Act	Brief description	Type	Maximum imprisonment
750.157b(3)(b)	Michigan Penal Code	Soliciting another person to commit a felony punishable by a fine or by imprisonment for less than five years	Misdemeanor	2 years
750.157s(1)(b)(*ii*)	Michigan Penal Code	Using revoked or canceled financial transaction device (e.g., a credit card) with intent to defraud involving amount of at least $100 but less than $500, third or subsequent violation	Felony	2 years
750.160b	Michigan Penal Code	Photographing or displaying a photograph of a dead body in a human grave (which includes the site of a disaster, such as a shipwreck or mine collapse, from which bodies were not recovered)	Felony	2 years
750.1619(1)	Michigan Penal Code	Desertion, abandonment, or nonsupport	Felony	3 years
750.168(2)(a)	Michigan Penal Code	Disorderly conduct at funeral or related ceremony or event (see MCL 750.167d)	Felony	2 years
750.182a	Michigan Penal Code	Falsification of records with bearing on school aid by school district employee or officer	Misdemeanor	2 years
750.189	Michigan Penal Code	Officer negligently allowing prisoner to escape or refusing to receive prisoner	Misdemeanor	2 years [but county jail]
750.190	Michigan Penal Code	Sheriff or officer receiving anything of value to assist or allow a prisoner's escape	Misdemeanor	2 years [but county jail]
750.195(1)	Michigan Penal Code	Escape from jail while serving sentence for misdemeanor	Felony	2 years
750.197(1)	Michigan Penal Code	Escape from jail while awaiting trial for misdemeanor	Felony	2 years
750.204b	Michigan Penal Code	Importing, manufacturing, distributing, or storing explosives in violation of federal law	Misdemeanor	2 years
750.217b	Michigan Penal Code	Impersonating public utility employee to commit crime or have access to a building or other place	Felony	2 years

MCL	Act	Brief description	Type	Maximum imprisonment
750.217c(3)	Michigan Penal Code	Impersonating public employee or officer related to service of process, second offense	Misdemeanor	2 years
750.217e	Michigan Penal Code	Impersonating Department of Health and Human Services (DHHS) employee to commit crime or have access to a building or other place or financial information	Felony	2 years
750.217f	Michigan Penal Code	Impersonating firefighter or EMS personnel to commit crime, have access to a building or other place or certain information or individuals, or perform duties of firefighter or EMS personnel	Felony	2 years
750.224a(6)	Michigan Penal Code	Improper use of Taser or similar device	Misdemeanor	2 years
750.224d(2)	Michigan Penal Code	Unlawful use of self-defense spray or foam device	Misdemeanor	2 years
750.227c	Michigan Penal Code	Possessing loaded firearm (except a pistol) or pneumatic gun in or on a vehicle	Misdemeanor	2 years
750.230	Michigan Penal Code	Altering or removing firearm identification mark	Felony	2 years
750.300	Michigan Penal Code	Killing or injuring horse, mule, or other livestock with intent to defraud insurance company	Felony	2 years
750.303(1)	Michigan Penal Code	Maintaining gaming room or table or game of skill or chance for gain or for hire	Misdemeanor	2 years
750.313	Michigan Penal Code	Allowing gambling in stocks, bonds, grains, or produce as described in MCL 750.311	Felony	2 years
750.335a(2)(b)	Michigan Penal Code	Aggravated indecent exposure	Misdemeanor	2 years
750.350a(2)	Michigan Penal Code	Custodial interference (parent taking child to keep them from person with custody)	Felony	1 year and 1 day
750.361	Michigan Penal Code	Stealing or maliciously removing or tampering with parts, fixtures, or attachments belonging to railroad or transportation company	Misdemeanor	2 years

MCL	Act	Brief description	Type	Maximum imprisonment
750.372	Michigan Penal Code	Running or allowing lottery or allowing dice game or game of chance for money or other property	Misdemeanor	2 years
750.373	Michigan Penal Code	Selling or possessing with intent to sell lottery or gift enterprise tickets	Misdemeanor	2 years
750.409b	Michigan Penal Code	Possession of ransomware with intent to use it	Felony	3 years
750.411*l*	Michigan Penal Code	Fourth degree money laundering (violation of MCL 750.411k)	Misdemeanor	2 years
750.411s(2)(a)	Michigan Penal Code	Violation of the section, which prohibits posting an electronic message that is intended to, and does, provoke conduct that causes another person to feel terrorized or harassed	Felony	2 years
750.414	Michigan Penal Code	Taking a motor vehicle without intending to steal it (i.e., joyriding)	Misdemeanor	2 years
750.421b	Michigan Penal Code	Hindering transport of farm or commercial products, second or subsequent offense	Felony	2 years
750.451(3)	Michigan Penal Code	Violation of MCL 750.448, 750.449. 750.449a(1), 750.450, or 750.462, which concern prostitution, with two or more prior convictions	Felony	2 years
750.465a(1)(b)	Michigan Penal Code	Recording movie in theater, second offense	Felony	2 years
750.478a(2)	Michigan Penal Code	Unauthorized process to obstruct a public officer or employee	Misdemeanor	2 years
750.479(2)	Michigan Penal Code	Assaulting or obstructing certain officials performing duties	Felony	2 years
750.479a(2)	Michigan Penal Code	Fourth degree fleeing and eluding	Felony	2 years

MCL	Act	Brief description	Type	Maximum imprisonment
750.479c(2)(c)	Michigan Penal Code	Concealing material fact from, or providing false information to, officer investigating felony with maximum imprisonment of four years or more	Misdemeanor	2 years
750.488	Michigan Penal Code	Retention of fees by salaried state employees or officers	Misdemeanor	2 years
750.490	Michigan Penal Code	Violation regarding safe keeping of public money	Misdemeanor	2 years
750.491(2)	Michigan Penal Code	Removal, mutilation, or destruction of public records	Misdemeanor	2 years
750.508(2)(b)	Michigan Penal Code	Possessing scanner while committing felony	Felony	2 years
750.520e(2)	Michigan Penal Code	Fourth degree criminal sexual conduct as described in the section	Misdemeanor	2 years
750.520n(2)	Michigan Penal Code	Tampering with electronic monitoring device, failing to report damage, failing to pay costs	Felony	2 years
750.539c	Michigan Penal Code	Using device to eavesdrop on private conversation	Felony	2 years
750.539d(3)(a)(*i*)	Michigan Penal Code	Installing, placing, or using device to observe, record, transmit, photograph, or eavesdrop on private place	Felony	2 years
750.539e	Michigan Penal Code	Using or divulging any information obtained by eavesdropping	Felony	2 years
750.539f	Michigan Penal Code	Manufacturing, possessing, or transferring eavesdropping device to be used unlawfully	Felony	2 years
750.539j(2)(a)(*i*)	Michigan Penal Code	Lewd surveillance, first offense	Felony	2 years
750.540(5)(a)	Michigan Penal Code	Unauthorized use of electronic medium of communication, unauthorized connection or message, or preventing or delaying authorized communication	Felony	2 years
750.553(1)(b)	Michigan Penal Code	Occupying dwelling property without owner's consent (squatting), second or subsequent offense	Felony	2 years

MCL	Act	Brief description	Type	Maximum imprisonment
752.365	1984 PA 343	Obscenity (dissemination or possession with intent of obscene material), second or subsequent offense	Felony	2 years
752.796a(1)(b)[17]	1979 PA 53	Violation of the Michigan Children's Protection Registry Act, second violation	Felony	2 years
752.796a(1)(c)[18]	1979 PA 53	Violation of the Michigan Children's Protection Registry Act, third or subsequent violation	Felony	3 years
752.797(3)(b)	1979 PA 53	Using computer to commit a crime punishable by a maximum term of imprisonment of at least one year but less than two	Felony	2 years
752.811	1970 PA 126	Breaking into a coin-operated device (such as a vending machine or parking meter) with intent to steal, or possessing a key with same intent	Felony	3 years
752.861	1952 PA 45	Careless, reckless, or negligent use of firearm killing or injuring another	Misdemeanor	2 years
752.881	1954 PA 81	Careless, reckless, or negligent use of bow and arrow killing or injuring another	Misdemeanor	2 years
771.3f(4)	Code of Criminal Procedure	Tampering with or removing electronic monitoring device	Felony	2 years

[17] This offense is not listed in the sentencing guidelines provisions of the Code of Criminal Procedure.
[18] This offense is not listed in the sentencing guidelines provisions of the Code of Criminal Procedure.

Domestic violence misdemeanors

Senate Bill 471 also would prohibit a person convicted of a ***misdemeanor involving domestic violence*** from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm or ammunition in Michigan until eight years after the person has paid any fines, served any terms of imprisonment, and completed any probation conditions imposed for the violation.

Misdemeanor involving domestic violence would mean any of the following:

- A violation of any of the Michigan Penal Code provisions listed and described in Table 2, below.
- A violation of an ordinance, a law of another state, or a law of the United States that substantially corresponds to a violation in Table 2.
- A violation of an ordinance, a law of another state, or a law of the United States that is specifically designated as domestic violence.

Table 2 – Misdemeanors involving domestic violence

MCL	Description
750.81(2)	Assault or assault and battery of the person's spouse or former spouse, an individual with whom they have or have had a ***dating relationship***, an individual with whom they have had a child in common, or a resident or former resident of the same household
750.81(4)	Assault or assault and battery in violation of MCL 750.81(2) (above), with a prior conviction under MCL 750.81(2)
750.81a(2)	Aggravated assault[19] of the person's spouse or former spouse, an individual with whom they have or have had a dating relationship, an individual with whom they have had a child in common, or a resident or former resident of the same household
750.115(2) (as amended by Senate Bill 528)	Breaking and entering, or entering without breaking, into an occupied or unoccupied dwelling or other structure without permission to enter from the person having control of the property and that other person is the violator's spouse or former spouse, an individual with whom they have or have had a dating relationship, an individual with whom they have had a child in common, or a resident or former resident of the same household
750.145n(5) (as amended by Senate Bill 528)	Vulnerable adult abuse in the fourth degree[20] if the caregiver or other person with authority over a vulnerable adult is the vulnerable adult's spouse or former spouse, an individual with whom they have or have had a dating relationship, an individual with whom they have had a child in common, or a resident or former resident of their household

[19] Assault without a weapon inflicting serious or aggravated injury without intending to commit murder or inflict great bodily harm less than murder.

[20] The caregiver or person with authority over a vulnerable adult commits a reckless act or reckless failure to act causing physical harm to the vulnerable adult or knowingly or intentionally commits an act that poses an unreasonable risk of harm or injury to a vulnerable adult, whether physical harm results or not.

MCL	Description
750.377a(1)(d) (as amended by Senate Bill 528)	Willfully or maliciously destroying or damaging, to the amount of $200 or more but less than $1,000 or to the amount of less than $200 with one or more prior convictions for willful and malicious destruction, the personal property of the person's spouse or former spouse, an individual with whom they have or have had a dating relationship, an individual with whom they have had a child in common, or a resident or former resident of the same household
750.377a(1)(f) (as amended by Senate Bill 528)	Willfully or maliciously destroying or damaging, to the amount of less than $200, the personal property of the person's spouse or former spouse, an individual with whom they have or have had a dating relationship, an individual with whom they have had a child in common, or a resident or former resident of the same household
750.380(5) (as amended by Senate Bill 528)	Willfully or maliciously destroying or damaging, to the amount of $200 or more but less than $1,000 or to the amount of less than $200 with one or more prior convictions for willful and malicious destruction, the house, barn, or other building of the person's spouse or former spouse, an individual with whom they have or have had a dating relationship, an individual with whom they have had a child in common, or a resident or former resident of the same household
750.380(7) (as amended by Senate Bill 528)	Willfully or maliciously destroying or damaging, to the amount of less than $200, the house, barn, or other building of the person's spouse or former spouse, an individual with whom they have or have had a dating relationship, an individual with whom they have had a child in common, or a resident or former resident of the same household
750.411h(2)(c) (as amended by Senate Bill 528)	Stalking[21] if the victim is the person's spouse or former spouse, an individual with whom they have or have had a dating relationship, an individual with whom they have had a child in common, or a resident or former resident of the same household
750.540e(1)(h) (as amended by Senate Bill 528)	Malicious use of a service provided by a telecommunications service provider with intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy another person or disturb the peace and quiet of another person by performing any of the actions described in MCL 750.540e when the other person is the violator's spouse or former spouse, an individual with whom they have or have had a dating relationship, an individual with whom they have had a child in common, or a resident or former resident of the same household

For purposes of the provisions described in Table 2, ***dating relationship*** would mean frequent, intimate associations primarily characterized by the expectation of affectional involvement. It would not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

[21] A willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and actually causes the victim to feel so.

A person violating the above prohibition (i.e., by possessing firearms or ammunition during the eight-year period) would be guilty of a felony punishable by imprisonment for up to five years or a fine of up to $5,000, or both.

The above prohibition would not apply to a conviction that has been expunged or set aside or for which the person has been pardoned, unless the expunction, order, or pardon expressly provides that the person cannot possess a firearm or ammunition.

MCL 750.224f

Senate Bills 471 and 528 cannot take effect unless both bills are enacted. Senate Bill 472 cannot take effect unless Senate Bill 471 is enacted.

BACKGROUND:

Felony firearm prohibitions

The first prohibitions in Michigan on firearm possession by a person with a felony conviction appear to be those in 1927 PA 372, the handgun licensure act, which when first enacted imposed a lifetime prohibition against purchasing a pistol on anyone convicted of a felony. A time limit to the prohibition was added about twenty years later, when 1949 PA 115 amended the act to prohibit former felons from having a pistol for eight years after their conviction or release from prison.

In 1990, the act was amended again, this time to prohibit a person indefinitely (no time limit) from having a pistol if they had been convicted of a crime punishable by more than one year—except for crimes classified by the state as a misdemeanor that are punishable by imprisonment for two years or less.[22] Although this ban was generally for an indefinite period, the amendments also provided that it did not apply once the conviction had been expunged or the person had been pardoned or had their civil rights restored (unless the expungement, pardon, or restoration expressly provided otherwise).

However, after federal court cases brought to light what were felt to be ambiguities in the 1990 amendments to the law, the handgun licensure act and the Michigan Penal Code were amended in 1992 in an attempt to resolve those ambiguities.[23] The changes made to the Penal Code by 1992 PA 217 created the basic framework still in place today, with three-year and five-year prohibitions regarding felonies and specified felonies that apply to all firearms, not just pistols. However, the definition of the term *felony* was narrowed so that the prohibitions would apply only with regard to offenses punishable by imprisonment for four or more years. The 1992 amendments kept the exceptions for convictions that had been expunged or pardoned, but removed the one regarding the restoration of civil rights.

The parallel ban on possession of ammunition was added in 2014.

[22] In other words, the prohibition in 1990 PA 320 excluded high court misdemeanors from being considered felonies for its purposes. As described elsewhere, the federal Gun Control Act applies to crimes "punishable by imprisonment for a term exceeding one year," except for (among other offenses) a state offense classified by the state as a misdemeanor and punishable by imprisonment for two years or less.

[23] See https://www.legislature.mi.gov/documents/1991-1992/billanalysis/House/pdf/1991-HLA-5400-B.pdf

Individuals with a felony[24] conviction (or pending charges) are currently barred from getting a license to carry a concealed pistol in Michigan. Former felons have been prohibited from getting a concealed pistol license since at least 1927.

Federal law prohibits firearm possession by anyone who has been convicted of a crime punishable by imprisonment for more than one year.[25] However, that does not include any state offense that is classified by the laws of the state as a misdemeanor and punishable by a term of imprisonment of two years or less. It also does not include federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices. In addition, the prohibition does not apply to a conviction that has been expunged or set aside or for which the person has been pardoned or had their civil rights restored—unless the expunction, order, pardon, or restoration of rights expressly provides that the person cannot possess firearms.[26]

Note that the scope of the federal law is the subject of continuing judicial scrutiny.

Domestic violence firearm prohibitions

A person convicted of violating section 81, 81a(2), 115, 145n, or 411h of the Michigan Penal Code is now prohibited from obtaining a concealed pistol license for eight years after conviction, and a person convicted of violating section 377 or 380 of the Michigan Penal Code cannot obtain a concealed pistol license for three years afterward. A person who has a charge pending for any of those offenses at the time of application also cannot get either a concealed pistol license or a license to purchase a pistol (or, when 2023 PA 19 takes effect, to purchase a firearm).

Federal law now prohibits those convicted of a *misdemeanor crime of domestic violence* from possessing a firearm or ammunition.[27] The prohibition does not apply to a conviction that has been expunged or set aside or for which the person has been pardoned or had their firearm rights restored—unless the expunction, order, pardon, or restoration of rights expressly provides that the person cannot possess a firearm or ammunition. In addition, if both of the following apply, the prohibition ends five years after the person is convicted or completes their sentence:

- The person has only one conviction of a misdemeanor crime of domestic violence, against an individual with whom they were in a *dating relationship*.
- During those five years, the person has not been convicted of another misdemeanor crime of domestic violence, another misdemeanor that involves the use or attempted

[24] For purposes of this provision, *felony* is defined as a violation of a Michigan penal law that is punishable by imprisonment for more than one year or is expressly designated by law to be a felony, or a violation of a law of the United States or another state that is designated as a felony or is punishable by death or by imprisonment for more than one year. However, it does not include a violation of a penal law of this state that is expressly designated as a misdemeanor.

[25] Although the federal possession prohibitions look to state law to define relevant convictions, the state and federal prohibitions operate independently of one another. See: https://www.courts.michigan.gov/49f23a/siteassets/case-documents/uploads/opinions/final/coa/20211129_c350292(26)_rptr_136o-350292-asv.pdf

[26] The restoration of an individual's civil rights has been commonly interpreted to mean regaining the rights to vote, to hold office, and to serve on a jury. Note that Michigan law has, since 2002, disqualified anyone with a felony conviction from serving on a jury.

[27] See 18 USC 922(g)(9), with definitions contained in 18 USC 921. Other conditions, such as representation by counsel and trial by jury, must be met, unless the person waives those rights (e.g., in the case of a jury trial, by pleading guilty).

use of physical force or the threatened use of a deadly weapon, or another offense that would trigger a federal firearm possession prohibition (e.g., a felony).

Misdemeanor crime of domestic violence is defined as a federal, state, tribal, or local law that has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, by a person similarly situated to a spouse, parent, or guardian of the victim, or by a person who has a current or recent former *dating relationship* with the victim.

Dating relationship is defined as a relationship between individuals who have or have recently had a continuing serious relationship of a romantic or intimate nature, based on consideration of the length of the relationship, the nature of the relationship, and the frequency and type of interaction between the individuals involved in the relationship. A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a dating relationship.

Note that the federal prohibition applies to offenses that meet the definition of *misdemeanor crime of domestic violence* regardless of whether the statute specifically defines the offense as a domestic violence misdemeanor or specifies a relationship between victim and perpetrator.

Violation of the federal prohibition is a felony punishable by up to 15 years' imprisonment.

Over 30 states and the District of Columbia also have laws to prohibit those with domestic violence misdemeanor convictions from possessing firearms, with varying conditions and applicability.[28]

Expungement

The firearm possession prohibitions described above—both state and federal—provide that they do not apply if the underlying offense has been expunged. The act that governs expunging convictions, 1965 PA 213, provides rules for both misdemeanors and felonies, and specific types of both offense, concerning what can be expunged and when and how.[29]

As applies to ***misdemeanors involving domestic violence*** as defined under Senate Bill 471, the act generally allows misdemeanors to be expunged by petition three years after completion of the sentence and provides for them to be automatically expunged seven years after that date. However, that does not apply to offenses classed as assaultive crimes or as serious misdemeanors. A person cannot, in their lifetime, expunge more than two offenses that are defined as assaultive crimes. An application for expungement of a serious misdemeanor can only be filed five or more years after completion of the sentence, and serious misdemeanors are not automatically expunged. In addition, some specified crimes are not eligible for expunction at all.

[28] See https://maps.everytownresearch.org/navigator/states.html?dataset=domestic_violence&states=MI The states include Alabama, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Nebraska, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and West Virginia. Arizona and South Carolina are additionally included here: and https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms/

[29] http://legislature.mi.gov/doc.aspx?mcl-act-213-of-1965

Table 3, below, shows the treatment of ***misdemeanors involving domestic violence*** under 1965 PA 213. Note that all of the relevant convictions can be expunged (or application to expunge can be made) sooner than the eight years of the firearm possession prohibition. If they are expunged, that prohibition would no longer apply. (The firearm prohibition is not part of an individual's sentence. The clock for expungement begins at the end of that sentence. The firearm prohibition also begins at the end of the sentence. The firearm prohibition would appear not to toll the expungement clock, so to speak, but to run alongside it, and to no longer apply if the conviction is expunged.)

Table 3 – Expungement of defined misdemeanors involving domestic violence

MCL	Caption	Assaultive crime	Serious misdemeanor	Expungement after
750.81	Assault	X	X	5 years
750.81a	Aggravated assault	X	X	5 years
750.115	Breaking and entering or entering without breaking		X	5 years
750.145n	Vulnerable adult abuse in the fourth degree			3 years, 7 automatically
750.377a	Malicious destruction of property			3 years, 7 automatically
750.380	Malicious destruction of real property			3 years, 7 automatically
750.411h	Stalking[30]		X	5 years
750.540e	Malicious use of telecommunications service or device			3 years, 7 automatically

FISCAL IMPACT:

Senate Bill 471 would have an indeterminate fiscal impact on the state and on local units of government. To the extent provisions of the bill result in an increase in felony convictions, the bill would result in increased costs related to state prisons and state probation supervision. In fiscal year 2022, the average cost of prison incarceration in a state facility was roughly $47,900 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about $5,000 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. The fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affect court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices,

[30] While misdemeanor stalking is currently an assaultive crime for purposes of 1965 PA 213, the domestic violence misdemeanor stalking offense delineated by Senate Bill 528 would not be.

prosecutorial practices, judicial discretion, case types, and complexity of cases. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

Senate Bill 472 is a companion bill to SB 471 and amends sentencing guidelines to include felony status for a person convicted of a misdemeanor involving domestic violence to possess or sell a firearm or ammunition. The bill would not have a direct fiscal impact on the state or on local units of government

Senate Bill 528 would have an indeterminate fiscal impact on the state and on local units of government. To the extent provisions of the bill result in an increase in misdemeanor convictions, the bill would result in increased costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. The fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affect court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

POSITIONS:

Representatives of the following entities testified in support of the bills (10-17-23):

- Michigan State Police
- Department of the Attorney General
- Michigan Coalition to End Domestic and Sexual Violence

The following entities indicated support for the bills (10-17-23):

- Michigan Domestic and Sexual Violence Prevention and Treatment Board
- Michigan Poverty Law Program
- American Association of University Women of Michigan
- Giffords
- Michigan Academy of Family Physicians

A representative of Michigan Open Carry testified in opposition to the bills. (10-17-23)

Legislative Analyst: Rick Yuille
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.