

SUBSTITUTE FOR
HOUSE BILL NO. 4206

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 11 of chapter II (MCL 762.11), as amended by
2004 PA 239.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER II

2

Sec. 11. (1) Except as provided in subsections (2) and (3), if

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an individual pleads guilty to a criminal offense, committed on or

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after the individual's seventeenth birthday but before his or her

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~~twenty-first~~ **TWENTY-FOURTH** birthday, the court of record having

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jurisdiction of the criminal offense may, without entering a

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judgment of conviction and with the consent of that individual,

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consider and assign that individual to the status of youthful

9

trainee. **IF THE OFFENSE WAS COMMITTED ON OR AFTER THE INDIVIDUAL'S**

1 TWENTY-FIRST BIRTHDAY BUT BEFORE HIS OR HER TWENTY-FOURTH BIRTHDAY,
2 THE INDIVIDUAL SHALL NOT BE ASSIGNED TO YOUTHFUL TRAINEE STATUS
3 WITHOUT THE CONSENT OF THE PROSECUTING ATTORNEY. AS USED IN THIS
4 SUBSECTION, "CRIMINAL OFFENSE" MEANS 1 OR MORE ADJUDICATIONS
5 ARISING OUT OF A SERIES OF ACTS THAT WERE IN A CONTINUOUS TIME
6 SEQUENCE OF 12 HOURS OR LESS AND THAT DISPLAYED A SINGLE INTENT AND
7 GOAL.

8 (2) Subsection (1) does not apply to any of the following:

9 (a) A felony for which the maximum penalty is imprisonment for
10 life.

11 (b) A major controlled substance offense.

12 (c) A traffic offense.

13 (d) A violation, attempted violation, or conspiracy to violate
14 section 520b, 520c, 520d, or 520e of the Michigan penal code, 1931
15 PA 328, MCL 750.520b, 750.520c, 750.520d, and 750.520e, other than
16 section 520d(1)(a) or 520e(1)(a) of the Michigan penal code, 1931
17 PA 328, MCL 750.520d and 750.520e.

18 (e) A violation, attempted violation, or conspiracy to violate
19 section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g,
20 with the intent to commit a violation of section 520b, 520c, 520d,
21 or 520e of the Michigan penal code, 1931 PA 328, MCL 750.520b,
22 750.520c, 750.520d, and 750.520e, other than section 520d(1)(a) or
23 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d
24 and 750.520e.

25 (3) The court shall not assign an individual to the status of
26 youthful trainee if any of the following apply:

27 (A) THE INDIVIDUAL WAS PREVIOUSLY ASSIGNED TO THE STATUS OF

1 **YOUTHFUL TRAINEE.**

2 (B) ~~(a)~~—The individual was previously convicted of or
3 adjudicated for a listed offense for which registration is required
4 under the sex offenders registration act, 1994 PA 295, MCL 28.721
5 to ~~28.732~~-**28.736**.

6 (C) ~~(b)~~—If the individual is charged with a listed offense for
7 which registration is required under the sex offenders registration
8 act, 1994 PA 295, MCL 28.721 to ~~28.732~~, **28.736**, the individual
9 fails to carry the burden of proving by clear and convincing
10 evidence that he or she is not likely to engage in further listed
11 offenses.

12 (D) ~~(c)~~—The court determines that the offense involved any of
13 the following:

14 (i) A factor set forth in section 520b(1)(a) to (h) of the
15 Michigan penal code, 1931 PA 328, MCL 750.520b.

16 (ii) A factor set forth in section 520c(1)(a) to (l) of the
17 Michigan penal code, 1931 PA 328, MCL 750.520c.

18 (iii) A factor set forth in section 520d(1)(b) to (e) of the
19 Michigan penal code, 1931 PA 328, MCL 750.520d.

20 (iv) A factor set forth in section 520e(1)(b) to (f) of the
21 Michigan penal code, 1931 PA 328, MCL 750.520e.

22 (4) IF THE COURT ASSIGNS AN INDIVIDUAL TO THE STATUS OF
23 YOUTHFUL TRAINEE UNDER THIS SECTION, THE COURT MAY REQUIRE THE
24 INDIVIDUAL TO MAINTAIN EMPLOYMENT OR TO ATTEND A HIGH SCHOOL, HIGH
25 SCHOOL EQUIVALENCY PROGRAM, COMMUNITY COLLEGE, COLLEGE, UNIVERSITY,
26 OR TRADE SCHOOL. IF THE INDIVIDUAL IS NOT EMPLOYED OR ATTENDING A
27 HIGH SCHOOL, COMMUNITY COLLEGE, COLLEGE, UNIVERSITY, OR TRADE

1 SCHOOL, THE INDIVIDUAL MAY BE REQUIRED TO ACTIVELY SEEK EMPLOYMENT
2 OR ENTRY INTO A HIGH SCHOOL, HIGH SCHOOL EQUIVALENCY PROGRAM,
3 COMMUNITY COLLEGE, COLLEGE, UNIVERSITY, OR TRADE SCHOOL.

4 (5) IF THE OFFENSE FOR WHICH THE INDIVIDUAL IS ASSIGNED TO THE
5 STATUS OF YOUTHFUL TRAINEE STATUS WAS COMMITTED ON OR AFTER THE
6 INDIVIDUAL'S TWENTY-FIRST BIRTHDAY, THE INDIVIDUAL MAY, IN ADDITION
7 TO THE OTHER REQUIREMENTS OF THIS SUBSECTION, BE SUBJECT TO
8 ELECTRONIC MONITORING DURING HIS OR HER PROBATIONARY TERM AS
9 PROVIDED UNDER SECTION 3 OF CHAPTER XI.

10 (6) IF THE COURT ORDERS A CONDITION OF PROBATION DESCRIBED IN
11 SUBSECTION (4), THE INDIVIDUAL'S COMPLIANCE WITH THAT CONDITION OF
12 PROBATION SHALL BE VERIFIED ON A MONTHLY BASIS BY A PROBATION
13 OFFICER. THE VERIFICATION OF EMPLOYMENT STATUS OR SCHOOL ATTENDANCE
14 UNDER THIS SUBDIVISION SHALL INCLUDE A REVIEW OF EMPLOYMENT AND
15 SCHOOL RECORDS.

16 (7) ~~(4)~~As used in this section:

17 (a) "Listed offense" means that term as defined in section 2
18 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

19 (b) "Traffic offense" means a violation of the Michigan
20 vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of
21 a local ordinance substantially corresponding to that act, that
22 involves the operation of a vehicle and, at the time of the
23 violation, is a felony or a misdemeanor.