

Act No. 145
Public Acts of 1991
Approved by the Governor
November 22, 1991
Filed with the Secretary of State
November 25, 1991

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991**

Introduced by Rep. Bouchard

ENROLLED HOUSE BILL No. 4924

AN ACT to amend sections 139, 215, 248, 308, 371, 524, 537, and 538 of Act No. 328 of the Public Acts of 1931, entitled as amended "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," being sections 750.139, 750.215, 750.248, 750.308, 750.371, 750.524, 750.537, and 750.538 of the Michigan Compiled Laws; and sections 26, 27, 28, and 30 of chapter 158 of the Revised Statutes of 1846, entitled "Of offences against chastity, morality and decency," being sections 752.526, 752.527, 752.528, and 752.530 of the Michigan Compiled Laws, to harmonize provisions of law relating to the abolished office of justice of the peace in regard to criminal law; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

Section 1. Sections 139, 215, 248, 308, 371, 524, 537, and 538 of Act No. 328 of the Public Acts of 1931, being sections 750.139, 750.215, 750.248, 750.308, 750.371, 750.524, 750.537, and 750.538 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 139. (1) No child under 16 years of age while under arrest, confinement, or conviction for any crime, shall be placed in any apartment or cell of any prison or place of confinement with any adult who shall be under arrest, confinement, or conviction for any crime, or be permitted to remain in any court room during the trial of adults, or be transported in any vehicle of transportation in company with adults charged with or convicted of crime.

(2) All cases involving the commitment or trial of children under 16 years of age for any crime or misdemeanor, before any court, shall be heard and determined by such court at a suitable time, to be designated by it, separate and apart from the trial of other criminal cases.

(3) Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 215. Any person who falsely assumes or pretends to be a sheriff, deputy sheriff, conservation officer, coroner, constable, police officer, or member of the Michigan state police, and shall take upon himself or herself to act as such, or to require any person to aid and assist him or her in any matter pertaining to the duty of a sheriff, deputy sheriff, conservation officer, coroner, constable, police officer, or member of the Michigan state police, or shall falsely take upon himself or herself to act or officiate in any office or place of authority, shall be guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or by fine of not more than \$500.00.

Sec. 248. (1) Any person who shall falsely make, alter, forge, or counterfeit any public record, or any certificate, return, or attestation of any clerk of a court, public register, notary public, township clerk, or any other public officer, in relation to any matter wherein such certificate, return, or attestation may be received as legal proof, or any charter, deed, will, testament, bond, writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or any order, acquittance of discharge for money or other property, or any waiver, release, claim or demand, or any acceptance of a bill of exchange, or indorsement, or assignment of a bill of exchange or promissory note for the payment of money, or any accountable receipt for money, goods, or other property, with intent to injure or defraud any person, shall be guilty of a felony, punishable by imprisonment for not more than 14 years.

(2) The venue in a prosecution under this section may be either in the county in which the forgery was performed, or in a county in which any false, forged, altered, or counterfeit record, deed, instrument, or other writing is uttered and published with intent to injure or defraud.

Sec. 308. If a person makes oath before a judge that he or she has probable cause to believe and does believe that a house or other building, room, or place is used as and for a common gaming house, for gaming for money or other property, or is occupied, used, or kept for promoting a lottery, or for the sale of lottery tickets, or for promoting the game known as a policy lottery or policy, or for the buying or selling of pools or registering of bets upon any race, game, contest, act, or event, and that persons resort thereto for any such purpose, the judge, whether the names of the persons last mentioned are known to the complainant or not, shall, if he or she be satisfied there is reasonable cause for such belief, issue a warrant commanding the sheriff or deputy sheriff or any constable or police officer to enter and search such house, building, room, or place, and if any lottery, policy or pool tickets, slips, checks, manifold books or sheets, memoranda of any bet, or other implements, apparatus, or material of any form of gaming be found in the place, to take into his or her custody all the implements, apparatus, or material of gaming, including any articles, equipment, furniture, loud speakers and amplifying apparatus, adding machines, calculators, money changers and boxes, and money found therein or in or on gambling apparatus, or material used in connection with or the promotion of gambling or a gambling place; and upon the finding of such apparatus and material of any form of gaming, the officers shall be authorized to arrest the keepers of the place, all persons in any way assisting in keeping the same, whether as capper, tout, guard, doorkeep, lookout, or otherwise, and all persons who are there found, and to keep the persons, implements, apparatus, or material of gaming, including any punch board prizes, articles, equipment, furniture, loud speakers and amplifying apparatus, adding machines, calculators, money changers and boxes, and money found therein or in or on gambling apparatus, or material used in connection with or the promotion of gambling or a gambling place, so that they may be forthcoming before some court or magistrate to be dealt with according to law. The provisions of law relative to destroying or other disposition of gaming articles shall apply to all articles and property seized as herein provided.

Sec. 371. Any person who shall be convicted of a second or subsequent violation of the provisions of this chapter shall be guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or by fine of not less than 50 dollars or more than 500 dollars.

Sec. 524. Any mayor, alderman, supervisor, president, trustee or member of a common council, sheriff, or deputy sheriff, having notice of any such riotous or tumultuous and unlawful assembly as is mentioned in this chapter, in the township, city, or village in which he or she lives, who shall neglect or refuse immediately to proceed to the place of such assembly, or as near as he or she can with safety, or shall omit or neglect to exercise the authority with which he or she is invested by this chapter, for suppressing such riotous or unlawful assembly, and for arresting and securing the offenders, shall be guilty of a misdemeanor, punishable by imprisonment for not more than 6 months or a fine of not more than \$250.00.

Sec. 537. No person working in any copper or silver mine of this state, or any person in behalf of such person, shall sell, barter, transfer, or ship any copper or silver ore, bullion, pig or copper or silver in the raw or unmanufactured state, and no person shall be a party to any barter, transfer, or sale, or aid or assist therein,

unless a memorandum be filed with the county clerk of the county where such barter, transfer, or sale shall take place, giving the names of the parties making such barter, transfer, sale, or shipment, the dates, consideration, and the origin of the copper or silver so bartered, transferred, sold, or shipped, and in all cases where the origin of said copper or silver is not known to the parties, no barter, transfer, sale, or shipment shall be made without a certificate being attached to such memorandum of sale duly signed by the county clerk or by a constable or deputy sheriff, stating in substance that he or she has investigated the source or origin of the copper or silver so to be bartered, transferred, sold, or shipped and that in his or her opinion the articles have not been stolen, and that the parties thereto have a right to transfer or sell the same. This section shall not apply to any person authorized to act in behalf of a person, firm, or corporation engaged in the business of mining copper or silver as owner. Any person violating the provisions of this section shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than \$500.00.

Sec. 538. (1) Any sales, transfers, or shipments of copper or silver ore, bullion, pig or copper or silver in the raw or unmanufactured state in any county of this state where copper and silver are mined, by any person not engaged in the business of mining or producing copper or silver ore, bullion, pig or copper or silver in the unmanufactured state, shall be unlawful unless and until a memorandum thereof shall be filed with the county clerk of the county where such sale or transfer shall take place, giving the names of the parties, the dates, consideration, and origin of the copper or silver so sold, transferred, or shipped or offered for sale, transfer, or shipping; and in all cases where the origin of the copper or silver is not known, no sale, transfer, or shipment shall be made without a certificate being attached to such memorandum of sale duly signed by the county clerk, constable, or deputy sheriff, stating in substance that he or she has investigated the source or origin of the copper or silver offered for sale, transfer, or shipment, and that in his or her opinion the articles have not been stolen, and that the parties thereto have a right to sell, transfer, and ship the same.

(2) Any person violating the provisions of this section shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year or by a fine of not more than \$500.00.

Section 2. Sections 26, 27, 28, and 30 of chapter 158 of the Revised Statutes of 1846, being sections 752.526, 752.527, 752.528, and 752.530 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 26. Whoever shall violate either of the provisions of the foregoing section, may be convicted before the district or municipal court of the judicial district or municipality where the offense was committed, and on such conviction shall be fined a sum not exceeding \$25.00, for the benefit of the township libraries.

Sec. 27. It shall be the duty of all sheriffs, and their deputies, coroners, marshals, constables, and other peace officers, all presiding elders, and ministers of the gospel, deacons, stewards and official members of any church or religious society, who may be present at the meeting of any assembly for religious worship, which shall be interrupted or disturbed in the manner prohibited, on sight to apprehend the offender, and take him or her before the district or municipal court of the judicial district or municipality, to be proceeded against according to law.

Sec. 28. All judges, mayors, and aldermen, within their respective jurisdictions, upon their own view of any person offending against the provisions of either of the last 3 preceding sections of this chapter, may order the offender into the custody of any officer in the preceding section named, or any official member of the church or society so assembled or disturbed, for safe keeping, until he or she shall be held to bail, or a trial for such offense be had.

Sec. 30. It shall be lawful for any person complained of, for the violation of any of the provisions of either of the last 2 preceding sections of this chapter, before the court shall proceed to investigate the merits of the cause, to demand of such court, that he or she may be tried by a jury; upon such demand, it shall be the duty of such court to issue a venire to any constable of the county or marshal of the city where the case is to be tried, commanding such officer to summon the same number of jurors, and in the same manner as is provided for in the summoning of jurors before the district or municipal court. The court shall proceed to impanel a jury for the trial of the cause, in the same manner, and shall be subject to all the rules and regulations prescribed in the act providing for trial by jury in the district or municipal court. The costs of suit shall be paid by the party offending in case of conviction, and shall be the same as is allowed by law in civil cases.

Section 3. Section 484 of Act No. 328 of the Public Acts of 1931, being section 750.484 of the Michigan Compiled Laws, is repealed.

Section 4. Section 26 of chapter 171 of the Revised Statutes of 1846, being section 801.26 of the Michigan Compiled Laws, is repealed.