

SENATE BILL No. 539

October 9, 1991, Introduced by Senators DE GROW, KELLY, O'BRIEN and MILLER and referred to the Committee on Judiciary.

A bill to amend section 1f of chapter IV, section 14 of chapter VI, and section 9a of chapter X of Act No. 175 of the Public Acts of 1927, entitled as amended

"The code of criminal procedure,"

section 1f of chapter IV as added and section 14 of chapter VI as amended by Act No. 67 of the Public Acts of 1988, being sections 764.1f, 766.14, and 770.9a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 1f of chapter IV, section 14 of chapter
2 VI, and section 9a of chapter X of Act No. 175 of the Public Acts
3 of 1927, section 1f of chapter IV as added and section 14 of
4 chapter VI as amended by Act No. 67 of the Public Acts of 1988,
5 being sections 764.1f, 766.14, and 770.9a of the Michigan
6 Compiled Laws, are amended to read as follows:

CHAPTER IV

1
2 Sec. 1f. If the prosecuting attorney has reason to believe
3 that a juvenile 15 years of age and less than 17 years of age has
4 violated section 83, 89, 91, 316, 317, 520b, ~~or~~ 529, OR 529A of
5 the Michigan penal code, Act No. 328 of the Public Acts of 1931,
6 being sections 750.83, 750.89, 750.91, 750.316, 750.317,
7 750.520b, ~~and~~ 750.529, AND 750.529A of the Michigan Compiled
8 Laws, or section 7401(2)(a)(i) or 7403(2)(a)(i) of the public
9 health code, Act No. 368 of the Public Acts of 1978, being sec-
10 tions 333.7401 and 333.7403 of the Michigan Compiled Laws, the
11 prosecuting attorney may authorize the filing of a complaint and
12 warrant on the charge with a magistrate concerning the juvenile.

CHAPTER VI

13
14 Sec. 14. (1) If at the conclusion of the preliminary exami-
15 nation of a person charged with a felony it appears that the
16 offense charged is not a felony or that an included offense
17 ~~which~~ THAT is not a felony has been committed, the accused
18 shall not be dismissed but the magistrate shall proceed in the
19 same manner as if the accused had initially been charged with an
20 offense ~~which~~ THAT is not a felony.

21 (2) If at the conclusion of the preliminary examination of a
22 juvenile the magistrate finds that a violation of section 83, 89,
23 91, 316, 317, 520b, ~~or~~ 529, OR 529A of the Michigan penal code,
24 Act No. 328 of the Public Acts of 1931, being sections 750.83,
25 750.89, 750.91, 750.316, 750.317, 750.520b, ~~and~~ 750.529, AND
26 750.529A of the Michigan Compiled Laws, or section 7401(2)(a)(i)
27 or 7403(2)(a)(i) of the public health code, Act No. 368 of the

1 Public Acts of 1978, being sections 333.7401 and 333.7403 of the
2 Michigan Compiled Laws, did not occur or that there is not proba-
3 ble cause to believe that the juvenile committed the violation,
4 but that there is probable cause to believe that some other
5 offense occurred and that the juvenile committed that other
6 offense, the magistrate shall transfer the case to the juvenile
7 division of the probate court of the county where the offense is
8 alleged to have been committed. A transfer under this subsection
9 ~~shall~~ DOES not prevent the juvenile division of the probate
10 court from waiving jurisdiction over the juvenile under section 4
11 of chapter XIIIA of Act No. 288 of the Public Acts of 1939, being
12 section 712A.4 of the Michigan Compiled Laws.

13 CHAPTER X

14 Sec. 9a. (1) A defendant convicted of an assaultive crime
15 and awaiting sentence shall be detained and shall not be admitted
16 to bail, unless the trial court finds by clear and convincing
17 evidence that the defendant is not likely to pose a danger to
18 other persons.

19 (2) A defendant convicted of an assaultive crime and sen-
20 tenced to a term of imprisonment who has filed an appeal or an
21 application for leave to appeal shall be detained and shall not
22 be admitted to bail, unless the trial court or the court to which
23 the appeal is taken finds by clear and convincing evidence that
24 both of the following exist:

25 (a) The defendant is not likely to pose a danger to other
26 persons.

1 (b) The appeal or application raises a substantial question
2 of law or fact.

3 (3) As used in this section, "assaultive crime" means an
4 offense against a person described in ~~any of the following~~ sec-
5 tions ~~—~~ 82 to 89, 316, 317, 321, 349 to 350, 397, 520a to 520g,
6 529, ~~and~~ 529A, OR 530 of Act No. 328 of the Public Acts of
7 1931, as amended, being sections 750.82 to 750.89, 750.316,
8 750.317, 750.321, 750.349 to 750.350, 750.397, 750.520a to
9 750.520g, 750.529, 750.529A, and 750.530 of the Michigan Compiled
10 Laws.

11 (4) The appeal or application for leave to appeal filed by a
12 person denied bail under this section shall be expedited pursuant
13 to rules adopted for that purpose by the supreme court.

14 Section 2. This amendatory act shall not take effect unless
15 Senate Bill No. 507 of the 86th Legislature is enacted into law.