

Act No. 195
Public Acts of 1994
Approved by the Governor
June 19, 1994
Filed with the Secretary of State
June 21, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senators Kelly Miller Koivisto Hart Faust Bouchard and Geake

ENROLLED SENATE BILL No. 777

AN ACT 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 An act to revise consolidate and codify the laws relating to criminal procedure and to define the jurisdiction powers and duties of courts judges and other officers of the court under the provisions of this act to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations to provide for the examination of persons accused of criminal offenses to regulate the procedure relative to grand juries indictments informations and proceedings before trial to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases to provide a uniform system of probation throughout this state and the appointment of probation officers to prescribe the powers duties and compensation of probation officers to provide penalties for the violation of the duties of probation officers to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime to provide for fees of officers witnesses and others in criminal and ordinance violation cases to set forth miscellaneous provisions as to criminal procedure in certain cases to provide penalties for the violation of certain provisions of this act and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act 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

Section 1 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 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 are amended to read as follows

CHAPTER IV

Sec 1f If the prosecuting attorney has reason to believe that a juvenile 15 years of age or older but less than 17 years of age has violated section 83 89 91 316 317 520b 529 or 529a of the Michigan penal code Act No 328 of the

Public Acts of 1931 being sections 750 83 750 89 750 91 750 316 750 317 750 520b 750 529 and 750 529a of the Michigan Compiled Laws or section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code Act No 368 of the Public Acts of 1978 being sections 333 7401 and 333 7403 of the Michigan Compiled Laws the prosecuting attorney may authorize the filing of a complaint and warrant on the charge with a magistrate concerning the juvenile

CHAPTER VI

Sec 14 (1) If the court determines at the conclusion of the preliminary examination of a person charged with a felony that the offense charged is not a felony or that an included offense that is not a felony has been committed the accused shall not be dismissed but the magistrate shall proceed in the same manner as if the accused had initially been charged with an offense that is not a felony

(2) If at the conclusion of the preliminary examination of a juvenile the magistrate finds that a violation of section 83 89 91 316 317 520b 529 or 529a of the Michigan penal code Act No 328 of the Public Acts of 1931 being sections 750 83 750 89 750 91 750 316 750 317 750 520b 750 529 and 750 529a of the Michigan Compiled Laws or section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code Act No 368 of the Public Acts of 1978 being sections 333 7401 and 333 7403 of the Michigan Compiled Laws did not occur or that there is not probable cause to believe that the juvenile committed the violation but that there is probable cause to believe that some other offense occurred and that the juvenile committed that other offense the magistrate shall transfer the case to the juvenile division of the probate court of the county where the offense is alleged to have been committed A transfer under this subsection does not prevent the juvenile division of the probate court from waiving jurisdiction over the juvenile under section 4 of chapter XIIA of Act No 288 of the Public Acts of 1939 being section 712A 4 of the Michigan Compiled Laws

CHAPTER X

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

(2) A defendant convicted of an assaultive crime and sentenced to a term of imprisonment who has filed an appeal or an application for leave to appeal shall be detained and shall not be admitted to bail unless the trial court or the court to which the appeal is taken finds by clear and convincing evidence that both of the following exist

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

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

(3) As used in this section assaultive crime means an offense against a person described in section 82 83 84 86 87 88 89 316 317 321 349 349a 350 397 520b 520c 520d 520e 520g 529 529a or 530 of Act No 328 of the Public Acts of 1931 as amended being sections 750 82 750 83 750 84 750 86 750 87 750 88 750 89 750 316 750 317 750 321 750 349 750 349a 750 350 750 397 750 520b 750 520c 750 520d 750 520e 750 520g 750 529 750 529a and 750 530 of the Michigan Compiled Laws

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

Section 2 This amendatory act shall take effect October 1 1994

Section 3 This amendatory act shall not take effect unless Senate Bill No 773 of the 87th Legislature is enacted into law

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor