



# SENATE BILL No. 777

July 21, 1993, Introduced by Senators KELLY, MILLER, KOIVISTO, HART, FAUST, BOUCHARD and GEAKE 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:

1

## CHAPTER IV

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

14

## CHAPTER VI

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

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

1 or 7403(2)(a)(i) of the public health code, Act No. 368 of the  
2 Public Acts of 1978, being sections 333.7401 and 333.7403 of the  
3 Michigan Compiled Laws, did not occur or that there is not proba-  
4 ble cause to believe that the juvenile committed the violation,  
5 but that there is probable cause to believe that some other  
6 offense occurred and that the juvenile committed that other  
7 offense, the magistrate shall transfer the case to the juvenile  
8 division of the probate court of the county where the offense is  
9 alleged to have been committed. A transfer under this subsection  
10 ~~shall~~ DOES not prevent the juvenile division of the probate  
11 court from waiving jurisdiction over the juvenile under section 4  
12 of chapter XIIIA of Act No. 288 of the Public Acts of 1939, being  
13 section 712A.4 of the Michigan Compiled Laws.

14 CHAPTER X

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

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

26 (a) The defendant is not likely to pose a danger to other  
27 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~~  
5 ~~sections:~~ SECTION 82, ~~to~~ 83, 84, 86, 87, 88, 89, 316, 317,  
6 321, 349, ~~to~~ 349A, 350, 397, ~~520a to~~ 520B, 520C, 520D, 520E,  
7 520g, 529, ~~and~~ 529A, OR 530 of Act No. 328 of the Public Acts  
8 of 1931, as amended, being sections 750.82, ~~to~~ 750.83, 750.84,  
9 750.86, 750.87, 750.88, 750.89, 750.316, 750.317, 750.321,  
10 750.349, ~~to~~ 750.349A, 750.350, 750.397, ~~750.520a to~~ 750.520B,  
11 750.750C, 750.520D, 750.520E, 750.520g, 750.529, 750.529A, and  
12 750.530 of the Michigan Compiled Laws.

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

16 Section 2. This amendatory act shall not take effect unless  
17 Senate Bill No. 773

18 of the 87th Legislature is enacted into law.