

HOUSE BILL No. 5688

March 12, 1998, Introduced by Reps. Wojno, Hale, Kukuk, Olshove, Brown and Goschka and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 227b (MCL 750.227b), as amended by 1990 PA
321.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 227b. (1) ~~—A—~~ EXCEPT AS PROVIDED IN SUBSECTIONS (2)
2 AND (3), A person who carries or has in his or her possession a
3 firearm when he or she commits or attempts to commit a felony,
4 except a violation of section 223, ~~—section—~~ 227, 227a, or 230,
5 is guilty of a felony ~~—,~~ and shall be imprisoned for ~~—2—~~ 5
6 years. ~~—Upon a second conviction under this section, the person~~
7 ~~shall be imprisoned for 5 years. Upon a third or subsequent con-~~
8 ~~viction under this subsection, the person shall be imprisoned for~~
9 ~~10 years.—~~

1 (2) A GANG MEMBER WHO CARRIES OR HAS IN HIS OR HER
2 POSSESSION A FIREARM WHEN HE OR SHE COMMITS OR ATTEMPTS TO COMMIT
3 A FELONY OR A MISDEMEANOR, EXCEPT A VIOLATION OF SECTION 223,
4 227, 227A, OR 230, AND BY THE DISCHARGE OF THAT FIREARM INJURES
5 ANOTHER PERSON IS GUILTY OF A FELONY AND SHALL BE IMPRISONED FOR
6 10 YEARS.

7 (3) A GANG MEMBER WHO CARRIES OR HAS IN HIS OR HER POSSES-
8 SION A FIREARM WHEN HE OR SHE COMMITS OR ATTEMPTS TO COMMIT A
9 FELONY OR A MISDEMEANOR, EXCEPT A VIOLATION OF SECTION 223, 227,
10 227A, OR 230, IS GUILTY OF A FELONY AND SHALL BE IMPRISONED FOR 6
11 YEARS.

12 (4) ~~-(2)-~~ A term of imprisonment prescribed by this section
13 is in addition to the sentence imposed for the conviction of the
14 felony OR MISDEMEANOR or the attempt to commit the felony OR
15 MISDEMEANOR, and shall be served consecutively with and preceding
16 any term of imprisonment imposed for the conviction of the felony
17 OR MISDEMEANOR or attempt to commit the felony OR MISDEMEANOR.

18 (5) ~~-(3)-~~ A term of imprisonment imposed under this section
19 shall not be suspended. The person subject to the sentence man-
20 dated by this section is not eligible for parole or probation
21 during the mandatory term imposed ~~pursuant to~~ UNDER subsection
22 (1), (2), OR (3).

23 (6) ~~-(4)-~~ This section does not apply to a law enforcement
24 officer who is authorized to carry a firearm while in the offi-
25 cial performance of his or her duties, and who is in the per-
26 formance of those duties. ~~As used in this subsection, "law~~
27 ~~enforcement officer" means a person who is regularly employed as~~

~~1 a member of a duly authorized police agency or other organization
2 of the United States, this state, or a city, county, township, or
3 village of this state, and who is responsible for the prevention
4 and detection of crime and the enforcement of the general crimi-
5 nal laws of this state.~~

6 (7) AS USED IN THIS SECTION:

7 (A) "GANG" MEANS A FORMAL OR INFORMAL ASSOCIATION OR OTHER
8 ORGANIZATION OF 3 OR MORE INDIVIDUALS WHO ARE ASSOCIATED OR ORGA-
9 NIZED IN WHOLE OR IN PART TO ENGAGE IN UNLAWFUL GANG ACTIVITY.

10 (B) "GANG MEMBER" MEANS AN INDIVIDUAL FORMALLY OR INFORMALLY
11 ASSOCIATED WITH A GANG.

12 (C) "LAW ENFORCEMENT OFFICER" MEANS A PERSON WHO IS REGU-
13 LARLY EMPLOYED AS A MEMBER OF A DULY AUTHORIZED POLICE AGENCY OR
14 OTHER ORGANIZATION OF THE UNITED STATES, THIS STATE, OR A CITY,
15 COUNTY, TOWNSHIP, OR VILLAGE OF THIS STATE, AND WHO IS RESPONSI-
16 BLE FOR THE PREVENTION AND DETECTION OF CRIME AND THE ENFORCEMENT
17 OF THE GENERAL CRIMINAL LAWS OF THIS STATE.

18 (D) "PENAL OFFENSE" MEANS A VIOLATION OR ATTEMPTED VIOLATION
19 OF A STATUTE OR ORDINANCE THAT IS A MISDEMEANOR OR FELONY OR THAT
20 WOULD BE A MISDEMEANOR OR FELONY IF COMMITTED BY AN ADULT.

21 (E) "UNLAWFUL GANG ACTIVITY" MEANS 1 OR MORE OF THE
22 FOLLOWING:

23 (i) COMMITTING OR SOLICITING OTHER INDIVIDUALS TO COMMIT
24 PENAL OFFENSES.

25 (ii) ENCOURAGING GANG MEMBERS OR INDIVIDUALS SEEKING TO
26 BECOME GANG MEMBERS TO COMMIT PENAL OFFENSES.

1 (*iii*) CONCEALING THE COMMISSION OR ATTEMPTED COMMISSION OF
2 PENAL OFFENSES.