

Act No. 23
Public Acts of 2014
Approved by the Governor
March 4, 2014
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Reps. O'Brien, Pscholka, Haveman, Pettalia, Howrylak, Potvin, Heise, Robinson, Kesto, Walsh, Cavanagh, Schmidt, Tlaib, Shirkey, Irwin, Lipton, Lori, Price, Haines, Victory, Kandrevas, Foster, Lyons and Jacobsen

ENROLLED HOUSE BILL No. 4808

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; 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 criminal trials; to provide for liability for damages; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 16, 18, 200i, 204, 207, 209, 210, 211a, 316, 436, 520b, and 543f (MCL 750.16, 750.18, 750.200i, 750.204, 750.207, 750.209, 750.210, 750.211a, 750.316, 750.436, 750.520b, and 750.543f), sections 16 and 18 as amended by 2004 PA 213, sections 200i, 204, 207, 209, and 210 as amended by 2003 PA 257, section 211a as amended by 2004 PA 523, section 316 as amended by 2013 PA 39, section 436 as amended by 2002 PA 135, section 520b as amended by 2012 PA 372, and section 543f as added by 2002 PA 113.

The People of the State of Michigan enact:

Sec. 16. (1) Except as otherwise provided in this section, a person who knowingly or recklessly commits any of the following actions is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$1,000.00, or both:

(a) Adulterates, misbrands, removes, or substitutes a drug or medicine so as to render that drug or medicine injurious to health.

(b) Sells, offers for sale, possesses for sale, causes to be sold, or manufactures for sale a drug or medicine that has been adulterated, misbranded, removed, or substituted so as to render it injurious to health.

(2) A person who commits a violation of subsection (1) that results in personal injury is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$4,000.00, or both.

(3) A person who commits a violation of subsection (1) that results in serious impairment of a body function is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both.

(4) A person who commits a violation of subsection (1) that results in death is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$20,000.00, or both.

(5) Except as provided in sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, a person who commits a violation of subsection (1) with the intent to kill or to cause serious impairment of a body function of 2 or more individuals that results in death is guilty of a felony punishable by imprisonment for life without possibility of parole or life without possibility of parole and a fine of not more than \$40,000.00. It is not a defense to a charge under this subsection that the person did not intend to kill a specific individual or did not intend to cause serious impairment of a body function of 2 or more specific individuals.

(6) As used in this section, “serious impairment of a body function” means that phrase as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(7) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

Sec. 18. (1) Except for the purpose of compounding in the necessary preparation of medicine, a person shall not knowingly or recklessly mix, color, stain, or powder, or order or permit another person to mix, color, stain, or powder, a drug or medicine with an ingredient or material so as to injuriously affect the quality or potency of the drug or medicine.

(2) A person shall not sell, offer for sale, possess for sale, cause to be sold, or manufacture for sale a drug or medicine mixed, colored, stained, or powdered in the manner proscribed in subsection (1).

(3) Except as otherwise provided in this section, a person who violates subsection (1) or (2) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$1,000.00, or both.

(4) A person who commits a violation of subsection (1) or (2) that results in personal injury is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$4,000.00, or both.

(5) A person who commits a violation of subsection (1) or (2) that results in serious impairment of a body function is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both.

(6) A person who commits a violation of subsection (1) or (2) that results in death is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$20,000.00, or both.

(7) Except as provided in sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, a person who commits a violation of subsection (1) or (2) with the intent to kill or to cause serious impairment of a body function of 2 or more individuals that results in death is guilty of a felony punishable by imprisonment for life without possibility of parole or life without possibility of parole and a fine of not more than \$40,000.00. It is not a defense to a charge under this subsection that the person did not intend to kill a specific individual or did not intend to cause serious impairment of a body function of 2 or more specific individuals.

(8) As used in this section, “serious impairment of a body function” means that phrase as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(9) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

Sec. 200i. (1) A person shall not manufacture, deliver, possess, transport, place, use, or release any of the following for an unlawful purpose:

- (a) A harmful biological substance or a harmful biological device.
- (b) A harmful chemical substance or a harmful chemical device.
- (c) A harmful radioactive material or a harmful radioactive device.
- (d) A harmful electronic or electromagnetic device.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) to (e), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(b) If the violation directly or indirectly results in property damage, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$15,000.00, or both.

(c) If the violation directly or indirectly results in personal injury to another individual other than serious impairment of a body function or death, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than \$20,000.00, or both.

(d) If the violation directly or indirectly results in serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$25,000.00, or both.

(e) Except as provided in sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, if the violation directly or indirectly results in the death of another individual, the person is guilty of a felony and shall be punished by imprisonment for life without eligibility for parole and may be fined not more than \$40,000.00, or both.

Sec. 204. (1) A person shall not send or deliver to another person or cause to be taken or received by any person any kind of explosive substance or any other dangerous thing with the intent to frighten, terrorize, intimidate, threaten, harass, injure, or kill any person, or with the intent to damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over that property.

(2) A person who violates this section is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (b) to (e), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$15,000.00, or both.

(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than \$20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$25,000.00, or both.

(e) Except as provided in sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, if the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than \$40,000.00, or both.

Sec. 207. (1) A person shall not place an explosive substance in or near any real or personal property with the intent to frighten, terrorize, intimidate, threaten, harass, injure, or kill any person, or with the intent to damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over that property.

(2) A person who violates this section is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (b) to (e), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$15,000.00, or both.

(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than \$20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or for any term of years or a fine of not more than \$25,000.00, or both.

(e) Except as provided in sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, if the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than \$40,000.00, or both.

Sec. 209. (1) A person who places an offensive or injurious substance or compound in or near to any real or personal property with intent to wrongfully injure or coerce another person or to injure the property or business of another person, or to interfere with another person's use, management, conduct, or control of his or her business or property is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (b) to (e), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$15,000.00, or both.

(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than \$20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or for any term of years or a fine of not more than \$25,000.00, or both.

(e) Except as provided in sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, if the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than \$40,000.00, or both.

(2) A person who places an offensive or injurious substance or compound in or near to any real or personal property with the intent to annoy or alarm any person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$3,000.00, or both.

Sec. 210. (1) A person shall not carry or possess an explosive or combustible substance or a substance or compound that when combined with another substance or compound will become explosive or combustible or an article containing an explosive or combustible substance or a substance or compound that when combined with another substance or compound will become explosive or combustible, with the intent to frighten, terrorize, intimidate, threaten, harass, injure, or kill any person, or with the intent to damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over that property.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) to (e), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$15,000.00, or both.

(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than \$20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or for any term of years or a fine of not more than \$25,000.00, or both.

(e) Except as provided in sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, if the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than \$40,000.00, or both.

Sec. 211a. (1) A person shall not do either of the following:

(a) Except as provided in subdivision (b), manufacture, buy, sell, furnish, or possess a Molotov cocktail or any similar device.

(b) Manufacture, buy, sell, furnish, or possess any device that is designed to explode or that will explode upon impact or with the application of heat or a flame or that is highly incendiary, with the intent to frighten, terrorize, intimidate, threaten, harass, injure, or kill any person, or with the intent to damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over that property.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) For a violation of subsection (1)(a), the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(b) For a violation of subsection (1)(b) and except as provided in subdivisions (c) to (f), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(c) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$15,000.00, or both.

(d) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than \$20,000.00, or both.

(e) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$25,000.00, or both.

(f) Except as provided in sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, if the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than \$40,000.00, or both.

(3) As used in this section, "Molotov cocktail" means an improvised incendiary device that is constructed from a bottle or other container filled with a flammable or combustible material or substance and that has a wick, fuse, or other device designed or intended to ignite the contents of the device when it is thrown or placed near a target.

Sec. 316. (1) Except as provided in sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, a person who commits any of the following is guilty of first degree murder and shall be punished by imprisonment for life without eligibility for parole:

(a) Murder perpetrated by means of poison, lying in wait, or any other willful, deliberate, and premeditated killing.

(b) Murder committed in the perpetration of, or attempt to perpetrate, arson, criminal sexual conduct in the first, second, or third degree, child abuse in the first degree, a major controlled substance offense, robbery, carjacking, breaking and entering of a dwelling, home invasion in the first or second degree, larceny of any kind, extortion, kidnapping, vulnerable adult abuse in the first or second degree under section 145n, torture under section 85, or aggravated stalking under section 411i.

(c) A murder of a peace officer or a corrections officer committed while the peace officer or corrections officer is lawfully engaged in the performance of any of his or her duties as a peace officer or corrections officer, knowing that the peace officer or corrections officer is a peace officer or corrections officer engaged in the performance of his or her duty as a peace officer or corrections officer.

(2) As used in this section:

(a) "Arson" means a felony violation of chapter X.

(b) "Corrections officer" means any of the following:

(i) A prison or jail guard or other prison or jail personnel.

(ii) Any of the personnel of a boot camp, special alternative incarceration unit, or other minimum security correctional facility.

(iii) A parole or probation officer.

(c) "Major controlled substance offense" means any of the following:

(i) A violation of section 7401(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7401.

(ii) A violation of section 7403(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7403.

(iii) A conspiracy to commit an offense listed in subparagraph (i) or (ii).

(d) "Peace officer" means any of the following:

(i) A police or conservation officer of this state or a political subdivision of this state.

(ii) A police or conservation officer of the United States.

(iii) A police or conservation officer of another state or a political subdivision of another state.

Sec. 436. (1) A person shall not do either of the following:

(a) Willfully mingle a poison or harmful substance with a food, drink, nonprescription medicine, or pharmaceutical product, or willfully place a poison or harmful substance in a spring, well, reservoir, or public water supply, knowing or having reason to know that the food, drink, nonprescription medicine, pharmaceutical product, or water may be ingested or used by a person to his or her injury.

(b) Maliciously inform another person that a poison or harmful substance has been or will be placed in a food, drink, nonprescription medicine, pharmaceutical product, spring, well, reservoir, or public water supply, knowing that the information is false and that it is likely that the information will be disseminated to the public.

(2) A person who violates subsection (1)(a) is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) to (e), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$15,000.00, or both.

(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than \$20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$25,000.00, or both. As used in this subdivision, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(e) Except as provided in sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, if the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than \$40,000.00, or both.

(3) A person who violates subsection (1)(b) is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(b) If the person has previously been convicted of violating subsection (1)(b), the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both.

(4) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other violation of law arising out of the same transaction as the violation of this section.

(5) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

Sec. 520b. (1) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(i) The actor is a member of the same household as the victim.

(ii) The actor is related to the victim by blood or affinity to the fourth degree.

(iii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(iv) The actor is a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled.

(v) The actor is an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person is enrolled, or is a volunteer who is not a student in any public school or nonpublic school, or is an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor uses his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(vi) The actor is an employee, contractual service provider, or volunteer of a child care organization, or a person licensed to operate a foster family home or a foster family group home in which that other person is a resident, and the sexual penetration occurs during the period of that other person's residency. As used in this subparagraph, "child care organization", "foster family home", and "foster family group home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.

(c) Sexual penetration occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(i) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(ii) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes, but is not limited to, any of the circumstances listed in subdivision (f).

(e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes, but is not limited to, any of the following circumstances:

(i) When the actor overcomes the victim through the actual application of physical force or physical violence.

(ii) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.

(iii) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(iv) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes that are medically recognized as unethical or unacceptable.

(v) When the actor, through concealment or by the element of surprise, is able to overcome the victim.

(g) The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(i) The actor is related to the victim by blood or affinity to the fourth degree.

(ii) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(2) Criminal sexual conduct in the first degree is a felony punishable as follows:

(a) Except as provided in subdivisions (b) and (c), by imprisonment for life or for any term of years.

(b) For a violation that is committed by an individual 17 years of age or older against an individual less than 13 years of age by imprisonment for life or any term of years, but not less than 25 years.

(c) For a violation that is committed by an individual 18 years of age or older against an individual less than 13 years of age, by imprisonment for life without the possibility of parole if the person was previously convicted of a violation of this section or section 520c, 520d, 520e, or 520g committed against an individual less than 13 years of age or a violation of law of the United States, another state or political subdivision substantially corresponding to a violation of this section or section 520c, 520d, 520e, or 520g committed against an individual less than 13 years of age.

(d) In addition to any other penalty imposed under subdivision (a) or (b), the court shall sentence the defendant to lifetime electronic monitoring under section 520n.


(3) The court may order a term of imprisonment imposed under this section to be served consecutively to any term of imprisonment imposed for any other criminal offense arising from the same transaction.

Sec. 543f. (1) A person is guilty of terrorism when that person knowingly and with premeditation commits an act of terrorism.

(2) Terrorism is a felony punishable by imprisonment for life or any term of years or a fine of not more than \$100,000.00, or both. However, except as provided in sections 25 and 25a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.25 and 769.25a, if death was caused by the terrorist act, the person shall be punished by imprisonment for life without eligibility for parole.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 319 of the 97th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor