

HOUSE BILL No. 4069

January 27, 2015, Introduced by Reps. Santana and Garrett and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 11 of chapter II (MCL 762.11), as amended by
2004 PA 239.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER II

Sec. 11. (1) Except as provided in subsections (2) and (3), if
an individual pleads guilty to a criminal offense, committed on or
after the individual's seventeenth birthday but before his or her
~~twenty-first~~ **TWENTY-FOURTH** birthday, the court of record having
jurisdiction of the criminal offense may, without entering a
judgment of conviction and with the consent of that individual,
consider and assign that individual to the status of youthful
trainee. **IF THE OFFENSE WAS COMMITTED ON OR AFTER THE INDIVIDUAL'S**
TWENTY-FIRST BIRTHDAY BUT BEFORE HIS OR HER TWENTY-FOURTH BIRTHDAY,

1 THE INDIVIDUAL SHALL NOT BE ASSIGNED TO YOUTHFUL TRAINEE STATUS
2 WITHOUT THE CONSENT OF THE PROSECUTING ATTORNEY. AS USED IN THIS
3 SUBSECTION, "CRIMINAL OFFENSE" MEANS 1 OR MORE ADJUDICATIONS
4 ARISING OUT OF A SERIES OF ACTS THAT WERE IN A CONTINUOUS TIME
5 SEQUENCE OF 12 HOURS OR LESS AND THAT DISPLAYED A SINGLE INTENT AND
6 GOAL.

7 (2) Subsection (1) does not apply to any of the following:

8 (a) A felony for which the maximum penalty is imprisonment for
9 life.

10 (b) A major controlled substance offense.

11 (c) A traffic offense.

12 (d) A violation, attempted violation, or conspiracy to violate
13 section 520b, 520c, 520d, or 520e of the Michigan penal code, 1931
14 PA 328, MCL 750.520b, 750.520c, 750.520d, and 750.520e, other than
15 section 520d(1)(a) or 520e(1)(a) of the Michigan penal code, 1931
16 PA 328, MCL 750.520d and 750.520e.

17 (e) A violation, attempted violation, or conspiracy to violate
18 section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g,
19 with the intent to commit a violation of section 520b, 520c, 520d,
20 or 520e of the Michigan penal code, 1931 PA 328, MCL 750.520b,
21 750.520c, 750.520d, and 750.520e, other than section 520d(1)(a) or
22 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d
23 and 750.520e.

24 (3) The court shall not assign an individual to the status of
25 youthful trainee if any of the following apply:

26 (A) THE INDIVIDUAL WAS PREVIOUSLY ASSIGNED TO THE STATUS OF
27 YOUTHFUL TRAINEE.

1 **(B)** ~~(a)~~—The individual was previously convicted of or
2 adjudicated for a listed offense for which registration is required
3 under the sex offenders registration act, 1994 PA 295, MCL 28.721
4 to ~~28.732~~-**28.736**.

5 **(C)** ~~(b)~~—If the individual is charged with a listed offense for
6 which registration is required under the sex offenders registration
7 act, 1994 PA 295, MCL 28.721 to ~~28.732~~, **28.736**, the individual
8 fails to carry the burden of proving by clear and convincing
9 evidence that he or she is not likely to engage in further listed
10 offenses.

11 **(D)** ~~(c)~~—The court determines that the offense involved any of
12 the following:

13 (i) A factor set forth in section 520b(1)(a) to (h) of the
14 Michigan penal code, 1931 PA 328, MCL 750.520b.

15 (ii) A factor set forth in section 520c(1)(a) to (l) of the
16 Michigan penal code, 1931 PA 328, MCL 750.520c.

17 (iii) A factor set forth in section 520d(1)(b) to (e) of the
18 Michigan penal code, 1931 PA 328, MCL 750.520d.

19 (iv) A factor set forth in section 520e(1)(b) to (f) of the
20 Michigan penal code, 1931 PA 328, MCL 750.520e.

21 **(4) IF THE COURT ASSIGNS AN INDIVIDUAL TO THE STATUS OF**
22 **YOUTHFUL TRAINEE UNDER THIS SECTION, THE COURT MAY REQUIRE THE**
23 **INDIVIDUAL TO MAINTAIN EMPLOYMENT OR TO ATTEND A HIGH SCHOOL, HIGH**
24 **SCHOOL EQUIVALENCY PROGRAM, COMMUNITY COLLEGE, COLLEGE, UNIVERSITY,**
25 **OR TRADE SCHOOL. IF THE INDIVIDUAL IS NOT EMPLOYED OR ATTENDING A**
26 **HIGH SCHOOL, COMMUNITY COLLEGE, COLLEGE, UNIVERSITY, OR TRADE**
27 **SCHOOL, THE INDIVIDUAL MAY BE REQUIRED TO ACTIVELY SEEK EMPLOYMENT**

1 OR ENTRY INTO A HIGH SCHOOL, HIGH SCHOOL EQUIVALENCY PROGRAM,
2 COMMUNITY COLLEGE, COLLEGE, UNIVERSITY, OR TRADE SCHOOL.

3 (5) IF THE OFFENSE FOR WHICH THE INDIVIDUAL IS ASSIGNED TO THE
4 STATUS OF YOUTHFUL TRAINEE STATUS WAS COMMITTED ON OR AFTER THE
5 INDIVIDUAL'S TWENTY-FIRST BIRTHDAY, THE INDIVIDUAL MAY, IN ADDITION
6 TO THE OTHER REQUIREMENTS OF THIS SUBSECTION, BE SUBJECT TO
7 ELECTRONIC MONITORING DURING HIS OR HER PROBATIONARY TERM AS
8 PROVIDED UNDER SECTION 3 OF CHAPTER XI.

9 (6) IF THE COURT ORDERS A CONDITION OF PROBATION DESCRIBED IN
10 SUBSECTION (4), THE INDIVIDUAL'S COMPLIANCE WITH THAT CONDITION OF
11 PROBATION SHALL BE VERIFIED ON A MONTHLY BASIS BY A PROBATION
12 OFFICER. THE VERIFICATION OF EMPLOYMENT STATUS OR SCHOOL ATTENDANCE
13 UNDER THIS SUBDIVISION SHALL INCLUDE A REVIEW OF EMPLOYMENT AND
14 SCHOOL RECORDS.

15 (7) ~~(4)~~—As used in this section:

16 (a) "Listed offense" means that term as defined in section 2
17 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

18 (b) "Traffic offense" means a violation of the Michigan
19 vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of
20 a local ordinance substantially corresponding to that act, that
21 involves the operation of a vehicle and, at the time of the
22 violation, is a felony or a misdemeanor.