

HOUSE BILL No. 6292

September 5, 2018, Introduced by Rep. LaFave and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 732 (MCL 257.732), as amended by 2017 PA 160.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 732. (1) Each municipal judge and each clerk of a court
2 of record shall keep a full record of every case in which a person
3 is charged with or cited for a violation of this act or a local
4 ordinance substantially corresponding to this act regulating the
5 operation of vehicles on highways and with those offenses
6 pertaining to the operation of ORVs or snowmobiles for which points
7 are assessed under section 320a(1)(c) or (i). Except as provided in
8 subsection (16), the municipal judge or clerk of the court of
9 record shall prepare and forward to the secretary of state an
10 abstract of the court record as follows:

1 (a) Not more than 5 days after a conviction, forfeiture of
2 bail, or entry of a civil infraction determination or default
3 judgment upon a charge of or citation for violating or attempting
4 to violate this act or a local ordinance substantially
5 corresponding to this act regulating the operation of vehicles on
6 highways.

7 (b) Immediately for each case charging a violation of section
8 625(1), (3), (4), (5), (6), (7), or (8) or section 625m or a local
9 ordinance substantially corresponding to section 625(1), (3), (6),
10 or (8) or section 625m in which the charge is dismissed or the
11 defendant is acquitted.

12 (c) Immediately for each case charging a violation of section
13 82127(1) or (3) or 81134 of the natural resources and environmental
14 protection act, 1994 PA 451, MCL 324.82127 and 324.81134, or a
15 local ordinance substantially corresponding to those sections.

16 (2) If a city or village department, bureau, or person is
17 authorized to accept a payment of money as a settlement for a
18 violation of a local ordinance substantially corresponding to this
19 act, the city or village department, bureau, or person shall send a
20 full report of each case in which a person pays any amount of money
21 to the city or village department, bureau, or person to the
22 secretary of state upon a form prescribed by the secretary of
23 state.

24 (3) The abstract or report required under this section ~~shall~~
25 **MUST** be made upon a form furnished by the secretary of state. An
26 abstract ~~shall~~ **MUST** be certified by signature, stamp, or facsimile
27 signature of the person required to prepare the abstract as

1 correct. An abstract or report ~~shall~~**MUST** include all of the
2 following:

3 (a) The name, address, and date of birth of the person charged
4 or cited.

5 (b) The number of the person's operator's or chauffeur's
6 license, if any.

7 (c) The date and nature of the violation.

8 (d) The type of vehicle driven at the time of the violation
9 and, if the vehicle is a commercial motor vehicle, that vehicle's
10 group designation.

11 (e) The date of the conviction, finding, forfeiture, judgment,
12 or civil infraction determination.

13 (f) Whether bail was forfeited.

14 (g) Any license restriction, suspension, or denial ordered by
15 the court as provided by law.

16 (h) The vehicle identification number and registration plate
17 number of all vehicles that are ordered immobilized or forfeited.

18 (i) Other information considered necessary to the secretary of
19 state.

20 (4) The clerk of the court also shall forward an abstract of
21 the court record to the secretary of state upon a person's
22 conviction or, for the purposes of subdivision (d), a finding or
23 admission of responsibility, involving any of the following:

24 (a) A violation of section 413, 414, or 479a of the Michigan
25 penal code, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

26 (b) A violation of section 1 of former 1931 PA 214.

27 (c) Negligent homicide, manslaughter, or murder resulting from

1 the operation of a vehicle.

2 (d) A violation of sections 701(1) and 703 of the Michigan
3 liquor control code of 1998, 1998 PA 58, MCL 436.1701 and 436.1703,
4 or a local ordinance substantially corresponding to those sections.

5 (e) A violation of section 411a(2) of the Michigan penal code,
6 1931 PA 328, MCL 750.411a.

7 (f) A violation of motor carrier safety regulations 49 CFR
8 392.10 or 392.11 as adopted by section 1a of the motor carrier
9 safety act of 1963, 1963 PA 181, MCL 480.11a.

10 (g) A violation of section 57 of the pupil transportation act,
11 1990 PA 187, MCL 257.1857.

12 (h) An attempt to violate, a conspiracy to violate, or a
13 violation of part 74 of the public health code, 1978 PA 368, MCL
14 333.7401 to 333.7461, or a local ordinance that prohibits conduct
15 prohibited under part 74 of the public health code, 1978 PA 368,
16 MCL 333.7401 to 333.7461, unless the convicted person is sentenced
17 to life imprisonment or a minimum term of imprisonment that exceeds
18 1 year for the offense.

19 (i) An attempt to commit an offense described in subdivisions
20 (a) to (g).

21 (j) A violation of chapter LXXXIIII-A of the Michigan penal
22 code, 1931 PA 328, MCL 750.543a to 750.543z.

23 (k) A violation of section 3101, 3102(1), or 3103 of the
24 insurance code of 1956, 1956 PA 218, MCL 500.3101, 500.3102, and
25 500.3103.

26 (l) A violation listed as a disqualifying offense under 49 CFR
27 383.51.

1 (M) A VIOLATION OF SECTION 235B OF THE MICHIGAN PENAL CODE,
2 1931 PA 328, MCL 750.235B, A VIOLATION OF CHAPTER XXVIII OR XXIX OF
3 THE MICHIGAN PENAL CODE, MCL 750.167 TO 750.168 AND 750.169 TO
4 750.170, THAT INVOLVED A THREAT OF GUN VIOLENCE, OR THE COMMISSION
5 OF GUN VIOLENCE AGAINST A SCHOOL, SCHOOL STUDENTS, OR SCHOOL
6 EMPLOYEES, OR ANY OTHER CRIMINAL VIOLATION OF THE LAWS OF THIS
7 STATE THAT INVOLVED A THREAT OF GUN VIOLENCE, OR THE COMMISSION OF
8 GUN VIOLENCE AGAINST A SCHOOL, SCHOOL STUDENTS, OR SCHOOL
9 EMPLOYEES.

10 (5) The clerk of the court shall also forward an abstract of
11 the court record to the secretary of state if a person has pled
12 guilty to, or offered a plea of admission in a juvenile proceeding
13 for, a violation of section 703 of the Michigan liquor control code
14 of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
15 substantially corresponding to that section, and has had further
16 proceedings deferred under that section. If the person is sentenced
17 to a term of probation and terms and conditions of probation are
18 fulfilled and the court discharges the individual and dismisses the
19 proceedings, the court shall also report the dismissal to the
20 secretary of state.

21 (6) As used in subsections (7) to (9), "felony in which a
22 motor vehicle was used" means a felony during the commission of
23 which the person operated a motor vehicle and while operating the
24 vehicle presented real or potential harm to persons or property and
25 1 or more of the following circumstances existed:

26 (a) The vehicle was used as an instrument of the felony.

27 (b) The vehicle was used to transport a victim of the felony.

1 (c) The vehicle was used to flee the scene of the felony.

2 (d) The vehicle was necessary for the commission of the
3 felony.

4 (7) If a person is charged with a felony in which a motor
5 vehicle was used, other than a felony specified in subsection (4)
6 or section 319, the prosecuting attorney shall include the
7 following statement on the complaint and information filed in
8 district or circuit court:

9 "You are charged with the commission of a felony in which a
10 motor vehicle was used. If you are convicted and the judge finds
11 that the conviction is for a felony in which a motor vehicle was
12 used, as defined in section 319 of the Michigan vehicle code, 1949
13 PA 300, MCL 257.319, your driver's license shall be suspended by
14 the secretary of state."

15 (8) If a juvenile is accused of an act, the nature of which
16 constitutes a felony in which a motor vehicle was used, other than
17 a felony specified in subsection (4) or section 319, the
18 prosecuting attorney or family division of circuit court shall
19 include the following statement on the petition filed in the court:

20 "You are accused of an act the nature of which constitutes a
21 felony in which a motor vehicle was used. If the accusation is
22 found to be true and the judge or referee finds that the nature of
23 the act constitutes a felony in which a motor vehicle was used, as
24 defined in section 319 of the Michigan vehicle code, 1949 PA 300,
25 MCL 257.319, your driver's license shall be suspended by the
26 secretary of state."

27 (9) If the court determines as part of the sentence or

1 disposition that the felony for which the person was convicted or
2 adjudicated and with respect to which notice was given under
3 subsection (7) or (8) is a felony in which a motor vehicle was
4 used, the clerk of the court shall forward an abstract of the court
5 record of that conviction to the secretary of state.

6 (10) As used in subsections (11) and (12), "felony in which a
7 commercial motor vehicle was used" means a felony during the
8 commission of which the person operated a commercial motor vehicle
9 and while the person was operating the vehicle 1 or more of the
10 following circumstances existed:

11 (a) The vehicle was used as an instrument of the felony.

12 (b) The vehicle was used to transport a victim of the felony.

13 (c) The vehicle was used to flee the scene of the felony.

14 (d) The vehicle was necessary for the commission of the
15 felony.

16 (11) If a person is charged with a felony in which a
17 commercial motor vehicle was used and for which a vehicle group
18 designation on a license is subject to suspension or revocation
19 under section 319b(1) (c) (iii), 319b(1) (d), 319b(1) (e) (iii), or
20 319b(1) (f) (i), the prosecuting attorney shall include the following
21 statement on the complaint and information filed in district or
22 circuit court:

23 "You are charged with the commission of a felony in which a
24 commercial motor vehicle was used. If you are convicted and the
25 judge finds that the conviction is for a felony in which a
26 commercial motor vehicle was used, as defined in section 319b of
27 the Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle

1 group designations on your driver's license shall be suspended or
2 revoked by the secretary of state."

3 (12) If the judge determines as part of the sentence that the
4 felony for which the defendant was convicted and with respect to
5 which notice was given under subsection (11) is a felony in which a
6 commercial motor vehicle was used, the clerk of the court shall
7 forward an abstract of the court record of that conviction to the
8 secretary of state.

9 (13) Every person required to forward abstracts to the
10 secretary of state under this section shall certify for the period
11 from January 1 through June 30 and for the period from July 1
12 through December 31 that all abstracts required to be forwarded
13 during the period have been forwarded. The certification ~~shall~~**MUST**
14 be filed with the secretary of state not later than 28 days after
15 the end of the period covered by the certification. The
16 certification ~~shall~~**MUST** be made upon a form furnished by the
17 secretary of state and ~~shall~~**MUST** include all of the following:

18 (a) The name and title of the person required to forward
19 abstracts.

20 (b) The court for which the certification is filed.

21 (c) The time period covered by the certification.

22 (d) The following statement:

23 "I certify that all abstracts required by section 732 of the
24 Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period
25 _____ through _____ have been forwarded to the
26 secretary of state."

27 (e) Other information the secretary of state considers

1 necessary.

2 (f) The signature of the person required to forward abstracts.

3 (14) The failure, refusal, or neglect of a person to comply
4 with this section constitutes misconduct in office and is grounds
5 for removal from office.

6 (15) Except as provided in subsection (16), the secretary of
7 state shall keep all abstracts received under this section at the
8 secretary of state's main office and the abstracts ~~shall~~**MUST** be
9 open for public inspection during the office's usual business
10 hours. Each abstract ~~shall~~**MUST** be entered upon the master driving
11 record of the person to whom it pertains.

12 (16) Except for controlled substance offenses described in
13 subsection (4), the court shall not submit, and the secretary of
14 state shall discard and not enter on the master driving record, an
15 abstract for a conviction or civil infraction determination for any
16 of the following violations:

17 (a) The parking or standing of a vehicle.

18 (b) A nonmoving violation that is not the basis for the
19 secretary of state's suspension, revocation, or denial of an
20 operator's or chauffeur's license.

21 (c) A violation of chapter II that is not the basis for the
22 secretary of state's suspension, revocation, or denial of an
23 operator's or chauffeur's license.

24 (d) A pedestrian, passenger, or bicycle violation, other than
25 a violation of section 703(1) or (2) of the Michigan liquor control
26 code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance
27 substantially corresponding to section 703(1) or (2) of the

1 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or
2 section 624a or 624b or a local ordinance substantially
3 corresponding to section 624a or 624b.

4 (e) A violation of section 710e or a local ordinance
5 substantially corresponding to section 710e.

6 (f) A violation of section 328(1) if, before the appearance
7 date on the citation, the person submits proof to the court that
8 the motor vehicle had insurance meeting the requirements of
9 sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218,
10 MCL 500.3101 and 500.3102, at the time the citation was issued.
11 Insurance obtained subsequent to the time of the violation does not
12 make the violation an exception under this subsection.

13 (g) A violation described in section 319b(10) (b) (vii) if,
14 before the court appearance date or date fines are to be paid, the
15 person submits proof to the court that he or she held a valid
16 commercial driver license on the date the citation was issued.

17 (h) A violation of section 311 if the person was driving a
18 noncommercial vehicle and, before the court appearance date or the
19 date fines are to be paid, the person submits proof to the court
20 that he or she held a valid driver license on the date the citation
21 was issued.

22 (i) A violation of section 602b(1) or 602c.

23 (17) Except as otherwise provided in this subsection, the
24 secretary of state shall discard and not enter on the master
25 driving record an abstract for a bond forfeiture that occurred
26 outside this state. The secretary of state shall enter on the
27 master driving record an abstract for a conviction as defined in

1 section 8a(b) that occurred outside this state in connection with
2 the operation of a commercial motor vehicle or for a conviction of
3 a person licensed as a commercial motor vehicle driver.

4 (18) The secretary of state shall inform the courts of this
5 state of the nonmoving violations and violations of chapter II that
6 are used by the secretary of state as the basis for the suspension,
7 restriction, revocation, or denial of an operator's or chauffeur's
8 license.

9 (19) If a conviction or civil infraction determination is
10 reversed upon appeal, the person whose conviction or determination
11 has been reversed may serve on the secretary of state a certified
12 copy of the order of reversal. The secretary of state shall enter
13 the order in the proper book or index in connection with the record
14 of the conviction or civil infraction determination.

15 (20) The secretary of state may permit a city or village
16 department, bureau, person, or court to modify the requirement as
17 to the time and manner of reporting a conviction, civil infraction
18 determination, or settlement to the secretary of state if the
19 modification will increase the economy and efficiency of collecting
20 and utilizing the records. If the permitted abstract of court
21 record reporting a conviction, civil infraction determination, or
22 settlement originates as a part of the written notice to appear,
23 authorized in section 728(1) or 742(1), the form of the written
24 notice and report ~~shall~~**MUST** be as prescribed by the secretary of
25 state.

26 (21) Notwithstanding any other law of this state, a court
27 shall not take under advisement an offense committed by a person

1 while operating a motor vehicle for which this act requires a
2 conviction or civil infraction determination to be reported to the
3 secretary of state. A conviction or civil infraction determination
4 that is the subject of this subsection ~~shall~~**MUST** not be masked,
5 delayed, diverted, suspended, or suppressed by a court. Upon a
6 conviction or civil infraction determination, the conviction or
7 civil infraction determination ~~shall~~**MUST** immediately be reported
8 to the secretary of state in accordance with this section.

9 (22) Except as provided in this act and notwithstanding any
10 other provision of law, a court shall not order expunction of any
11 violation reportable to the secretary of state under this section.

12 **(23) AS USED IN THIS SECTION:**

13 **(A) "GUN VIOLENCE" MEANS AN ACT OF VIOLENCE COMMITTED WITH THE**
14 **USE OF A FIREARM.**

15 **(B) "THREAT OF GUN VIOLENCE" MEANS A THREAT TO USE A FIREARM**
16 **TO COMMIT AN ACT OF VIOLENCE IF THE THREAT CAN REASONABLY BE**
17 **INTERPRETED TO BE HARMFUL OR ADVERSE TO HUMAN LIFE, OR DANGEROUS TO**
18 **HUMAN LIFE AS THAT TERM IS DEFINED IN SECTION 543B OF THE MICHIGAN**
19 **PENAL CODE, 1931 PA 328, MCL 750.543B.**

20 Enacting section 1. This amendatory act takes effect 90 days
21 after the date it is enacted into law.

22 Enacting section 2. This amendatory act does not take effect
23 unless House Bill No. 5942 of the 99th Legislature is enacted into
24 law.