

HOUSE BILL NO. 4553

May 02, 2019, Introduced by Reps. Markkanen, Berman, LaFave, Bellino and Jones and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding section 4b to chapter IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IX

Sec. 4b. (1) Except as otherwise provided in this subsection,
when an individual who has not been convicted previously of a
violation of section 625 of the Michigan vehicle code, 1949 PA 300,
MCL 257.625, the court, without entering a judgment of guilt and



1 with the consent of the accused and of the prosecuting attorney,
2 may defer further proceedings and place the accused on probation as
3 provided in this section. However, before deferring proceedings
4 under this subsection, the court shall contact the department of
5 state police and determine whether, according to the records of the
6 department of state police, the accused has previously been
7 convicted of a violation of section 625 of the Michigan vehicle
8 code, 1949 PA 300, MCL 257.625, or has previously availed himself
9 or herself of this section. If the search of the records reveals an
10 arrest for a violation of section 625 of the Michigan vehicle code,
11 1949 PA 300, MCL 257.625, but no disposition, the court shall
12 contact the arresting agency and the court that had jurisdiction
13 over the violation to determine the disposition of that arrest for
14 purposes of this section. This section does not apply to an
15 individual who, at the time he or she is charged with a violation
16 of section 625 of the Michigan vehicle code, 1949 PA 300, MCL
17 257.625, has a driver license with an indorsement to operate a
18 commercial vehicle.

19 (2) Upon a violation of a term or condition of probation, the
20 court may enter an adjudication of guilt and proceed as otherwise
21 provided in this chapter.

22 (3) An order of probation entered under subsection (1) may
23 include any condition of probation authorized under section 3 of
24 chapter XI. The court also may order the accused to participate in
25 a drug treatment court under chapter 10A of the revised judicature
26 act of 1961, 1961 PA 236, MCL 600.1060 to 600.1088. The court may
27 order the defendant to be imprisoned for not more than 12 months at
28 the time or intervals, which may be consecutive or nonconsecutive
29 and within the period of probation, as the court determines.

1 However, the period of imprisonment must not exceed the maximum
2 period of imprisonment authorized for the offense if the maximum
3 period is less than 12 months. The court may permit day parole as
4 authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may
5 permit a work or school release from jail.

6 (4) Upon fulfillment of the terms and conditions, the court
7 shall discharge the person and dismiss the proceedings against the
8 person. Discharge and dismissal under this section is without
9 adjudication of guilt and is not a conviction for purposes of this
10 section or for purposes of disqualifications or disabilities
11 imposed by law upon conviction of a crime. There may be only 1
12 discharge and dismissal under this section with respect to any
13 individual.

14 (5) All court proceedings under this section must be open to
15 the public. Except as provided in subsection (6), if the record of
16 proceedings as to the defendant is deferred under this section, the
17 record of proceedings during the period of deferral must be closed
18 to public inspection.

19 (6) Unless the court enters a judgment of guilt under this
20 section, the department of state police shall retain a nonpublic
21 record of the arrest, court proceedings, and disposition of the
22 criminal charge under this section. However, the nonpublic record
23 must be open to the following individuals and entities for the
24 following purposes:

25 (a) The courts of this state, law enforcement personnel, the
26 department of corrections, and prosecuting attorneys for use only
27 in the performance of their duties or to determine whether an
28 employee of the court, law enforcement agency, department of
29 corrections, or prosecutor's office has violated his or her

1 conditions of employment or whether an applicant meets criteria for
2 employment with the court, law enforcement agency, department of
3 corrections, or prosecutor's office.

4 (b) The courts of this state, law enforcement personnel, and
5 prosecuting attorneys to determine if a defendant in a criminal
6 action under section 625 of the Michigan vehicle code, 1949 PA 300,
7 MCL 257.625, has already once availed himself or herself of this
8 section.

9 (c) The department of health and human services for enforcing
10 child protection laws and vulnerable adult protection laws or
11 ascertaining the preemployment criminal history of any individual
12 who will be engaged in the enforcement of child protection laws or
13 vulnerable adult protection laws.

14 (d) The secretary of state for purposes of evaluating an
15 individual's application for a driver license with an indorsement
16 to operate a commercial vehicle.

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

