

SENATE BILL NO. 92

February 07, 2019, Introduced by Senators SANTANA, IRWIN, WOJNO, ALEXANDER, HOLLIER, BULLOCK, HERTEL, MCMORROW and MOSS and referred to the Committee on Judiciary and Public Safety.

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
2015 PA 31.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER II
2 Sec. 11. (1) Except as provided in subsections (2) and (3), if
3 an individual pleads guilty to a criminal offense, committed on or
4 after the individual's ~~seventeenth~~**eighteenth** birthday but before

1 his or her twenty-fourth birthday, the court of record having
2 jurisdiction of the criminal offense may, without entering a
3 judgment of conviction and with the consent of that individual,
4 consider and assign that individual to the status of youthful
5 trainee. If the offense was committed on or after the individual's
6 twenty-first birthday but before his or her twenty-fourth birthday,
7 the individual ~~shall~~**must** not be assigned to youthful trainee
8 status without the consent of the prosecuting attorney.

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

10 (a) A felony for which the maximum penalty is imprisonment for
11 life.

12 (b) A major controlled substance offense.

13 (c) A traffic offense.

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

19 (e) A violation, attempted violation, or conspiracy to violate
20 section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g,
21 with the intent to commit a violation of section 520b, 520c, 520d,
22 or 520e of the Michigan penal code, 1931 PA 328, MCL 750.520b,
23 750.520c, 750.520d, and 750.520e, other than section 520d(1)(a) or
24 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d
25 and 750.520e.

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

28 (a) The individual was previously convicted of or adjudicated
29 for a listed offense for which registration is required under the

1 sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736.

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

7 (c) The court determines that the offense involved any of the
8 following:

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

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

13 (iii) A factor set forth in section 520d(1)(b) to ~~(e)~~ **(f)** of the
14 Michigan penal code, 1931 PA 328, MCL 750.520d.

15 (iv) A factor set forth in section 520e(1)(b) to ~~(f)~~ **(g)** of the
16 Michigan penal code, 1931 PA 328, MCL 750.520e.

17 (4) If the court assigns an individual to the status of
18 youthful trainee under this section, the court may require the
19 individual to maintain employment or to attend a high school, high
20 school equivalency program, community college, college, university,
21 or trade school. If the individual is not employed or attending a
22 high school, community college, college, university, or trade
23 school, the individual may be required to actively seek employment
24 or entry into a high school, high school equivalency program,
25 community college, college, university, or trade school.

26 (5) If the offense for which the individual is assigned to the
27 status of youthful trainee status was committed on or after the
28 individual's twenty-first birthday, the individual may, in addition
29 to the other requirements of this section, be subject to electronic

1 monitoring during his or her probationary term as provided under
2 section 3 of chapter XI.

3 (6) As used in this section:

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

6 (b) "Traffic offense" means a violation of the Michigan
7 vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of
8 a local ordinance substantially corresponding to that act, that
9 involves the operation of a vehicle and, at the time of the
10 violation, is a felony or a misdemeanor.

11 Enacting section 1. This amendatory act takes effect October
12 1, 2019.