

SENATE BILL NO. 1049

July 23, 2020, Introduced by Senators CHANG, SANTANA, WOJNO, BULLOCK, BAYER, IRWIN, ALEXANDER, MOSS, MCMORROW, GEISS, MCCANN, BRINKS, POLEHANKI, HERTEL and DALEY 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
2019 PA 100.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER II

Sec. 11. (1) ~~Except~~ **Until October 1, 2021 and except** as
provided in subsections ~~(2)~~ **(3)** and ~~(3)~~ **(4)**, if an individual
pleads guilty to a criminal offense, committed on or after the
individual's ~~eighteenth~~ **seventeenth** birthday but before his or her

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

9 (2) ~~Subsection (1) does~~ **Beginning October 1 2021, except as**
10 **provided in subsections (3) and (4), if an individual pleads guilty**
11 **to a criminal offense, committed on or after the individual's**
12 **eighteenth birthday but before his or her twenty-sixth birthday,**
13 **the court of record having jurisdiction of the criminal offense**
14 **may, without entering a judgment of conviction and with the consent**
15 **of that individual, consider and assign that individual to the**
16 **status of youthful trainee. If the offense was committed on or**
17 **after the individual's twenty-first birthday but before his or her**
18 **twenty-sixth birthday, the individual must not be assigned to**
19 **youthful trainee status without the consent of the prosecuting**
20 **attorney.**

21 (3) **Subsections (1) and (2) do not apply to any of the**
22 **following:**

23 (a) A felony for which the maximum penalty is imprisonment for
24 life.

25 (b) A major controlled substance offense.

26 (c) A traffic offense.

27 (d) A violation, attempted violation, or conspiracy to violate
28 section 520b, 520c, 520d, or 520e of the Michigan penal code, 1931
29 PA 328, MCL 750.520b, 750.520c, 750.520d, and 750.520e, other than

1 section 520d(1)(a) or 520e(1)(a) of the Michigan penal code, 1931
2 PA 328, MCL 750.520d and 750.520e.

3 (e) A violation, attempted violation, or conspiracy to violate
4 section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g,
5 with the intent to commit a violation of section 520b, 520c, 520d,
6 or 520e of the Michigan penal code, 1931 PA 328, MCL 750.520b,
7 750.520c, 750.520d, and 750.520e, other than section 520d(1)(a) or
8 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d
9 and 750.520e.

10 **(4)** ~~(3)~~—The court shall not assign an individual to the status
11 of youthful trainee if any of the following apply:

12 (a) The individual was previously convicted of or adjudicated
13 for a listed offense for which registration is required under the
14 sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736.

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

20 (c) The court determines that the offense involved any of the
21 following:

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

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

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

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

1 (5) ~~(4)~~—If the court assigns an individual to the status of
2 youthful trainee under this section, the court may require the
3 individual to maintain employment or to attend a high school, high
4 school equivalency program, community college, college, university,
5 or trade school. If the individual is not employed or attending a
6 high school, community college, college, university, or trade
7 school, the individual may be required to actively seek employment
8 or entry into a high school, high school equivalency program,
9 community college, college, university, or trade school.

10 (6) ~~(5)~~—If the offense for which the individual is assigned to
11 the status of youthful trainee status was committed on or after the
12 individual's twenty-first birthday, the individual may, in addition
13 to the other requirements of this section, be subject to electronic
14 monitoring during his or her probationary term as provided under
15 section 3 of chapter XI.

16 (7) ~~(6)~~—As used in this section:

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

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