

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)

Act 175 of 1927

CHAPTER I DEFINITIONS

761.1 Definitions.

Sec. 1. As used in this act:

- (a) "Act" or "doing of an act" includes an omission to act.
- (b) "Clerk" means the clerk or a deputy clerk of the court.
- (c) "Complaint" means a written accusation, under oath or upon affirmation, that a felony, misdemeanor, or ordinance violation has been committed and that the person named or described in the accusation is guilty of the offense.
- (d) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.
- (e) "Federal law enforcement officer" means an officer or agent employed by a law enforcement agency of the United States government whose primary responsibility is enforcing laws of the United States.
- (f) "Felony" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.
- (g) "Indictment" means 1 or more of the following:
 - (i) An indictment.
 - (ii) An information.
 - (iii) A presentment.
 - (iv) A complaint.
 - (v) A warrant.
 - (vi) A formal written accusation.
- (vii) Unless a contrary intention appears, a count contained in any document described in subparagraphs (i) through (vi).
- (h) "Jail", "prison", or a similar word includes a juvenile facility in which a juvenile has been placed pending trial under section 27a of chapter IV.
- (i) "Judicial district" means the following:
 - (i) With regard to the circuit court, the county.
 - (ii) With regard to municipal courts, the city in which the municipal court functions or the village served by a municipal court under section 9928 of the revised judicature act of 1961, 1961 PA 236, MCL 600.9928.
 - (iii) With regard to the district court, the county, district, or political subdivision in which venue is proper for criminal actions.
- (j) "Juvenile" means a person within the jurisdiction of the circuit court under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606.
- (k) "Juvenile facility" means a county facility, an institution operated as an agency of the county or family division of the circuit court, or an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, to which a juvenile has been committed under section 27a of chapter IV.
- (l) "Magistrate" means a judge of the district court or a judge of a municipal court. Magistrate does not include a district court magistrate, except that a district court magistrate may exercise the powers, jurisdiction, and duties of a magistrate if specifically provided in this act, the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947, or any other statute. This definition does not limit the power of a justice of the supreme court, a circuit judge, or a judge of a court of record having jurisdiction of criminal cases under this act, or deprive him or her of the power to exercise the authority of a magistrate.
- (m) "Minor offense" means a misdemeanor or ordinance violation for which the maximum permissible imprisonment does not exceed 92 days and the maximum permissible fine does not exceed \$1,000.00.
- (n) "Misdemeanor" means a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine.
- (o) "Ordinance violation" means either of the following:
 - (i) A violation of an ordinance or charter of a city, village, township, or county that is punishable by imprisonment or a fine that is not a civil fine.
 - (ii) A violation of an ordinance, rule, or regulation of any other governmental entity authorized by law to enact ordinances, rules, or regulations that is punishable by imprisonment or a fine that is not a civil fine.
- (p) "Person", "accused", or a similar word means an individual or, unless a contrary intention appears, a public or private corporation, partnership, or unincorporated or voluntary association.

(q) "Property" includes any matter or thing upon or in respect to which an offense may be committed.

(r) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision or governmental entity that enacted the ordinance, charter, rule, or regulation upon which the ordinance violation is based.

(s) "Recidivism" means any rearrest, reconviction, or reincarceration in prison or jail for a felony or misdemeanor offense or a probation or parole violation of an individual as measured first after 3 years and again after 5 years from the date of his or her release from incarceration, placement on probation, or conviction, whichever is later.

(t) "Taken", "brought", or "before" a magistrate or judge for purposes of criminal arraignment or the setting of bail means either of the following:

(i) Physical presence before a judge or district court magistrate.

(ii) Presence before a judge or district court magistrate by use of 2-way interactive video technology.

(u) "Technical parole violation" means a violation of the terms of a parolee's parole order that is not a violation of a law of this state, a political subdivision of this state, another state, or the United States or of tribal law.

(v) "Technical probation violation" means a violation of the terms of a probationer's probation order that is not a violation of a law of this state, a political subdivision of this state, another state, or the United States or of tribal law.

(w) "Writing", "written", or a similar term refers to words printed, painted, engraved, lithographed, photographed, copied, traced, or otherwise made visible to the eye.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17118;—CL 1948, 761.1;—Am. 1974, Act 63, Eff. May 1, 1974;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1987, Act 256, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 49, Imd. Eff. Mar. 11, 1988;—Am. 1988, Act 67, Eff. Oct. 1, 1988;—Am. 1994, Act 229, Imd. Eff. June 30, 1994;—Am. 1996, Act 418, Eff. Jan. 1, 1998;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999;—Am. 1999, Act 76, Eff. Oct. 1, 1999;—Am. 2007, Act 20, Imd. Eff. June 19, 2007;—Am. 2017, Act 2, Eff. June 29, 2017.

Compiler's note: Section 3 of Act 67 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 173 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

Former law: See sections 18, 20, and 21 of Ch. 161 of R.S. 1846, being CL 1857, §§ 5954, 5956, and 5957; CL 1871, §§ 7820, 7822, and 7823; How., §§ 9430, 9432, and 9433; CL 1897, §§ 11791, 11793, and 11794; CL 1915, §§ 15618, 15620, and 15621.

761.2 "Major controlled substance offense" defined.

Sec. 2. As used in this act, "major controlled substance offense" means either or both of the following:

(a) A violation of section 7401(2)(a) of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7401 of the Michigan Compiled Laws.

(b) A violation of section 7403(2)(a)(i) to (iv) of Act No. 368 of the Public Acts of 1978, being section 333.7403 of the Michigan Compiled Laws.

(c) Conspiracy to commit an offense listed in subdivision (a) or (b).

History: Add. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1988, Act 90, Imd. Eff. Mar. 30, 1988.