

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.131 Check, draft, or order for payment of money; making, drawing, uttering, or delivering without sufficient funds with intent to defraud; violation; penalties; enhanced sentence based on prior convictions.

Sec. 131. (1) A person shall not make, draw, utter, or deliver any check, draft, or order for the payment of money, to apply on account or otherwise, upon any bank or other depository with intent to defraud and knowing at the time of the making, drawing, uttering, or delivering that the maker or drawer does not have sufficient funds in or credit with the bank or other depository to pay the check, draft, or order in full upon its presentation.

(2) A person shall not make, draw, utter, or deliver any check, draft, or order for the payment of money, to apply on account or otherwise, upon any bank or other depository with intent to defraud if the person does not have sufficient funds for the payment of the check, draft, or order when presentation for payment is made to the drawee. This subsection does not apply if the lack of funds is due to garnishment, attachment, levy, or other lawful cause and that fact was not known to the person when the person made, drew, uttered, or delivered the check, draft, or order.

(3) A person who violates this section is guilty of a crime as follows:

(a) If the amount payable in the check, draft, or order is less than \$100.00, as follows:

(i) For a first offense, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(ii) For an offense following 1 or more prior convictions under this section or a local ordinance substantially corresponding to this section, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) If the amount payable in the check, draft, or order is \$100.00 or more but less than \$500.00, as follows:

(i) For a first or second offense, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00 or 3 times the amount payable, whichever is greater, or both imprisonment and a fine.

(ii) For an offense following 2 or more prior convictions under this section, a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a).

(c) If the amount payable in the check, draft, or order is \$500.00 or more, a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00 or 3 times the amount payable, whichever is greater, or both imprisonment and a fine.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(5) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.131;—Am. 1962, Act 65, Eff. Mar. 28, 1963;—Am. 1984, Act 277, Eff. Mar. 29, 1985;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

Former law: See section 1 of Act 271 of 1919, being CL 1929, § 12064; and Act 142 of 1923.