

# HOUSE BILL No. 4960

October 7, 2015, Introduced by Reps. Kesto, Santana, Garrett, Lucido, Love, Kosowski, Chang, Webber, Byrd, Robinson, Geiss, Banks, Gay-Dagnogo, Greig, Yanez, Darany, Forlini, Howrylak, LaVoy, Durhal, Rutledge, Irwin, Neeley, Hovey-Wright, Plawecki, Moss, Callton and Zemke and referred to the Committee on Criminal Justice.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 1f of chapter IV and section 14 of chapter VI (MCL 764.1f and 766.14), as amended by 1998 PA 520.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

CHAPTER IV

Sec. 1f. (1) If the prosecuting attorney has reason to believe that a juvenile 14 years of age or older but less than ~~17~~18 years of age has committed a specified juvenile violation, the prosecuting attorney may authorize the filing of a complaint and warrant on the charge with a magistrate concerning the juvenile.

(2) As used in this section, "specified juvenile violation" means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, OR 529a ~~7~~~~or 531~~ of the Michigan penal code, 1931 PA

1 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317,  
2 750.349, 750.520b, 750.529, **AND** 750.529a. ~~and 750.531.~~

3 (b) A violation of section 84 or 110a(2) of the Michigan penal  
4 code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is  
5 armed with a dangerous weapon. As used in this subdivision,  
6 "dangerous weapon" means 1 or more of the following:

7 (i) A loaded or unloaded firearm, whether operable or  
8 inoperable.

9 (ii) A knife, stabbing instrument, brass knuckles, blackjack,  
10 club, or other object specifically designed or customarily carried  
11 or possessed for use as a weapon.

12 (iii) An object that is likely to cause death or bodily injury  
13 when used as a weapon and that is used as a weapon or carried or  
14 possessed for use as a weapon.

15 (iv) An object or device that is used or fashioned in a manner  
16 to lead a person to believe the object or device is an object or  
17 device described in subparagraphs (i) to (iii).

18 ~~—— (c) A violation of section 186a of the Michigan penal code,  
19 1931 PA 328, MCL 750.186a, regarding escape or attempted escape  
20 from a juvenile facility, but only if the juvenile facility from  
21 which the individual escaped or attempted to escape was 1 of the  
22 following:~~

23 ~~—— (i) A high security or medium security facility operated by  
24 the family independence agency or a county juvenile agency.~~

25 ~~—— (ii) A high security facility operated by a private agency  
26 under contract with the family independence agency or a county  
27 juvenile agency.~~

1 ~~—— (d) A violation of section 7401(2) (a) (i) or 7403(2) (a) (i) of~~  
 2 ~~the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.~~

3 (C) ~~(e)~~An attempt to commit a violation described in  
 4 ~~subdivisions~~ **SUBDIVISION** (a) ~~to (d)~~. **OR (B)**.

5 (D) ~~(f)~~Conspiracy to commit a violation described in  
 6 ~~subdivisions~~ **SUBDIVISION** (a) ~~to (d)~~. **OR (B)**.

7 (E) ~~(g)~~Solicitation to commit a violation described in  
 8 ~~subdivisions~~ **SUBDIVISION** (a) ~~to (d)~~. **OR (B)**.

9 (F) ~~(h)~~Any lesser included offense of a violation described  
 10 in subdivisions (a) to ~~(g)~~ **(E)** if the individual is charged with a  
 11 violation described in subdivisions (a) to ~~(g)~~ **(E)**.

12 (G) ~~(i)~~Any other violation arising out of the same  
 13 transaction as a violation described in subdivisions (a) to ~~(g)~~ **(E)**  
 14 if the individual is charged with a violation described in  
 15 subdivisions (a) to ~~(g)~~ **(E)**.

#### 16 CHAPTER VI

17 Sec. 14. (1) If the court determines at the conclusion of the  
 18 preliminary examination of a person charged with a felony that the  
 19 offense charged is not a felony or that an included offense that is  
 20 not a felony has been committed, the accused shall not be dismissed  
 21 but the magistrate shall proceed in the same manner as if the  
 22 accused had initially been charged with an offense that is not a  
 23 felony.

24 (2) If at the conclusion of the preliminary examination of a  
 25 juvenile the magistrate finds that a specified juvenile violation  
 26 did not occur or that there is not probable cause to believe that  
 27 the juvenile committed the violation, but that there is probable

1 cause to believe that some other offense occurred and that the  
2 juvenile committed that other offense, the magistrate shall  
3 transfer the case to the family division of circuit court of the  
4 county where the offense is alleged to have been committed.

5 (3) A transfer under subsection (2) does not prevent the  
6 family division of circuit court from waiving jurisdiction over the  
7 juvenile under section 4 of chapter XIIA of 1939 PA 288, MCL  
8 712A.4.

9 (4) As used in this section, "specified juvenile violation"  
10 means any of the following:

11 (a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349,  
12 520b, 529, **OR** 529a, ~~or 531~~ of the Michigan penal code, 1931 PA  
13 328, MCL 750.72, 750.83, **750.86**, 750.89, 750.91, 750.316, 750.317,  
14 750.349, 750.520b, 750.529, **AND** 750.529a. ~~and 750.531.~~

15 (b) A violation of section 84 or 110a(2) of the Michigan penal  
16 code, 1931 PA 328, MCL 750.84 and 750.110a, if the juvenile is  
17 armed with a dangerous weapon. As used in this subdivision,  
18 "dangerous weapon" means 1 or more of the following:

19 (i) A loaded or unloaded firearm, whether operable or  
20 inoperable.

21 (ii) A knife, stabbing instrument, brass knuckles, blackjack,  
22 club, or other object specifically designed or customarily carried  
23 or possessed for use as a weapon.

24 (iii) An object that is likely to cause death or bodily injury  
25 when used as a weapon and that is used as a weapon or carried or  
26 possessed for use as a weapon.

27 (iv) An object or device that is used or fashioned in a manner

1 to lead a person to believe the object or device is an object or  
2 device described in subparagraphs (i) to (iii).

3 ~~—— (c) A violation of section 186a of the Michigan penal code,~~  
4 ~~1931 PA 328, MCL 750.186a, regarding escape or attempted escape~~  
5 ~~from a juvenile facility, but only if the juvenile facility from~~  
6 ~~which the individual escaped or attempted to escape was 1 of the~~  
7 ~~following:~~

8 ~~—— (i) A high security or medium security facility operated by~~  
9 ~~the family independence agency or a county juvenile agency.~~

10 ~~—— (ii) A high security facility operated by a private agency~~  
11 ~~under contract with the family independence agency or a county~~  
12 ~~juvenile agency.~~

13 ~~—— (d) A violation of section 7401(2) (a) (i) or 7403(2) (a) (i) of~~  
14 ~~the public health code, 1978 PA 368, MCL 333.7401 and 333.7403.~~

15 (C) ~~(e)~~—An attempt to commit a violation described in  
16 ~~subdivisions~~ **SUBDIVISION** (a) ~~to (d)~~. **OR (B)**.

17 (D) ~~(f)~~—Conspiracy to commit a violation described in  
18 ~~subdivisions~~ **SUBDIVISION** (a) ~~to (d)~~. **OR (B)**.

19 (E) ~~(g)~~—Solicitation to commit a violation described in  
20 ~~subdivisions~~ **SUBDIVISION** (a) ~~to (d)~~. **OR (B)**.

21 (F) ~~(h)~~—Any lesser included offense of a violation described  
22 in subdivisions (a) to ~~(g)~~ **(E)** if the individual is charged with a  
23 violation described in subdivisions (a) ~~to (g)~~. **TO (E)**.

24 (G) ~~(i)~~—Any other violation arising out of the same  
25 transaction as a violation described in subdivisions (a) to ~~(g)~~ **(E)**  
26 if the individual is charged with a violation described in  
27 subdivisions (a) to ~~(g)~~. **(E)**.

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

3           Enacting section 2. This amendatory act does not take effect  
4 unless all of the following bills of the 98th Legislature are  
5 enacted into law:

6           (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 4961 (request no.  
7 02529'15 a).

8           (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 4962 (request no.  
9 03207'15).