

Act No. 31  
Public Acts of 2002  
Approved by the Governor  
March 7, 2002  
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March 7, 2002  
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**STATE OF MICHIGAN  
91ST LEGISLATURE  
REGULAR SESSION OF 2002**

Introduced by Reps. Julian, Faunce, O'Neil and McConico

# **ENROLLED HOUSE BILL No. 5392**

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 31 of chapter IX and section 11 of chapter XVII (MCL 769.31 and 777.11), section 31 of chapter IX as amended by 1998 PA 317 and section 11 of chapter XVII as amended by 2001 PA 154, and by adding sections 11a, 11b, 11c, 11d, and 11e to chapter XVII; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

## CHAPTER IX

Sec. 31. As used in this section and section 34 of this chapter:

(a) "Departure" means a sentence imposed that is not within the appropriate minimum sentence range established under the sentencing guidelines set forth in chapter XVII.

(b) "Intermediate sanction" means probation or any sanction, other than imprisonment in a state prison or state reformatory, that may lawfully be imposed. Intermediate sanction includes, but is not limited to, 1 or more of the following:

- (i) Inpatient or outpatient drug treatment.
- (ii) Probation with any probation conditions required or authorized by law.
- (iii) Residential probation.
- (iv) Probation with jail.

- (v) Probation with special alternative incarceration.
- (vi) Mental health treatment.
- (vii) Mental health or substance abuse counseling.
- (viii) Jail.
- (ix) Jail with work or school release.
- (x) Jail, with or without authorization for day parole under 1962 PA 60, MCL 801.251 to 801.258.
- (xi) Participation in a community corrections program.
- (xii) Community service.
- (xiii) Payment of a fine.
- (xiv) House arrest.
- (xv) Electronic monitoring.

(c) “Offender characteristics” means only the prior criminal record of an offender.

(d) “Offense characteristics” means the elements of the crime and the aggravating and mitigating factors relating to the offense that the legislature determines are appropriate. For purposes of this subdivision, an offense described in section 33b of 1953 PA 232, MCL 791.233b, that resulted in a conviction and that arose out of the same transaction as the offense for which the sentencing guidelines are being scored shall be considered as an aggravating factor.

(e) “Prior criminal record” means all of the following:

- (i) Misdemeanor and felony convictions.
- (ii) Probation and parole violations involving criminal activity.

(iii) Dispositions entered under section 18 of chapter XIIA of 1939 PA 288, MCL 712A.18, for acts that would have been crimes if committed by an adult.

(iv) Assignment to youthful trainee status under sections 11 to 15 of chapter II.

(v) A conviction set aside under 1965 PA 213, MCL 780.621 to 780.624.

(vi) Dispositions described in subparagraph (iii) that have been set aside under section 18e of chapter XIIA of 1939 PA 288, MCL 712A.18e, or expunged.

## CHAPTER XVII

Sec. 11. This chapter applies to felonies enumerated in chapters 1 to 199 of the Michigan Compiled Laws as set forth in sections 11a to 11e of this chapter.

Sec. 11a. This chapter applies to the following felonies enumerated in chapters 1 to 27 of the Michigan Compiled Laws:

<b>M.C.L.</b>	<b>Category</b>	<b>Class</b>	<b>Description</b>	<b>Stat Max</b>
4.421(1)	Pub trst	G	Lobbyists — compensation contingent on outcome of action	3
4.421(2)	Pub trst	G	Lobbyists giving gifts	3
18.366(1)(c)	Property	E	False presentation to crime victim services commission to obtain \$1,000 to \$20,000 or with prior convictions	5
18.366(1)(d)	Property	D	False presentation to crime victim services commission to obtain \$20,000 or more or with prior convictions	10
18.1268(9)	Pub trst	H	Purposefully submitting false business certification	Fine
21.154	Pub trst	E	Public officer — embezzlement	5

Sec. 11b. This chapter applies to the following felonies enumerated in chapter 28 of the Michigan Compiled Laws:

<b>M.C.L.</b>	<b>Category</b>	<b>Class</b>	<b>Description</b>	<b>Stat Max</b>
28.214	Pub trst	F	Unauthorized disclosure of information from LEIN — subsequent offense	4
28.293(1)	Pub ord	E	False information when applying for state ID	5
28.293(2)	Pub ord	D	False information when applying for state ID — second offense	7

28.293(3)	Pub ord	C	False information when applying for state ID — third or subsequent offense	15
28.295(1)(a)	Pub ord	H	Forging state ID card to commit felony	4
28.295(3)	Property	H	Using stolen state ID card to commit felony	Variable
28.295a(1)	Pub ord	H	False representation to obtain or misuse personal information	4
28.295a(2)	Pub ord	G	False representation to obtain or misuse personal information — second offense	7
28.295a(3)	Pub ord	C	False representation to obtain or misuse personal information — third or subsequent offense	15
28.422	Pub saf	F	Pistols — license application forgery	4
28.422a(4)	Pub saf	F	False statement on pistol sales record	4
28.425b(3)	Pub saf	F	False statement on concealed pistol permit application	4
28.425j(2)	Pub saf	F	Unlawful granting or presenting of pistol training certificate	4
28.425o(3)(c)	Pub saf	F	Carrying concealed pistol in prohibited place — third or subsequent offense	4
28.435	Pub saf	G	Firearm sale without trigger lock, gun case, or storage container — third or subsequent offense	2
28.729(1)(a)	Pub ord	F	Failure to register as a sex offender, first offense	4
28.729(1)(b)	Pub ord	D	Failure to register as a sex offender, second offense	7
28.729(1)(c)	Pub ord	D	Failure to register as a sex offender, third or subsequent offense	10

Sec. 11c. This chapter applies to the following felonies enumerated in chapters 29 to 167 of the Michigan Compiled Laws:

<b>M.C.L.</b>	<b>Category</b>	<b>Class</b>	<b>Description</b>	<b>Stat Max</b>
35.929	Pub trst	H	Willful falsification in application for veterans benefits	3
35.980	Pub trst	H	False statement in application for Korean veterans benefits	3
35.1029	Pub trst	H	False statement in application for Vietnam veterans benefits	3
38.412a(1)	Pub trst	H	County employee providing answers to county civil service exam	1
38.516	Pub trst	H	Fire and police civil service — appointment or employment contrary to act	2
45.82	Pub trst	E	County purchasing agent — violations in awarding bids or contracts	5
47.8	Pub trst	H	Payment of claim against county before audit	2
47.56	Pub trst	H	Wayne county treasurer paying claims without appropriate signature	2
51.364	Pub trst	H	Appointment or selection contrary to civil service commission rules	2
110.28	Pub trst	G	Fourth class cities — misappropriation of money or property	3
117.25(3)	Pub trst	E	Amendment to city electors — willfully affixing another's signature, false representation	15
125.1447(1)(c)	Property	E	False pretenses under state housing development act involving \$1,000 to \$20,000 or with prior convictions	5
125.1447(1)(d)	Property	D	False pretenses under state housing development authority act involving \$20,000 or more or with prior convictions	10

Sec. 11d. This chapter applies to the following felonies enumerated in chapter 168 of the Michigan Compiled Laws:

<b>M.C.L.</b>	<b>Category</b>	<b>Class</b>	<b>Description</b>	<b>Stat Max</b>
168.731(4)	Pub trst	G	Election law — filing certain false statements	2
168.734	Pub trst	G	Election law — election board refusing to provide challenger conveniences	2
168.756	Pub trst	E	Elector's false statement concerning inability to mark ballot	5
168.757	Pub trst	E	Election inspector — unlawful conduct	5
168.759(8)	Pub trst	E	Forged signature on absentee ballot	5
168.759b	Pub trst	E	False statement in application for emergency absentee ballot	5
168.761(5)	Pub trst	E	Assisting an absentee voter in making a false statement	5
168.769(4)	Pub trst	E	Voting both in person and by absentee ballot	5
168.792a(11)	Pub trst	E	Disclosing how ballot voted or election results early before polls are closed	5
168.792a(16)	Pub trst	E	Disclosing election result or how ballot voted	5
168.808	Pub trst	E	Untrue statement by member of board of inspectors	4
168.873	Pub trst	E	Misconduct of election employee in recount — county and local	5
168.887	Pub trst	E	Misconduct of election employee in recount	5
168.932(a)	Pub trst	E	Bribing or intimidating voters	5
168.932(b)	Pub trst	E	Ballot tampering	5
168.932(c)	Pub trst	E	Destroying or falsifying election return or records	5
168.932(d)	Pub trst	E	Disclosing votes or obstructing voter	5
168.932(e)	Pub trst	E	Absentee ballot tampering	5
168.932(f)	Pub trst	E	Election law — possess absent voter ballot delivered to another person	5
168.932(g)	Pub trst	E	Suggesting how a disabled voter should vote	5
168.932(h)	Pub trst	E	Suggesting or influencing how an absentee voter should vote	5
168.932(i)	Pub trst	E	Organizing a meeting where absentee voter ballots are to be voted	5
168.932a	Pub trst	G	Election offenses	4
168.933	Pub trst	E	False swearing to register or vote	5
168.936	Pub trst	E	Election law — perjury	5
168.937	Pub trst	E	Election law — forgery	5

Sec. 11e. This chapter applies to the following felonies enumerated in chapters 169 to 199 of the Michigan Compiled Laws:

<b>M.C.L.</b>	<b>Category</b>	<b>Class</b>	<b>Description</b>	<b>Stat Max</b>
169.254	Pub trst	H	Campaign finance — corporate contributions	3
169.255	Pub trst	H	Campaign finance — corporate solicitation for certain funds	3
169.266	Pub trst	H	Campaign finance — qualified campaign expenditures	3

Enacting section 1. Sections 32 and 33 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.32 and 769.33, are repealed.

Enacting section 2. This amendatory act takes effect April 1, 2002.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved .....

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Governor.