

HOUSE BILL No. 4294

February 20, 2013, Introduced by Reps. Santana, Talabi, Cavanagh and Oakes and referred to the Committee on Criminal Justice.

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 2004 PA 239.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER II

Sec. 11. (1) Except as provided in subsections (2) and (3), if an individual pleads guilty to a criminal offense, committed on or after the individual's seventeenth birthday but before his or her twenty-first birthday, the court of record having jurisdiction of the criminal offense may, without entering a judgment of conviction and with the consent of that individual, consider and assign that individual to the status of youthful trainee.

(2) Subsection (1) does not apply to any of the following:

(a) A felony for which the maximum penalty is imprisonment for

1 life.

2 (b) A major controlled substance offense.

3 (c) A traffic offense.

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

9 (e) A violation, attempted violation, or conspiracy to violate
10 section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g,
11 with the intent to commit a violation of section 520b, 520c, 520d,
12 or 520e of the Michigan penal code, 1931 PA 328, MCL 750.520b,
13 750.520c, 750.520d, and 750.520e, other than section 520d(1)(a) or
14 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d
15 and 750.520e.

16 (3) The court shall not assign an individual to the status of
17 youthful trainee if any of the following apply:

18 (a) The individual was previously convicted of or adjudicated
19 for a listed offense for which registration is required under the
20 sex offenders registration act, 1994 PA 295, MCL 28.721 to ~~28.732~~.
21 **28.736**.

22 (b) If the individual is charged with a listed offense for
23 which registration is required under the sex offenders registration
24 act, 1994 PA 295, MCL 28.721 to ~~28.732~~, **28.736**, the individual
25 fails to carry the burden of proving by clear and convincing
26 evidence that he or she is not likely to engage in further listed
27 offenses.

1 (c) The court determines that the offense involved any of the
2 following:

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

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

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

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

11 **(4) THE COURT MAY ASSIGN AN INDIVIDUAL TO THE STATUS OF**
12 **YOUTHFUL TRAINEE UNDER THIS SECTION REGARDLESS OF WHETHER THE**
13 **INDIVIDUAL HAS PREVIOUSLY BEEN ASSIGNED TO THAT STATUS.**

14 **(5) ~~(4)~~—As used in this section:**

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

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