

Act No. 208
Public Acts of 2023
Approved by the Governor
November 21, 2023
Filed with the Secretary of State
November 22, 2023
EFFECTIVE DATE: February 13, 2024

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Reps. Hope, Pohutsky, Koleszar, Brixie, Dievendorf, Morse, Price, Glanville, Rheingans, Arbit, Wilson, Tsernoglou, Steckloff, Liberati, Stone, Paiz, Mentzer, Byrnes, Breen, Skaggs, Wegela, Brabec, Haadsma, Hood, Hoskins, MacDonell, Conlin, Hill, Weiss and Morgan

ENROLLED HOUSE BILL No. 4951

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 10d of chapter II, sections 1a and 3 of chapter IV, section 6e of chapter V, section 4a of chapter IX, and sections 13k, 16d, and 16p of chapter XVII (MCL 762.10d, 764.1a, 764.3, 765.6e, 769.4a, 777.13k, 777.16d, and 777.16p), section 10d of chapter II, section 3 of chapter IV, and section 6e of chapter V as added and section 1a of chapter IV as amended by 2020 PA 394, section 4a of chapter IX as amended by 2019 PA 115, section 13k of chapter XVII as amended by 2018 PA 587, section 16d of chapter XVII as amended by 2023 PA 59, and section 16p of chapter XVII as amended by 2008 PA 467.

The People of the State of Michigan enact:

CHAPTER II

Sec. 10d. (1) Except in cases in which the person is alleged to have committed an assaultive crime or an offense involving domestic violence, a person who is wanted on a bench warrant or a warrant of arrest who voluntarily goes to the court that issued the warrant within 1 year of the warrant issuance must be processed by the court according to this section.

(2) If a judicial officer is available to arraign the person on the warrant within 2 hours of the person's appearance, the court must arraign the person and set the case for the next stage of criminal proceedings. It must be presumed that the person is not a flight risk when the court sets bond or other conditions of release at an arraignment under this subsection.

(3) If a judicial officer is not available to arraign the person on the warrant within 2 hours of the person's appearance, the court shall recall the warrant and schedule the case for future arraignment.

(4) A court may deny a person the benefit of the procedure provided for in this section if the person has already benefitted from the procedure on any pending criminal charges.

(5) As used in this section:

(a) "Assaultive crime" includes any of the following:

(i) A violation described in section 9a of chapter X.

(ii) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, not otherwise included in subparagraph (i).

(iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b, or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a, 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or any other violent felony.

(iv) A violation of a law of another state or of a political subdivision of this state or of another state that substantially corresponds to a violation described in subparagraph (i), (ii), or (iii).

(b) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(c) "Violent felony" means that term as defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

CHAPTER IV

Sec. 1a. (1) A magistrate shall issue a warrant or summons upon presentation of a proper complaint alleging the commission of an offense and a finding of reasonable cause to believe that the individual accused in the complaint committed that offense. The complaint must be sworn to before a magistrate or clerk.

(2) Except in cases in which any of the following circumstances apply, the magistrate or clerk must issue a summons rather than a warrant:

(a) The complaint is for an assaultive crime or an offense involving domestic violence.

(b) The clerk or magistrate has reason to believe from the presentation of the complaint that the person against whom the complaint was made will not appear upon a summons.

(c) The issuance of summons poses a risk to public safety.

(d) The prosecutor has requested a warrant.

(3) A summons must be in the same form as a warrant except that it must summon the defendant to appear before a court at a stated date and time. The summons must be served upon a defendant by delivering a copy to the defendant personally, by leaving it at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion residing at that place, or by mailing it to the defendant's last known address. If a defendant fails to appear in response to the summons, a warrant may be issued.

(4) The finding of reasonable cause by the magistrate may be based upon 1 or more of the following:

(a) Factual allegations of the complainant contained in the complaint.

(b) The complainant's sworn testimony.

(c) The complainant's affidavit.

(d) Any supplemental sworn testimony or affidavits of other individuals presented by the complainant or required by the magistrate.

(5) The magistrate may require sworn testimony of the complainant or other individuals. Supplemental affidavits may be sworn to before an individual authorized by law to administer oaths. The factual allegations contained in the complaint, testimony, or affidavits may be based upon personal knowledge, information and belief, or both.

(6) The magistrate shall not refuse to accept a complaint alleging a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a violation of a local ordinance substantially corresponding to section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81, by the spouse of the victim, a former spouse of the victim, an individual with whom the victim has had a child in common, an individual with whom the victim has or has had a dating relationship, or an individual residing or having resided in the same household as the victim on grounds that the complaint is signed upon information and belief by an individual other than the victim.

(7) The magistrate shall not refuse to accept a complaint alleging that a crime was committed in which the victim is a vulnerable adult on the grounds that the complaint is signed upon information and belief by an individual other than the victim.

(8) A warrant or summons may be issued under this section only upon compliance with the requirements of section 1 of this chapter.

(9) As used in this section:

(a) "Assaultive crime" includes any of the following:

(i) A violation described in section 9a of chapter X.

(ii) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, not otherwise included in subparagraph (i).

(iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b, or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a, 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or any other violent felony.

(iv) A violation of a law of another state or of a political subdivision of this state or of another state that substantially corresponds to a violation described in subparagraph (i), (ii), or (iii).

(b) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(c) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(d) "Violent felony" means that term as defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

(e) "Vulnerable adult" means that term as defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m.

Sec. 3. (1) Notwithstanding any provision of law to the contrary and except in cases where the complaint is for an assaultive crime or an offense involving domestic violence, in the event that a defendant fails to appear for a court hearing and it is the defendant's first failure to appear in the case, there is a rebuttable presumption that the court must wait 48 hours before issuing a bench warrant to allow the defendant to voluntarily appear. If the defendant does not appear within 48 hours, the court shall issue a bench warrant unless the court believes there is good reason to instead schedule the case for further hearing.

(2) When a court delays the issuance of a warrant, the court shall not revoke the release order or declare bail money deposited or the surety bond, if any, forfeited. Upon the issuance of the arrest warrant, the court may then enter an order revoking the release order and declaring the bail money deposited, personal recognizance bond, surety bond, or 10% bond, if any, forfeited.

(3) The court may overcome the presumption under subsection (1) and issue an immediate bench warrant for the defendant's failure to appear if the court has a specific articulable reason to suspect that any of the following apply:

(a) The defendant has committed a new crime.

(b) A person or property will be endangered if a bench warrant is not issued.

(c) Prosecution witnesses have been summoned and are present for the proceeding.

(d) The proceeding is to impose a sentence for the crime.

(e) There are other compelling circumstances that require the immediate issuance of a bench warrant.

(4) If the court departs from the presumption under subsection (1) and issues an immediate bench warrant, the court must state on the record its reasons for doing so.

(5) As used in this section:

(a) "Assaultive crime" includes any of the following:

(i) A violation described in section 9a of chapter X.

(ii) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, not otherwise included in subparagraph (i).

(iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b, or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a, 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or any other violent felony.

(iv) A violation of a law of another state or of a political subdivision of this state or of another state that substantially corresponds to a violation described in subparagraph (i), (ii), or (iii).

(b) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(c) "Violent felony" means that term as defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

CHAPTER V

Sec. 6e. (1) Except in cases in which the person is alleged to have committed an assaultive crime or an offense involving domestic violence, a person who is detained on warrant of arrest in a county other than the county from which the warrant originated must be released from custody if the county from which the warrant originated does not make arrangements within 48 hours from the time the person was detained to pick the person up and does not in fact pick the person up within 72 hours after the time the person was detained. If a person is released from custody under this section, the releasing facility must contact the originating court and obtain a court date for the defendant to appear.

(2) As used in this section:

(a) "Assaultive crime" includes any of the following:

(i) A violation described in section 9a of chapter X.

(ii) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, not otherwise included in subparagraph (i).

(iii) A violation of section 110a, 136b, 234a, 234b, 234c, 349b, or 411h of the Michigan penal code, 1931 PA 328, MCL 750.110a, 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, and 750.411h, or any other violent felony.

(iv) A violation of a law of another state or of a political subdivision of this state or of another state that substantially corresponds to a violation described in subparagraph (i), (ii), or (iii).

(b) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(c) "Violent felony" means that term as defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

CHAPTER IX

Sec. 4a. (1) When an individual who has not been convicted previously of an assaultive crime pleads guilty to, or is found guilty of, a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, and the victim of the assault is the offender's spouse or former spouse, an individual who has had a child in common with the offender, an individual who has or has had a dating relationship with the offender, or an individual residing or having resided in the same household as the offender, the court, without entering a judgment of guilt and with the consent of the accused and of the prosecuting attorney in consultation with the victim, may defer further proceedings and place the accused on probation as provided in this section. However, before deferring proceedings under this subsection, the court shall contact the department of state police and determine whether, according to the records of the department of state police, the accused has previously been convicted of an assaultive crime or has previously had proceedings deferred under this section. If the search of the records reveals an arrest for an assaultive crime but no disposition, the court shall contact the arresting agency and the court that had jurisdiction over the violation to determine the disposition of that arrest for purposes of this section.

(2) Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided in this chapter.

(3) An order of probation entered under subsection (1) may include any condition of probation authorized under section 3 of chapter XI, including, but not limited to, requiring the accused to participate in a mandatory counseling program. The court may order the accused to pay the reasonable costs of the mandatory counseling program. The court also may order the accused to participate in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1088. The court may order the defendant to be imprisoned for not more than 12 months at the time or intervals, which may be consecutive or nonconsecutive and within the period of probation, as the court determines. However, the period of imprisonment must not exceed the maximum period of imprisonment authorized for the offense if the maximum period is less than 12 months. The court may permit day parole as authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may permit a work or school release from jail.

(4) The court shall enter an adjudication of guilt and proceed as otherwise provided in this chapter if any of the following circumstances exist:

(a) The accused commits an assaultive crime during the period of probation.

(b) The accused violates an order of the court that the accused receive counseling regarding the accused's violent behavior.

(c) The accused violates an order of the court that the accused have no contact with a named individual.

(5) Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section must be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, but it is a prior conviction in a prosecution under sections 81(4) and (5) and 81a(3) of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a. There must be only 1 discharge and dismissal under this section with respect to any individual.

(6) All court proceedings under this section must be open to the public. Except as provided in subsection (7), if the record of proceedings as to the defendant is deferred under this section, the record of proceedings during the period of deferral must be closed to public inspection.

(7) Unless the court enters a judgment of guilt under this section, the department of state police shall retain a nonpublic record of the arrest, court proceedings, and disposition of the criminal charge under this section. However, the nonpublic record must be open to the following individuals and entities for the purposes noted:

(a) The courts of this state, law enforcement personnel, the department of corrections, and prosecuting attorneys for use only in the performance of their duties or to determine whether an employee of the court, law enforcement agency, department of corrections, or prosecutor's office has violated the conditions of employment or whether an applicant meets criteria for employment with the court, law enforcement agency, department of corrections, or prosecutor's office.

(b) The courts of this state, law enforcement personnel, and prosecuting attorneys for either of the following purposes:

(i) Showing that a defendant in a criminal action under section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a local ordinance substantially corresponding to section 81 of that act has already once had proceedings deferred under this section.

(ii) Determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under section 1076(5) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(c) The department of health and human services for enforcing child protection laws and vulnerable adult protection laws or ascertaining the preemployment criminal history of any individual who will be engaged in the enforcement of child protection laws or vulnerable adult protection laws.

(8) As used in this section:

(a) "Assaultive crime" means 1 or more of the following:

(i) That term as defined in section 9a of chapter X.

(ii) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g.

(iii) A violation of a law of another state or of a local ordinance of a political subdivision of this state or of another state substantially corresponding to a violation described in subparagraph (i) or (ii).

(b) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

CHAPTER XVII

Sec. 13k. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.2685	Person	E	Use of a live human embryo, fetus, or neonate for nontherapeutic research	5
333.2688	Person	E	Research on dead embryo, fetus, or neonate without mother's consent	5
333.2689	Person	E	Abortion to obtain embryo or fetus	5
333.2690(1)	Person	E	Sale or delivery of fetus, embryo, or neonate for certain purposes	5
333.2690(2)	Person	E	Financially benefiting from granting certain persons access to an embryo, fetus, or neonate or from transferring possession of an embryo, fetus, or neonate to certain persons	5
333.2813(3)	Pub trst	F	Unauthorized disclosure of social security number — subsequent offense	4

333.2841(3)	Pub ord	E	Failure to inform law enforcement or funeral home of discovery of dead body with purpose of concealing fact or cause of death	5
333.5210(1)	Person	F	Person who has HIV knowingly engaging in vaginal or anal intercourse with uninfected person without informing the person he or she has HIV with the intent to infect that person with HIV	4
333.5210(2)	Person	F	Person who has HIV knowingly engaging in vaginal or anal intercourse with uninfected person without informing the person he or she has HIV with reckless disregard and resulting in the person contracting HIV	4
333.5661	Person	F	Fraud resulting in patient death	4

Sec. 16d. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.81(5)	Person	E	Domestic assault or assault of a pregnant individual with prior convictions	5
750.81a(3)	Person	E	Aggravated domestic assault with prior convictions	5
750.81d(1)	Person	G	Assaulting, resisting, or obstructing certain persons	2
750.81d(2)	Person	F	Assaulting, resisting, or obstructing certain persons causing bodily injury requiring medical attention	4
750.81d(3)	Person	C	Assaulting, resisting, or obstructing certain persons causing serious impairment	15
750.81d(4)	Person	B	Assaulting, resisting, or obstructing certain persons causing death	20
750.81e(2)	Person	G	Assault on utility worker causing bodily injury requiring medical attention	2
750.81e(3)	Person	E	Assault on utility worker causing serious impairment of a body function	5
750.82(1)	Person	F	Felonious assault	4
750.82(2)	Person	F	Felonious assault — weapon-free school zone	4
750.83	Person	A	Assault with intent to murder	Life
750.84(1)(a)	Person	D	Assault with intent to do great bodily harm less than murder	10
750.84(1)(b)	Person	D	Assault by strangulation or suffocation	10
750.85	Person	A	Torture	Life
750.86	Person	D	Assault with intent to maim	10
750.87	Person	D	Assault with intent to commit a felony	10
750.88	Person	C	Assault with intent to commit unarmed robbery	15
750.89	Person	A	Assault with intent to commit armed robbery	Life
750.90(1)	Person	C	Sexual contact under pretext of medical treatment	20
750.90(2)	Person	B	Sexual penetration under pretext of medical treatment	25
750.90a	Person	A	Assault against a pregnant individual causing miscarriage, stillbirth, or death to embryo or fetus with intent or recklessness	Life
750.90b(a)	Person	C	Assault against a pregnant individual resulting in miscarriage, stillbirth, or death to embryo or fetus	15
750.90b(b)	Person	D	Assault against a pregnant individual resulting in great bodily harm to embryo or fetus	10
750.90c(a)	Person	C	Gross negligence against a pregnant individual resulting in miscarriage, stillbirth, or death to embryo or fetus	15
750.90c(b)	Person	E	Gross negligence against a pregnant individual resulting in great bodily harm to embryo or fetus	5

750.90d(a)	Person	C	Operating a vehicle under the influence or while impaired causing miscarriage, stillbirth, or death to embryo or fetus	15
750.90d(b)	Person	E	Operating a vehicle under the influence or while impaired causing serious or aggravated injury to embryo or fetus	5
750.90e	Person	G	Careless or reckless driving causing miscarriage, stillbirth, or death to embryo or fetus	2
750.90g(3)	Person	A	Performance of procedure on live infant with intent to cause death	Life
750.91	Person	A	Attempted murder	Life

Sec. 16p. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.317	Person	M2	Second degree murder	Life
750.317a	Person	A	Delivery of controlled substance causing death	Life
750.321	Person	C	Manslaughter	15
750.322	Person	C	Willful killing of unborn quick child	15
750.327	Person	A	Death by explosives on vehicle or vessel	Life
750.328	Person	A	Death by explosives in or near building	Life
750.329	Person	C	Homicide — weapon aimed with intent but not malice	15
750.329a	Person	E	Assisting a suicide	5

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 102nd Legislature are enacted into law:

- (a) Senate Bill No. 474.
- (b) House Bill No. 4949.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor

Compiler's note: Senate Bill No. 474, referred to in enacting section 1, was filed with the Secretary of State November 22, 2023, and became 2023 PA 209, Eff. Feb. 13, 2024.

House Bill No. 4949, also referred to in enacting section 1, was filed with the Secretary of State December 11, 2023, and became 2023 PA 286, Eff. Feb. 13, 2024.