

# HOUSE BILL NO. 5714

May 07, 2024, Introduced by Reps. Thompson, Friske, Rigas, Bezotte, DeBoyer and Beeler and referred to the Committee on Government Operations.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 601b, 602a, 617, and 625 (MCL 257.601b, 257.602a, 257.617, and 257.625), section 601b as amended by 2011 PA 60, section 602a as amended by 1999 PA 73, section 617 as amended by 2005 PA 3, and section 625 as amended by 2021 PA 85.

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

**1** Sec. 601b. (1) Notwithstanding any other provision of this  
**2** act, a person responsible for a moving violation in a work zone, at  
**3** an emergency scene, or in a school zone during the period beginning

1 30 minutes before school in the morning and through 30 minutes  
2 after school in the afternoon, or in a school bus zone is subject  
3 to a fine that is double the fine otherwise prescribed for that  
4 moving violation.

5 (2) A person who commits a moving violation in a work zone or  
6 a school bus zone for which not fewer than 3 points are assigned  
7 under section 320a and as a result causes injury to another person  
8 in the work zone or school bus zone is guilty of a misdemeanor  
9 punishable by a fine of not more than \$1,000.00 or imprisonment for  
10 not more than 1 year, or both.

11 (3) A person who commits a moving violation in a work zone or  
12 school bus zone for which not fewer than 3 points are assigned  
13 under section 320a and as a result causes death to another person  
14 in the work zone or school bus zone is guilty of a felony  
15 punishable by ~~a fine of not more than \$7,500.00 or by imprisonment~~  
16 ~~for not more~~ **less than 15-5 years or more than life or any term of**  
17 **years or by a fine of not more than \$7,500.00,** or both.

18 (4) Subsections (2) and (3) do not apply if the injury or  
19 death was caused by the negligence of the injured or deceased  
20 person in the work zone or school bus zone.

21 (5) As used in this section:

22 (a) "Emergency scene" means a traffic accident, a serious  
23 incident caused by weather conditions, or another occurrence along  
24 a highway or street for which a police officer, firefighter, or  
25 emergency medical personnel are summoned to aid an injured victim.

26 (b) "Moving violation" means an act or omission prohibited  
27 under this act or a local ordinance substantially corresponding to  
28 this act that occurs while a person is operating a motor vehicle,  
29 and for which the person is subject to a fine.

1 (c) "School bus zone" means the area lying within 20 feet of a  
2 school bus that has stopped and is displaying 2 alternately  
3 flashing red lights at the same level, except as described in  
4 section 682(2).

5 (d) "School zone" means that term as defined in section 627a.  
6 Sec. 602a. (1) A driver of a motor vehicle who is given by  
7 hand, voice, emergency light, or siren a visual or audible signal  
8 by a police or conservation officer, acting in the lawful  
9 performance of ~~his or her~~ **the officer's** duty, directing the driver  
10 to bring ~~his or her~~ **the driver's** motor vehicle to a stop shall not  
11 willfully fail to obey that direction by increasing the speed of  
12 the motor vehicle, extinguishing the lights of the motor vehicle,  
13 or otherwise attempting to flee or elude the officer. This  
14 subsection does not apply unless the police or conservation officer  
15 giving the signal is in uniform and the officer's vehicle is  
16 identified as an official police or department of natural resources  
17 vehicle.

18 (2) Except as provided in subsection (3), (4), or (5), an  
19 individual who violates subsection (1) is guilty of fourth-degree  
20 fleeing and eluding, a felony punishable by imprisonment for not  
21 ~~more~~ **less** than 2 years or **more than life or any term of years** or a  
22 fine of not more than \$500.00, or both.

23 (3) Except as provided in subsection (4) or (5), an individual  
24 who violates subsection (1) is guilty of third-degree fleeing and  
25 eluding, a felony punishable by imprisonment for not ~~more~~ **less** than  
26 ~~5-4~~ years or **more than life or any term of years** or a fine of not  
27 more than \$1,000.00, or both, if 1 or more of the following  
28 circumstances apply:

29 (a) The violation results in a collision or accident.

1 (b) A portion of the violation occurred in an area where the  
2 speed limit is 35 miles an hour or less, whether that speed limit  
3 is posted or imposed as a matter of law.

4 (c) The individual has a prior conviction for fourth-degree  
5 fleeing and eluding, attempted fourth-degree fleeing and eluding,  
6 or fleeing and eluding under a current or former law of this state  
7 prohibiting substantially similar conduct.

8 (4) Except as provided in subsection (5), an individual who  
9 violates subsection (1) is guilty of second-degree fleeing and  
10 eluding, a felony punishable by imprisonment for not ~~more~~**less** than  
11 ~~10-6~~ years or **more than life or any term of years** or a fine of not  
12 more than \$5,000.00, or both, if 1 or more of the following  
13 circumstances apply:

14 (a) The violation results in serious injury to an individual.

15 (b) The individual has 1 or more prior convictions for first-,  
16 second-, or third-degree fleeing and eluding, attempted first-,  
17 second-, or third-degree fleeing and eluding, or fleeing and  
18 eluding under a current or former law of this state prohibiting  
19 substantially similar conduct.

20 (c) The individual has any combination of 2 or more prior  
21 convictions for fourth-degree fleeing and eluding, attempted  
22 fourth-degree fleeing and eluding, or fleeing and eluding under a  
23 current or former law of this state prohibiting substantially  
24 similar conduct.

25 (5) If the violation results in the death of another  
26 individual, an individual who violates subsection (1) is guilty of  
27 first-degree fleeing and eluding, a felony punishable by  
28 imprisonment for not more than 15 years or a fine of not more than  
29 \$10,000.00, or both.

1 (6) A conviction under this section does not prohibit a  
2 conviction and sentence under any other applicable provision,  
3 except section 479a(2), (3), (4), or (5) of the Michigan penal  
4 code, 1931 PA 328, MCL 750.479a, for conduct arising out of the  
5 same transaction.

6 (7) As used in this section, "serious injury" means a physical  
7 injury that is not necessarily permanent, but that constitutes  
8 serious bodily disfigurement or that seriously impairs the  
9 functioning of a body organ or limb. Serious injury includes, but  
10 is not limited to, 1 or more of the following:

11 (a) Loss of a limb or use of a limb.

12 (b) Loss of a hand, foot, finger, or thumb or use of a hand,  
13 foot, finger, or thumb.

14 (c) Loss of an eye or ear or use of an eye or ear.

15 (d) Loss or substantial impairment of a bodily function.

16 (e) Serious visible disfigurement.

17 (f) A comatose state that lasts for more than 3 days.

18 (g) Measurable brain damage or mental impairment.

19 (h) A skull fracture or other serious bone fracture.

20 (i) Subdural hemorrhage or hematoma.

21 Sec. 617. (1) The driver of a vehicle who knows or who has  
22 reason to believe that ~~he or she~~ **the driver** has been involved in an  
23 accident upon public or private property that is open to travel by  
24 the public shall immediately stop ~~his or her~~ **the driver's** vehicle  
25 at the scene of the accident and shall remain there until the  
26 requirements of section 619 are fulfilled or immediately report the  
27 accident to the nearest or most convenient police agency or officer  
28 to fulfill the requirements of section 619(a) and (b) if there is a  
29 reasonable and honest belief that remaining at the scene will

1 result in further harm. The stop shall be made without obstructing  
2 traffic more than is necessary.

3 (2) Except as provided in subsection (3), if the individual  
4 violates subsection (1) and the accident results in serious  
5 impairment of a body function or death, the individual is guilty of  
6 a felony punishable by imprisonment for not more than 5 years or by  
7 a fine of not more than \$5,000.00, or both.

8 (3) If the individual violates subsection (1) following an  
9 accident caused by that individual and the accident results in the  
10 death of another individual, the individual is guilty of a felony  
11 punishable by imprisonment for not ~~more~~**less** than ~~15~~**5** years or  
12 **more than life or any term of years** or a fine of not more than  
13 \$10,000.00, or both.

14 Sec. 625. (1) A person, whether licensed or not, shall not  
15 operate a vehicle on a highway or other place open to the general  
16 public or generally accessible to motor vehicles, including an area  
17 designated for the parking of vehicles, within this state if the  
18 person is operating while intoxicated. As used in this section,  
19 "operating while intoxicated" means any of the following:

20 (a) The person is under the influence of alcoholic liquor, a  
21 controlled substance, or other intoxicating substance or a  
22 combination of alcoholic liquor, a controlled substance, or other  
23 intoxicating substance.

24 (b) The person has an alcohol content of 0.08 grams or more  
25 per 100 milliliters of blood, per 210 liters of breath, or per 67  
26 milliliters of urine or, beginning 5 years after the state  
27 treasurer publishes a certification under subsection (28), the  
28 person has an alcohol content of 0.10 grams or more per 100  
29 milliliters of blood, per 210 liters of breath, or per 67

1 milliliters of urine.

2 (c) The person has an alcohol content of 0.17 grams or more  
3 per 100 milliliters of blood, per 210 liters of breath, or per 67  
4 milliliters of urine.

5 (2) The owner of a vehicle or a person in charge or in control  
6 of a vehicle shall not authorize or knowingly permit the vehicle to  
7 be operated on a highway or other place open to the general public  
8 or generally accessible to motor vehicles, including an area  
9 designated for the parking of motor vehicles, within this state by  
10 a person if any of the following apply:

11 (a) The person is under the influence of alcoholic liquor, a  
12 controlled substance, other intoxicating substance, or a  
13 combination of alcoholic liquor, a controlled substance, or other  
14 intoxicating substance.

15 (b) The person has an alcohol content of 0.08 grams or more  
16 per 100 milliliters of blood, per 210 liters of breath, or per 67  
17 milliliters of urine or, beginning 5 years after the state  
18 treasurer publishes a certification under subsection (28), the  
19 person has an alcohol content of 0.10 grams or more per 100  
20 milliliters of blood, per 210 liters of breath, or per 67  
21 milliliters of urine.

22 (c) The person's ability to operate the motor vehicle is  
23 visibly impaired due to the consumption of alcoholic liquor, a  
24 controlled substance, or other intoxicating substance, or a  
25 combination of alcoholic liquor, a controlled substance, or other  
26 intoxicating substance.

27 (3) A person, whether licensed or not, shall not operate a  
28 vehicle on a highway or other place open to the general public or  
29 generally accessible to motor vehicles, including an area

1 designated for the parking of vehicles, within this state when, due  
2 to the consumption of alcoholic liquor, a controlled substance, or  
3 other intoxicating substance, or a combination of alcoholic liquor,  
4 a controlled substance, or other intoxicating substance, the  
5 person's ability to operate the vehicle is visibly impaired. If a  
6 person is charged with violating subsection (1), a finding of  
7 guilty under this subsection may be rendered.

8 (4) A person, whether licensed or not, who operates a motor  
9 vehicle in violation of subsection (1), (3), or (8) and by the  
10 operation of that motor vehicle causes the death of another person  
11 is guilty of a crime as follows:

12 (a) ~~Except as provided in subdivisions (b) and (c), the~~ **The**  
13 person is guilty of a felony punishable by imprisonment for not  
14 ~~more~~ **less** than ~~15~~ **5** years or **more than life or any term of years or**  
15 a fine of not less than \$2,500.00 or more than \$10,000.00, or both.  
16 The judgment of sentence may impose the sanction permitted under  
17 section 625n. If the vehicle is not ordered to be forfeited under  
18 section 625n, the court shall order vehicle immobilization under  
19 section 904d in the judgment of sentence.

20 (b) If the violation occurs while the person has an alcohol  
21 content of 0.17 grams or more per 100 milliliters of blood, per 210  
22 liters of breath, or per 67 milliliters of urine, and within 7  
23 years of a prior conviction, the person is guilty of a felony  
24 punishable by imprisonment for not ~~more~~ **less** than ~~20~~ **5** years or  
25 **more than life or any term of years or** a fine of not less than  
26 \$2,500.00 or more than \$10,000.00, or both. The judgment of  
27 sentence may impose the sanction permitted under section 625n. If  
28 the vehicle is not ordered to be forfeited under section 625n, the  
29 court shall order vehicle immobilization under section 904d in the



1 judgment of sentence.

2 (c) If, at the time of the violation, the person is operating  
3 a motor vehicle in a manner proscribed under section 653a and  
4 causes the death of a police officer, firefighter, or other  
5 emergency response personnel, the person is guilty of a felony  
6 punishable by imprisonment for not ~~more~~**less** than ~~20~~**5** years or  
7 **more than life or any term of years** or a fine of not less than  
8 \$2,500.00 or more than \$10,000.00, or both. This subdivision  
9 applies regardless of whether the person is charged with the  
10 violation of section 653a. The judgment of sentence may impose the  
11 sanction permitted under section 625n. If the vehicle is not  
12 ordered to be forfeited under section 625n, the court shall order  
13 vehicle immobilization under section 904d in the judgment of  
14 sentence.

15 (5) A person, whether licensed or not, who operates a motor  
16 vehicle in violation of subsection (1), (3), or (8) and by the  
17 operation of that motor vehicle causes a serious impairment of a  
18 body function of another person is guilty of a crime as follows:

19 (a) Except as provided in subdivision (b), the person is  
20 guilty of a felony punishable by imprisonment for not ~~more~~**less**  
21 than ~~5~~**2** years **and 6 months** or **more than life or any term of years**  
22 **or** a fine of not less than \$1,000.00 or more than \$5,000.00, or  
23 both. The judgment of sentence may impose the sanction permitted  
24 under section 625n. If the vehicle is not ordered to be forfeited  
25 under section 625n, the court shall order vehicle immobilization  
26 under section 904d in the judgment of sentence.

27 (b) If the violation occurs while the person has an alcohol  
28 content of 0.17 grams or more per 100 milliliters of blood, per 210  
29 liters of breath, or per 67 milliliters of urine, and within 7

1 years of a prior conviction, the person is guilty of a felony  
2 punishable by imprisonment for not more than 10 years or a fine of  
3 not less than \$1,000.00 or more than \$5,000.00, or both. The  
4 judgment of sentence may impose the sanction permitted under  
5 section 625n. If the vehicle is not ordered to be forfeited under  
6 section 625n, the court shall order vehicle immobilization under  
7 section 904d in the judgment of sentence.

8 (6) A person who is less than 21 years of age, whether  
9 licensed or not, shall not operate a vehicle on a highway or other  
10 place open to the general public or generally accessible to motor  
11 vehicles, including an area designated for the parking of vehicles,  
12 within this state if the person has any bodily alcohol content. As  
13 used in this subsection, "any bodily alcohol content" means either  
14 of the following:

15 (a) An alcohol content of 0.02 grams or more but less than  
16 0.08 grams per 100 milliliters of blood, per 210 liters of breath,  
17 or per 67 milliliters of urine or, beginning 5 years after the  
18 state treasurer publishes a certification under subsection (28),  
19 the person has an alcohol content of 0.02 grams or more but less  
20 than 0.10 grams per 100 milliliters of blood, per 210 liters of  
21 breath, or per 67 milliliters of urine.

22 (b) Any presence of alcohol within a person's body resulting  
23 from the consumption of alcoholic liquor, other than consumption of  
24 alcoholic liquor as a part of a generally recognized religious  
25 service or ceremony.

26 (7) A person, whether licensed or not, is subject to the  
27 following requirements:

28 (a) ~~He or she~~ **The person** shall not operate a vehicle in  
29 violation of subsection (1), (3), (4), (5), or (8) while another

1 person who is less than 16 years of age is occupying the vehicle. A  
2 person who violates this subdivision is guilty of a crime  
3 punishable as follows:

4 (i) Except as provided in subparagraph (ii), a person who  
5 violates this subdivision is guilty of a misdemeanor and must be  
6 sentenced to pay a fine of not less than \$200.00 or more than  
7 \$1,000.00 and to 1 or more of the following:

8 (A) Imprisonment for not more than 1 year.

9 (B) Community service for not less than 30 days or more than  
10 90 days.

11 (ii) If the violation occurs within 7 years of a prior  
12 conviction or after 2 or more prior convictions, regardless of the  
13 number of years that have elapsed since any prior conviction, a  
14 person who violates this subdivision is guilty of a felony and must  
15 be sentenced to pay a fine of not less than \$500.00 or more than  
16 \$5,000.00 and to either of the following:

17 (A) Imprisonment under the jurisdiction of the department of  
18 corrections for not less than 1 year or more than 5 years.

19 (B) Probation with imprisonment in the county jail for not  
20 less than 30 days or more than 1 year and community service for not  
21 less than 60 days or more than 180 days. Not less than 48 hours of  
22 this imprisonment must be served consecutively.

23 (iii) A term of imprisonment imposed under subparagraph (ii) (A)  
24 or (B) must not be suspended unless the defendant agrees to  
25 participate in a specialty court program and successfully completes  
26 the program.

27 (b) ~~He or she~~ **The person** shall not operate a vehicle in  
28 violation of subsection (6) while another person who is less than  
29 16 years of age is occupying the vehicle. A person who violates

1 this subdivision is guilty of a misdemeanor punishable as follows:

2 (i) Except as provided in subparagraph (ii), a person who  
3 violates this subdivision may be sentenced to 1 or more of the  
4 following:

5 (A) Community service for not more than 60 days.

6 (B) A fine of not more than \$500.00.

7 (C) Imprisonment for not more than 93 days.

8 (ii) If the violation occurs within 7 years of a prior  
9 conviction or after 2 or more prior convictions, regardless of the  
10 number of years that have elapsed since any prior conviction, a  
11 person who violates this subdivision must be sentenced to pay a  
12 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or  
13 more of the following:

14 (A) Imprisonment for not less than 5 days or more than 1 year.  
15 This term of imprisonment must not be suspended unless the  
16 defendant agrees to participate in a specialty court program and  
17 successfully completes the program.

18 (B) Community service for not less than 30 days or more than  
19 90 days.

20 (c) In the judgment of sentence under subdivision (a) (i) or  
21 (b) (i), the court may, unless the vehicle is ordered to be forfeited  
22 under section 625n, order vehicle immobilization as provided in  
23 section 904d. In the judgment of sentence under subdivision (a) (ii)  
24 or (b) (ii), the court shall, unless the vehicle is ordered to be  
25 forfeited under section 625n, order vehicle immobilization as  
26 provided in section 904d.

27 (d) This subsection does not prohibit a person from being  
28 charged with, convicted of, or punished for a violation of  
29 subsection (4) or (5) that is committed by the person while

1 violating this subsection. However, points shall not be assessed  
2 under section 320a for both a violation of subsection (4) or (5)  
3 and a violation of this subsection for conduct arising out of the  
4 same transaction.

5 (8) A person, whether licensed or not, shall not operate a  
6 vehicle on a highway or other place open to the general public or  
7 generally accessible to motor vehicles, including an area  
8 designated for the parking of vehicles, within this state if the  
9 person has in ~~his or her~~ **the person's** body any amount of a  
10 controlled substance listed in schedule 1 under section 7212 of the  
11 public health code, 1978 PA 368, MCL 333.7212, or a rule  
12 promulgated under that section, or of a controlled substance  
13 described in section 7214(a) (iv) of the public health code, 1978 PA  
14 368, MCL 333.7214.

15 (9) If a person is convicted of violating subsection (1) or  
16 (8), all of the following apply:

17 (a) Except as otherwise provided in subdivisions (b) and (c),  
18 the person is guilty of a misdemeanor punishable by 1 or more of  
19 the following:

20 (i) Community service for not more than 360 hours.

21 (ii) Imprisonment for not more than 93 days, or, if the person  
22 is convicted of violating subsection (1)(c), imprisonment for not  
23 more than 180 days.

24 (iii) A fine of not less than \$100.00 or more than \$500.00, or,  
25 if the person is guilty of violating subsection (1)(c), a fine of  
26 not less than \$200.00 or more than \$700.00.

27 (b) If the violation occurs within 7 years of a prior  
28 conviction, the person must be sentenced to pay a fine of not less  
29 than \$200.00 or more than \$1,000.00 and 1 or more of the following:

1 (i) Imprisonment for not less than 5 days or more than 1 year.

2 (ii) Community service for not less than 30 days or more than  
3 90 days.

4 (c) If the violation occurs after 2 or more prior convictions,  
5 regardless of the number of years that have elapsed since any prior  
6 conviction, the person is guilty of a felony and must be sentenced  
7 to pay a fine of not less than \$500.00 or more than \$5,000.00 and  
8 to either of the following:

9 (i) Imprisonment under the jurisdiction of the department of  
10 corrections for not less than 1 year or more than 5 years.

11 (ii) Probation with imprisonment in the county jail for not  
12 less than 30 days or more than 1 year and community service for not  
13 less than 60 days or more than 180 days. Not less than 48 hours of  
14 the imprisonment imposed under this subparagraph must be served  
15 consecutively.

16 (d) A term of imprisonment imposed under subdivision (b) or  
17 (c) must not be suspended unless the defendant agrees to  
18 participate in a specialty court program and successfully completes  
19 the program.

20 (e) In the judgment of sentence under subdivision (a), the  
21 court may order vehicle immobilization as provided in section 904d.  
22 In the judgment of sentence under subdivision (b) or (c), the court  
23 shall, unless the vehicle is ordered to be forfeited under section  
24 625n, order vehicle immobilization as provided in section 904d.

25 (f) In the judgment of sentence under subdivision (b) or (c),  
26 the court may impose the sanction permitted under section 625n.

27 (10) A person who is convicted of violating subsection (2) is  
28 guilty of a crime as follows:

29 (a) Except as provided in subdivisions (b) and (c), a

1 misdemeanor punishable by imprisonment for not more than 93 days or  
2 a fine of not less than \$100.00 or more than \$500.00, or both.

3 (b) If the person operating the motor vehicle violated  
4 subsection (4), a felony punishable by imprisonment for not more  
5 than 5 years or a fine of not less than \$1,500.00 or more than  
6 \$10,000.00, or both.

7 (c) If the person operating the motor vehicle violated  
8 subsection (5), a felony punishable by imprisonment for not more  
9 than 2 years or a fine of not less than \$1,000.00 or more than  
10 \$5,000.00, or both.

11 (11) If a person is convicted of violating subsection (3), all  
12 of the following apply:

13 (a) Except as otherwise provided in subdivisions (b) and (c),  
14 the person is guilty of a misdemeanor punishable by 1 or more of  
15 the following:

16 (i) Community service for not more than 360 hours.

17 (ii) Imprisonment for not more than 93 days.

18 (iii) A fine of not more than \$300.00.

19 (b) If the violation occurs within 7 years of 1 prior  
20 conviction, the person must be sentenced to pay a fine of not less  
21 than \$200.00 or more than \$1,000.00, and 1 or more of the  
22 following:

23 (i) Imprisonment for not less than 5 days or more than 1 year.

24 (ii) Community service for not less than 30 days or more than  
25 90 days.

26 (c) If the violation occurs after 2 or more prior convictions,  
27 regardless of the number of years that have elapsed since any prior  
28 conviction, the person is guilty of a felony and must be sentenced  
29 to pay a fine of not less than \$500.00 or more than \$5,000.00 and

1 either of the following:

2 (i) Imprisonment under the jurisdiction of the department of  
3 corrections for not less than 1 year or more than 5 years.

4 (ii) Probation with imprisonment in the county jail for not  
5 less than 30 days or more than 1 year and community service for not  
6 less than 60 days or more than 180 days. Not less than 48 hours of  
7 the imprisonment imposed under this subparagraph must be served  
8 consecutively.

9 (d) A term of imprisonment imposed under subdivision (b) or  
10 (c) must not be suspended unless the defendant agrees to  
11 participate in a specialty court program and successfully completes  
12 the program.

13 (e) In the judgment of sentence under subdivision (a), the  
14 court may order vehicle immobilization as provided in section 904d.  
15 In the judgment of sentence under subdivision (b) or (c), the court  
16 shall, unless the vehicle is ordered to be forfeited under section  
17 625n, order vehicle immobilization as provided in section 904d.

18 (f) In the judgment of sentence under subdivision (b) or (c),  
19 the court may impose the sanction permitted under section 625n.

20 (12) If a person is convicted of violating subsection (6), all  
21 of the following apply:

22 (a) Except as otherwise provided in subdivision (b), the  
23 person is guilty of a misdemeanor punishable by 1 or both of the  
24 following:

25 (i) Community service for not more than 360 hours.

26 (ii) A fine of not more than \$250.00.

27 (b) If the violation occurs within 7 years of 1 or more prior  
28 convictions, the person may be sentenced to 1 or more of the  
29 following:



1 (i) Community service for not more than 60 days.

2 (ii) A fine of not more than \$500.00.

3 (iii) Imprisonment for not more than 93 days.

4 (13) In addition to imposing the sanctions prescribed under  
5 this section, the court may order the person to pay the costs of  
6 the prosecution under the code of criminal procedure, 1927 PA 175,  
7 MCL 760.1 to 777.69.

8 (14) A person sentenced to perform community service under  
9 this section must not receive compensation and must reimburse the  
10 state or appropriate local unit of government for the cost of  
11 supervision incurred by the state or local unit of government as a  
12 result of the person's activities in that service.

13 (15) If the prosecuting attorney intends to seek an enhanced  
14 sentence under this section or a sanction under section 625n based  
15 on the defendant having 1 or more prior convictions, the  
16 prosecuting attorney shall include on the complaint and  
17 information, or an amended complaint and information, filed in  
18 district court, circuit court, municipal court, or family division  
19 of circuit court, a statement listing the defendant's prior  
20 convictions.

21 (16) If a person is charged with a violation of subsection  
22 (1), (3), (4), (5), (7), or (8) or section 625m, the court shall  
23 not permit the defendant to enter a plea of guilty or nolo  
24 contendere to a charge of violating subsection (6) in exchange for  
25 dismissal of the original charge. This subsection does not prohibit  
26 the court from dismissing the charge on the prosecuting attorney's  
27 motion.

28 (17) A prior conviction must be established at sentencing by 1  
29 or more of the following:

1 (a) A copy of a judgment of conviction.

2 (b) An abstract of conviction.

3 (c) A transcript of a prior trial or a plea-taking or  
4 sentencing proceeding.

5 (d) A copy of a court register of actions.

6 (e) A copy of the defendant's driving record.

7 (f) Information contained in a presentence report.

8 (g) An admission by the defendant.

9 (18) Except as otherwise provided in subsection (20), if a  
10 person is charged with operating a vehicle while under the  
11 influence of a controlled substance or other intoxicating substance  
12 or a combination of alcoholic liquor, a controlled substance, or  
13 other intoxicating substance in violation of subsection (1) or a  
14 local ordinance substantially corresponding to subsection (1), the  
15 court shall require the jury to return a special verdict in the  
16 form of a written finding or, if the court convicts the person  
17 without a jury or accepts a plea of guilty or nolo contendere, the  
18 court shall make a finding as to whether the person was under the  
19 influence of a controlled substance or other intoxicating substance  
20 or a combination of alcoholic liquor, a controlled substance, or  
21 other intoxicating substance at the time of the violation.

22 (19) Except as otherwise provided in subsection (20), if a  
23 person is charged with operating a vehicle while ~~his or her~~ **the**  
24 **person's** ability to operate the vehicle was visibly impaired due to  
25 ~~his or her~~ **the person's** consumption of a controlled substance or  
26 other intoxicating substance or a combination of alcoholic liquor,  
27 a controlled substance, or other intoxicating substance in  
28 violation of subsection (3) or a local ordinance substantially  
29 corresponding to subsection (3), the court shall require the jury

1 to return a special verdict in the form of a written finding or, if  
2 the court convicts the person without a jury or accepts a plea of  
3 guilty or nolo contendere, the court shall make a finding as to  
4 whether, due to the consumption of a controlled substance or a  
5 combination of alcoholic liquor, a controlled substance, or other  
6 intoxicating substance, the person's ability to operate a motor  
7 vehicle was visibly impaired at the time of the violation.

8 (20) A special verdict described in subsections (18) and (19)  
9 is not required if a jury is instructed to make a finding solely as  
10 to either of the following:

11 (a) Whether the defendant was under the influence of a  
12 controlled substance or a combination of alcoholic liquor, a  
13 controlled substance, or other intoxicating substance at the time  
14 of the violation.

15 (b) Whether the defendant was visibly impaired due to ~~his or~~  
16 ~~her~~ **the defendant's** consumption of a controlled substance or a  
17 combination of alcoholic liquor, a controlled substance, or other  
18 intoxicating substance at the time of the violation.

19 (21) If a jury or court finds under subsection (18), (19), or  
20 (20) that the defendant operated a motor vehicle under the  
21 influence of or while impaired due to the consumption of a  
22 controlled substance or a combination of a controlled substance, an  
23 alcoholic liquor, or other intoxicating substance, the court shall  
24 do both of the following:

25 (a) Report the finding to the secretary of state.

26 (b) On a form or forms prescribed by the state court  
27 administrator, forward to the department of state police a record  
28 that specifies the penalties imposed by the court, including any  
29 term of imprisonment, and any sanction imposed under section 625n

1 or 904d.

2 (22) Except as otherwise provided by law, a record described  
3 in subsection (21)(b) is a public record and the department of  
4 state police shall retain the information contained on that record  
5 for not less than 7 years.

6 (23) In a prosecution for a violation of subsection (6), the  
7 defendant bears the burden of proving that the consumption of  
8 alcoholic liquor was a part of a generally recognized religious  
9 service or ceremony by a preponderance of the evidence.

10 (24) The court may order as a condition of probation that a  
11 person convicted of violating subsection (1) or (8), or a local  
12 ordinance substantially corresponding to subsection (1) or (8),  
13 shall not operate a motor vehicle unless that vehicle is equipped  
14 with an ignition interlock device approved, certified, and  
15 installed as required under sections 625k and 625l.

16 (25) As used in this section:

17 (a) "Intoxicating substance" means any substance, preparation,  
18 or a combination of substances and preparations other than alcohol  
19 or a controlled substance, that is either of the following:

20 (i) Recognized as a drug in any of the following publications  
21 or their supplements:

22 (A) The official United States Pharmacopoeia.

23 (B) The official Homeopathic Pharmacopoeia of the United  
24 States.

25 (C) The official National Formulary.

26 (ii) A substance, other than food, taken into a person's body,  
27 including, but not limited to, vapors or fumes, that is used in a  
28 manner or for a purpose for which it was not intended, and that may  
29 result in a condition of intoxication.

1 (b) "Prior conviction" means a conviction for any of the  
2 following, whether under a law of this state, a local ordinance  
3 substantially corresponding to a law of this state, a law of the  
4 United States substantially corresponding to a law of this state,  
5 or a law of another state substantially corresponding to a law of  
6 this state, subject to subsection (27):

7 (i) Except as provided in subsection (26), a violation or  
8 attempted violation of any of the following:

9 (A) This section, except a violation of subsection (2), or a  
10 violation of any prior enactment of this section in which the  
11 defendant operated a vehicle while under the influence of  
12 intoxicating or alcoholic liquor or a controlled substance, or a  
13 combination of intoxicating or alcoholic liquor and a controlled  
14 substance, or while visibly impaired, or with an unlawful bodily  
15 alcohol content.

16 (B) Section 625m.

17 (C) Former section 625b.

18 (ii) Negligent homicide, manslaughter, or murder resulting from  
19 the operation of a vehicle or an attempt to commit any of those  
20 crimes.

21 (iii) Section 601d or 626(3) or (4).

22 (26) Except for purposes of the enhancement described in  
23 subsection (12)(b), only 1 violation or attempted violation of  
24 subsection (6), a local ordinance substantially corresponding to  
25 subsection (6), or a law of another state substantially  
26 corresponding to subsection (6) may be used as a prior conviction.

27 (27) If 2 or more convictions described in subsection (25) are  
28 convictions for violations arising out of the same transaction,  
29 only 1 conviction must be used to determine if the person has a

1 prior conviction.

2 (28) Not later than 30 days after this state no longer  
3 receives annual federal highway construction funding conditioned on  
4 compliance with a national blood alcohol limit, the state treasurer  
5 shall certify that fact. The state treasurer shall publish a  
6 certification under this subsection on the department of treasury's  
7 website.

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