

1998 PUBLIC AND LOCAL ACTS

[No. 510]

(SB 1220)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 139, 193, 197c, and 231 (MCL 750.139, 750.193, 750.197c, and 750.231), section 139 as amended by 1991 PA 145, section 193 as amended by 1988 PA 167, and section 231 as amended by 1981 PA 103.

The People of the State of Michigan enact:

750.139 Child under 16 years of age; confinement; commitment or trial; presence at trial of adults; transportation with adults charged with or convicted of crime; exception; violation as misdemeanor.
[M.S.A. 28.334]

Sec. 139. (1) Except as provided in subsection (2), a child under 16 years of age while under arrest, confinement, or conviction for any crime, shall not be placed in any apartment or cell of any prison or place of confinement with any adult who is under arrest, confinement, or conviction for any crime, or be permitted to remain in any court room during the trial of adults, or be transported in any vehicle of transportation in company with adults charged with or convicted of crime.

(2) Subsection (1) does not apply to prisoners being transported to or from, or confined in a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

(3) All cases involving the commitment or trial of children under 16 years of age for any crime or misdemeanor, before any court, shall be heard and determined by the court at a suitable time, to be designated by it, separate and apart from the trial of other criminal cases.

(4) Any person who violates this section is guilty of a misdemeanor.

750.193 Breaking prison, escaping, attempting to break prison, or attempting to escape as felony; penalty; place of trial; "prison" defined; escaping from lawful custody outside confines of prison; escape from mental health facility; violation by person released under work pass program; person violating parole not escapee.
[M.S.A. 28.390]

Sec. 193. (1) A person imprisoned in a prison of this state who breaks prison and escapes, breaks prison though an escape is not actually made, escapes, leaves the prison without being discharged by due process of law, attempts to break prison, or attempts to escape from prison, is guilty of a felony, punishable by further imprisonment for not more than 5 years. The term of the further imprisonment shall be served after the termination, pursuant to law, of the sentence or sentences then being served. A prisoner who breaks prison, escapes, attempts to break prison, or attempts to escape, shall be charged with that offense and tried in the courts of the county in which the prison or penal facility to which the prisoner was committed or transferred is located at the time of the breaking, escape, or attempt to break or escape.

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(2) As used in this section, "prison" means a facility that houses prisoners committed to the jurisdiction of the department of corrections and includes the grounds, farm, shop, road camp, or place of employment operated by the facility or under control of the officers of the facility, the department of corrections, a police officer of this state, or any other person authorized by the department of corrections to have a prisoner under care, custody, or supervision, either in a facility or outside a facility, whether for the purpose of work, medical care, or any other reason.

(3) A person who escapes from the lawful custody of a guard, prison official, or an employee while outside the confines of a prison is guilty of a violation of this section. A person, admitted to a facility of the department of mental health from a prison pursuant to sections 1001 to 1006 of the mental health code, 1974 PA 258, MCL 330.2001 to 330.2006, who escapes from the mental health facility is guilty of a violation of this section. A person released from prison under a work pass program who violates the terms of the release or fails to return to the place of imprisonment within the time provided is guilty of a violation of this section. A person violating the conditions of a parole is not an escapee under this act.

750.197c Breaking or escaping jail, health care facility, or other place of confinement; definitions. [M.S.A. 28.394(3)]

Sec. 197c. (1) A person lawfully imprisoned in a jail, other place of confinement established by law for any term, or lawfully imprisoned for any purpose at any other place, including but not limited to hospitals and other health care facilities or awaiting examination, trial, arraignment, sentence, or after sentence awaiting or during transfer to or from a prison, for a crime or offense, or charged with a crime or offense who, without being discharged from the place of confinement, or other lawful imprisonment by due process of law, through the use of violence, threats of violence or dangerous weapons, assaults an employee of the place of confinement or other custodian knowing the person to be an employee or custodian or breaks the place of confinement and escapes, or breaks the place of confinement although an escape is not actually made, is guilty of a felony.

(2) As used in this section:

(a) "Place of confinement" includes a youth correctional facility operated by the department of corrections or a private vendor under section 20g of 1953 PA 232, MCL 791.220g.

(b) "Employee" includes persons who are employed by the place of confinement as independent contractors.

750.231 Sections 750.224, 750.227, 750.227c, and 750.227d inapplicable to certain persons and organizations. [M.S.A. 28.428]

Sec. 231. Sections 224, 227, 227c, and 227d do not apply to any of the following:

(a) A peace officer of a duly authorized police agency of the United States, of this state, or of any political subdivision of this state, who is regularly employed and paid by the United States, this state, or a political subdivision of this state.

(b) Any person regularly employed by the state department of corrections, and authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(c) A person employed by a private vendor that operates a youth correctional facility authorized under section 20g of 1953 PA 232, MCL 791.220g, who meets the same criteria established by the director of the state department of corrections for departmental employees described in subdivision (b) and who is authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

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(d) Any member of the army, air force, navy, or marine corps of the United States when carrying weapons in line of or incidental to duty.

(e) Organizations authorized by law to purchase or receive weapons from the United States or from this state.

(f) Members of the national guard, armed forces reserves, or other duly authorized military organizations when on duty or drill, or in going to or returning from their places of assembly or practice by a direct route or otherwise, while carrying weapons used for purposes of the national guard, armed forces reserves, or other duly authorized military organizations.

This act is ordered to take immediate effect.

Approved January 7, 1999.

Filed with Secretary of State January 8, 1999.
