

## 2000 PUBLIC AND LOCAL ACTS

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[No. 220]

(HB 4238)

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 sections 1e, 16a, and 27 of chapter IX (MCL 769.1e, 769.16a, and 769.27), section 1e as added by 1993 PA 360 and section 16a as amended by 1999 PA 87, and by adding section 1h to chapter IX.

*The People of the State of Michigan enact:*

### CHAPTER IX

769.1e Violations of criminal law; licensing sanctions; report of finding to secretary of state; "license" defined. [M.S.A. 28.1073(4)]

Sec. 1e. (1) If a law of this state requires the court to deny the issuance of a license to a person, or revoke, suspend, or restrict the license of a person, for a violation of a criminal law of this state or a local ordinance substantially corresponding to a criminal law of this state, the court shall impose the licensing sanctions as provided by law for the violation.

(2) The licensing sanctions referred to in subsection (1) include, but are not limited to, the licensing sanctions required under section 7408a of the public health code, 1978 PA 368, MCL 333.7408a.

(3) A court shall report a finding made by a jury or the court to the secretary of state as required under section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(4) As used in this section, "license" means that term as defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

769.1h Consecutive or concurrent sentence. [M.S.A. 28.1086(7)]

Sec. 1h. (1) A judgment of sentence committing an individual to the jurisdiction of the department of corrections shall specify whether the sentence is to run consecutively to or concurrently with any other sentence the defendant is or will be serving, as provided by law.

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(2) Upon sentencing a defendant, the court shall provide a copy of the judgment of sentence to the prosecuting attorney, the defendant, and the defendant's counsel.

(3) The prosecuting attorney or the defendant's counsel, or the defendant if he or she is not represented, may file an objection to the judgment of sentence on the issue of whether the sentence is to run consecutively to or concurrent with any other sentence the defendant is or will be serving. The court shall promptly hold a hearing on any objection filed. The procedure for reviewing a judgment of sentence provided in this subsection is in addition to any other review procedure authorized by statute or court rule.

769.16a Report by clerk of final disposition to department of state police; forms; fingerprints; reporting conviction.

[M.S.A. 28.1086(1)]

Sec. 16a. (1) Except as otherwise provided in subsection (3), upon final disposition of an original charge against a person of a felony or a misdemeanor for which the maximum possible penalty exceeds 92 days' imprisonment or a local ordinance for which the maximum possible penalty is 93 days' imprisonment and that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum possible penalty is 93 days' imprisonment, the clerk of the court entering the disposition shall immediately advise the department of state police of the final disposition of the charge on forms approved by the state court administrator and in a manner consistent with section 3 of 1925 PA 289, MCL 28.243. The report to the department of state police shall include information as to the finding of the judge or jury, including a finding of guilty, guilty but mentally ill, not guilty, or not guilty by reason of insanity, or the person's plea of guilty, nolo contendere, or guilty but mentally ill; if the person was convicted, the offense of which the person was convicted; and a summary of any sentence imposed. The summary of the sentence shall include any probationary term; any minimum, maximum, or alternative term of imprisonment; the total of all fines, costs, and restitution ordered; and any modification of sentence. If the sentence is imposed under any of the following sections, the report shall so indicate:

(a) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(b) Sections 11 to 15 of chapter II.

(c) Section 4a of chapter IX.

(2) Upon sentencing a person convicted of a misdemeanor or of a violation of a local ordinance, other than a misdemeanor or local ordinance described in subsection (1), the clerk of the court imposing sentence immediately shall, if ordered by the court, advise the department of state police of the conviction on forms approved by the state court administrator.

(3) Except as otherwise provided in subsection (5), the clerk of a court is not required to, unless ordered by the court, report a conviction of a misdemeanor offense if either of the following applies:

(a) The conviction is for a violation of section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904, or a local ordinance substantially corresponding to section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904.

(b) A sentence of imprisonment is not imposed, except as an alternative sentence, and any fine and costs ordered total less than \$100.00.

(4) As part of the sentence for a conviction of an offense described in subsection (2), the court shall order that the fingerprints of the person convicted be taken and forwarded to the department of state police if fingerprints have not already been taken.

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(5) As part of the sentence for a conviction of a listed offense as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court shall order that the fingerprints of the person convicted be taken and forwarded as provided in the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732, if fingerprints have not already been taken and forwarded as provided in that act.

(6) Before the expiration of 21 days after the date a person licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, is convicted of a misdemeanor involving the illegal delivery, possession, or use of alcohol or a controlled substance or a felony, the clerk of the court entering the conviction shall report the conviction to the department of consumer and industry services. The form of the report shall be prescribed and furnished by the department of consumer and industry services.

769.27 Change of sentence by court; notice to prosecuting attorney, defendant, and defendant's counsel; objection; hearing.  
[M.S.A. 28.1097]

Sec. 27. If the court changes any sentence imposed under this act in any respect, the clerk of the court shall give written notice of the change to the prosecuting attorney, the defendant, and the defendant's counsel. The prosecuting attorney, the defendant's counsel, or the defendant may file an objection to the change. The court shall promptly hold a hearing on any objection filed.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2000.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4239 of the 90th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved June 26, 2000.

Filed with Secretary of State June 27, 2000.

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**Compiler's note:** House Bill No. 4239, referred to in enacting section 2, was filed with the Secretary of State June 27, 2000, and became P.A. 2000, No. 221, Eff. Oct. 1, 2000.

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