

# Guide to Michigan's 2020 Jail Reforms

*Michigan Joint Task Force on Jail and Pretrial Incarceration*



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Includes House Bills 5846, 5847, 5849, 5850, 5851, 5852, 5853, 5854, 5855, 5856, 5857, and 6235; House Concurrent Resolution 29; and Senate Bills 1046, 1047, 1048, 1049, 1050, and 1051, signed January 4, 2021 into Public Acts 375 to 387 and 393 to 398 of 2020.

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## Introduction

This guide provides in-depth descriptions of Michigan’s 2020 jail reforms—a package of 20 bills based on recommendations from the Michigan Joint Task Force on Jail and Pretrial Incarceration—and how they changed state laws. This guide is offered as a resource to courtroom attorneys, corrections and law enforcement practitioners, advocates, and members of the public affected by the state’s criminal justice system. For each change in state law, this guide identifies the relevant bill and corresponding Public Act, the statutes affected, the changes from prior law, and the effective date of the changes. The guide provides an outline of the statutory changes and is intended to be thorough but not exhaustive. To be sure of the applicable law, consult the relevant statutes.

### Michigan Joint Task Force on Jail and Pretrial Incarceration

In February 2019, state and county leaders elevated jails as a shared priority and directed an inter-branch, bipartisan body to study Michigan’s jails and craft policy recommendations for the legislature. Created through Executive Order 2019-10, the Michigan Joint Task Force on Jail and Pretrial Incarceration (Task Force) was comprised of lawmakers, courtroom practitioners, law enforcement officials, and community members, and chaired by Chief Justice Bridget McCormack and Lieutenant Governor Garlin Gilchrist.

Over the course of its work, the Task Force examined 10 years of statewide arrest and court data and three years of data from a large and diverse sample of county jails. The Task Force held dozens of stakeholder interviews and roundtables, received testimony from hundreds of people across the state, and reviewed relevant research and constitutional jurisprudence. Among the Task Force’s findings:

- County jail populations tripled in less than 40 years, costing taxpayers nearly half a billion dollars annually. This growth was driven equally by pretrial and post-conviction incarceration, and most people admitted to jail were charged with low-level offenses.
- Driving without a valid license was the third most common reason for jail admission, and hundreds of thousands of driver’s licenses were suspended each year for reasons unrelated to dangerous driving.
- Even for low-level offenses, people in Michigan were routinely sentenced to jail. Those serving sentences often had the longest stays in jail and took up the most bed space.
- The most common reason for arrest statewide was for missed court appearance, and warrants drove nearly half of all arrests. Arresting and booking someone into jail can take a law enforcement officer off the street for several hours, even for minor crimes with no public safety threat. Timesaving alternatives, like appearance tickets or summonses, exist but were rarely encouraged in state law.
- Michigan had the sixth highest rate of people on community supervision in the country, leaving hundreds of thousands of people at risk of jail incarceration if they violate or cannot keep up with the rules of their supervision. Responses to supervision violations varied widely across the state, despite evidence that certain and proportional responses produce better outcomes for those on supervision.
- Recent studies have found that jail detention has many negative impacts, like loss of employment or child custody, that can destabilize individuals and increase future offending.

In January 2020, the Task Force issued its final report and recommendations for state policy changes. The Task Force determined that while jail may be appropriate for those who pose a significant threat to an individual or the public, state laws should expand and incentivize jail alternatives for those who do not. Their recommendations were extensive, covering traffic violations, arrests, behavioral health diversion, pretrial release and detention, speedy trials, sentencing, probation and parole, financial barriers for system-involved individuals, victim services, and data collection.

For more information about the Task Force, its membership, findings, and recommendations, please see the final report available at <https://tinyurl.com/MichiganJailsTaskForceReport>.

## Legislation

A diverse group of Republican and Democratic state senators and representatives turned many of the recommendations issued by the Task Force into a bipartisan package of bills. Over the course of the year, the bills were vetted by lawmakers and refined with extensive input from prosecutors, judges, sheriffs, crime victims, reform advocates, and members of the public. The package was ultimately supported by a broad range of stakeholders and community groups, and every bill passed with large majorities in the House and Senate.

Together the bills seek to expand the use of jail alternatives and reserve jail for public safety risks. The details of each bill are described throughout this guide, but in brief they do the following:

- **HB 5846 by Rep. Bronna Kahle** (R, District 57), **HB 5847 by Rep. Luke Meerman** (R, District 88), **HB 5849 by Rep. Mike Mueller** (R, District 51), **HB 5850 by Rep. Rebekah Warren** (D, District 55), **HB 5851 by Rep. Tenisha Yancey** (D, District 1), **HB 5852 by Rep. Lori Stone** (D, District 28), **HB 6235 by Rep. Cynthia Neeley** (D, District 34), and **HCR 29 by Rep. Beau LaFave** (R, District 108) eliminate license suspension for violations of the law unrelated to dangerous driving.
- **HB 5853 by Rep. Bronna Kahle** (R, District 57) reclassifies many traffic misdemeanors as civil infractions.
- **HB 5854 by Rep. Tim Sneller** (D, District 50), **HB 5855 by Rep. Tommy Brann** (R, District 77), **HB 5856 by Rep. Steven Johnson** (R, District 72), **HB 5857 by Rep. Jack O'Malley** (R, District 101), and **HB 5844 by Rep. Joe Bellino** (R, District 17) eliminate mandatory minimum jail sentences in the Motor Vehicle Code, School Code, Natural Resources and Environmental Protection Act, Railroad Code, and Public Health Code.
- **SB 1046 by Sen. Roger Victory** (R, District 30) expands law enforcement discretion to issue citations for most misdemeanors and presumes citation in lieu of arrest in many cases.
- **SB 1047 by Sen. Jeff Irwin** (D, District 18) ensures summonses are used for most first-time failures to appear and allows defendants to resolve low-level warrants without being arrested.
- **SB 1048 by Sen. Sylvia Santana** (D, District 3) creates a presumption of a sentence other than jail for most misdemeanors and certain felonies.
- **SB 1049 by Sen. Stephanie Chang** (D, District 1) expands eligibility for deferred judgment of guilt to 24- and 25-year-olds under the Holmes Youthful Trainee Act.
- **SB 1050 by Sen. Michael MacDonald** (R, District 10) reduces probation terms, tailors probation conditions to address risks and needs, and caps jail sanctions for technical probation violations.
- **SB 1051 by Sen. Ed McBroom** (R, District 38) tailors parole conditions to address risks and needs.

## Appearance Tickets

Appearance tickets, also known as criminal citations, provide a date and time for an individual to appear in court and can be used upon commission of a crime instead of a custodial arrest and jail booking. The law previously authorized law enforcement officers to issue appearance tickets for only the lowest level misdemeanors, those eligible for sentences of up to 93 days in jail. To prioritize resources for more serious threats to public safety and reduce arrests and jail admissions, the new law expands the discretion of law enforcement to issue appearance tickets to most misdemeanors. It also adds a presumption for the use of an appearance ticket in lieu of arrest for most situations, requiring a justification in the arrest record for departure from this presumption.

Legislation	Code Amended	Effective Date	Summary
<b>SB 1046 (PA 393)</b>	Code of criminal procedure (MCL 764)	April 1, 2021	Modifies eligibility and procedures for issuing appearance tickets (citations) in lieu of custodial arrests.

### Eligibility

Instead of arresting and taking a person before a magistrate, a law enforcement officer may issue an appearance ticket to a person stopped without a warrant for any misdemeanor or ordinance violation (exceptions below) and release the person.<sup>1</sup> The following individuals are not eligible for an appearance ticket under the new law:

- Person arrested for an offense involving domestic violence;<sup>2</sup>
- Person subject to detainment for violating a personal protective order;
- Person subject to a mandatory period of confinement, condition of bond, or other condition of release until he or she has served that period of confinement or meets that requirement of bond or other condition of release;
- Person arrested for a serious misdemeanor;<sup>3</sup> or
- Person arrested for any other assaultive crime.<sup>4</sup>

### Presumption

Police officers must issue appearance tickets to, and release from custody, any person eligible for an appearance ticket above. However, officers have discretion to make a custodial arrest under the following circumstances.<sup>5</sup>

- The person refuses to follow the police officer's reasonable instructions.
- The person will not offer satisfactory evidence of identification.
- There is a reasonable likelihood that the offense would continue or resume, or that another person or property would be endangered, if the person is released.

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<sup>1</sup> Amended subsections MCL 764.9c (1) and (3).

<sup>2</sup> As defined in MCL 400.1501. See Appendix A for definitions.

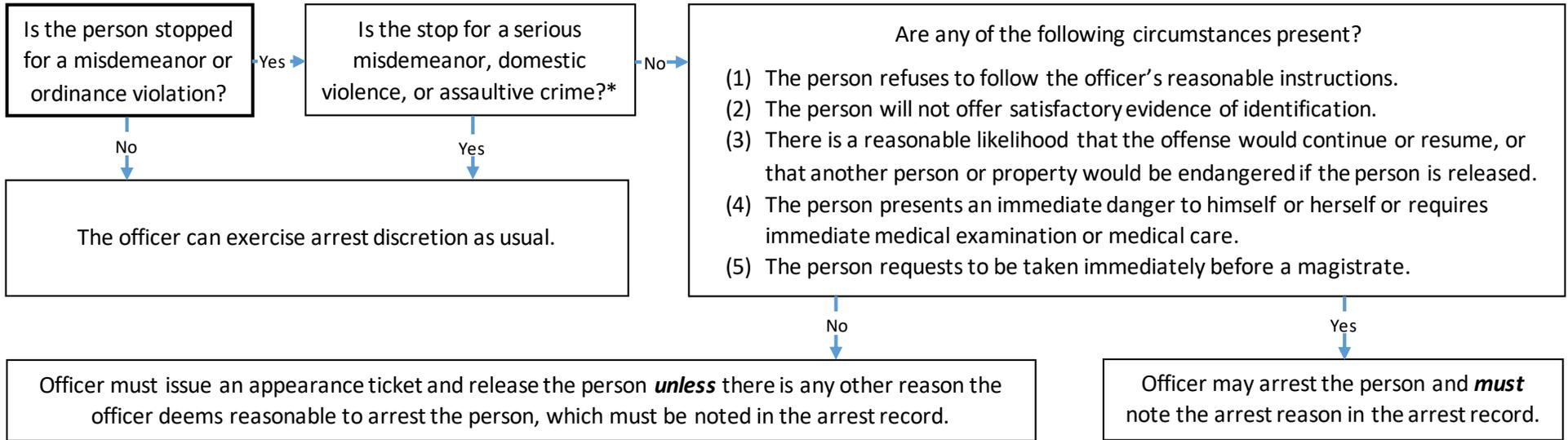
<sup>3</sup> As defined in MCL 780.811. See Appendix A for definitions.

<sup>4</sup> As defined in MCL 770.9a. However, the only misdemeanors included in that definition are 4<sup>th</sup> Degree Criminal Sexual Conduct (MCL 750.520e) and several Explosives, Bombs, and Harmful Devices offenses (MCL 750.200 to 212a). Note that this usage of "assaultive crime" is different than its definition elsewhere in the package and in Appendix A.

<sup>5</sup> New subsections MCL 764.9c (4)-(8).

- The person presents an immediate danger to himself or herself or requires immediate medical examination or medical care.
- The person requests to be taken immediately before a magistrate.
- Any other reason the police officer may deem reasonable to arrest the person, which must be articulated in the arrest report.

If the officer determines that one of the above circumstances applies and arrests the person, the officer must specify the reason for not issuing an appearance ticket in the arrest report or other documentation, as applicable. A flowchart outlining when appearance tickets should be issued is outlined below.



### Process

An officer issues the appearance ticket; releases the person; and forwards the ticket to the court, appropriate prosecuting authority, or both, for review without delay. The following additional process changes apply.

- An arrested person who is taken into custody under this statute instead of being issued an appearance ticket must be charged by the appropriate prosecuting authority or released from custody not later than 3:00 p.m. the immediately following day during which arraignments may be performed.
- The new law does not create a right to the issuance of an appearance ticket in lieu of arrest. An arrested person may appeal the legality of his or her arrest as provided by law. However, an arrested person does not have a claim for damages against a police officer or law enforcement agency because he or she was arrested rather than issued an appearance ticket.
- Appearance tickets must now provide a space for the defendant's cell phone number and email address.<sup>6</sup>

\* The officer must also not issue an appearance ticket if the person has violated a personal protective order or is subject to a mandatory period of confinement, condition of bond, or other condition of release.

<sup>6</sup> Amended subsection MCL 764.9f (1).

## Arrest Warrants

To free up law enforcement resources to focus on immediate threats to public safety, the new law limits the use of bench warrants for individuals who fail to appear for court hearings or to pay fines and fees. Individuals remain accountable for their underlying charges and bench warrants can still be issued for repeated failures to appear or for public safety concerns.

Legislation	Code Amended	Effective Date	Summary
<b>SB 1047 (PA 394)</b>	Code of criminal procedure (MCL 764 & 765)	April 1, 2021	Modifies procedures relating to the issuance of bench warrants for failure to appear and for other processes related to arrest warrants.

## Summons in Lieu of Warrant at Case Initiation

The new law implements a presumption that a judge or magistrate issue a summons, instead of an arrest warrant, at case initiation unless:

- The complaint is for an assaultive crime<sup>7</sup> or an offense involving domestic violence;<sup>8</sup>
- There is reason to believe that the defendant will not appear upon issuance of a summons;
- The issuance of a summons poses a public safety risk; or
- The prosecutor requests a warrant.

The new law requires that a summons be in a similar form as a warrant and delivered or mailed to a defendant's last known address.<sup>9</sup>

## Voluntary Appearance on Warrant

To encourage appearance in court for people with low-level outstanding warrants, the new law requires swift processing, without arrest, of defendants with certain outstanding warrants who voluntarily present themselves to the court within one year of the issuance of the warrant. To be eligible for this benefit, defendants must not have an outstanding warrant for an assaultive crime<sup>10</sup> or an offense involving domestic violence.<sup>11</sup> The court may also deny defendants the benefit of the procedure if they have already taken advantage of it on any active criminal charges.

Upon voluntary appearance at the court, if a judicial officer is available to arraign the person on the warrant within two hours of his or her appearance, the court must arraign the person and set his or her case for the next stage of criminal proceedings. When the judicial officer sets bond or other conditions of release at arraignment pursuant to this subsection, it must be presumed that the person is not a flight risk. If a judicial officer is not available to arraign the person on the warrant within two hours of the person's appearance, the court must recall the warrant and schedule the case for future arraignment.<sup>12</sup>

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<sup>7</sup> As defined in new subsection MCL 764.1a (9). See Appendix A for definitions.

<sup>8</sup> As defined in MCL 400.1501. See Appendix A for definitions.

<sup>9</sup> Amended sections MCL 764.1 and 1a.

<sup>10</sup> As defined in new subsection MCL 764.10d (5). See Appendix A for definitions.

<sup>11</sup> As defined in MCL 400.1501. See Appendix A for definitions.

<sup>12</sup> New section MCL 762.10d.

## Failure to Appear Responses

In recognition that many people who fail to appear in court do so without the intention of fleeing justice, the new law establishes a rebuttable presumption against the immediate issuance of bench warrant for certain first-time failures to appear. The procedure is slightly different for failure to appear on an appearance ticket and other kinds of failure to appear. For a visual summary of the response process for failures to appear, see Appendix B.

### General Failure to Appear

For individuals who fail to appear in court, the law implements a 48-hour grace period for the defendant to voluntarily appear. If an eligible defendant does not appear within 48 hours, the court must issue a bench warrant unless the court believes there is a good reason to instead schedule the case for further hearing. To be eligible for this benefit, the defendant must not:

- Have previously failed to appear in the case; or
- Be charged with an assaultive crime<sup>13</sup> or an offense involving domestic violence.<sup>14</sup>

The court may overcome the grace period presumption and issue an immediate bench warrant if:

- The court has a specific articulable reason to suspect that the defendant has committed a new crime;
- The court has a specific articulable reason to suspect that a person or property will be endangered if a bench warrant is not immediately issued;
- Prosecution witnesses have been summoned and are present for the proceeding;
- The proceeding is to impose a sentence for the crime; or
- There are other compelling circumstances that require the immediate issuance of a bench warrant.

If the court departs from the 48-hour presumption and issues an immediate warrant, the court must state its reasons for doing so on the record.<sup>15</sup>

### Failure to Appear on Appearance Ticket

Because appearance tickets are issued for lower-level offenses and are often returnable during a date range rather than a specified date and time, the presumption upon failure to appear on an appearance ticket is slightly different. A court must issue an order to show cause why the defendant failed to appear rather than issuing a warrant unless the court has a specific articulable reason to suspect that:

- The defendant has committed a new crime;
- The defendant's failure to appear is the result of a willful intent to avoid or delay adjudication of the case; or
- Another person or property will be endangered if a warrant is not issued.

If the court departs from the presumption and issues a warrant rather than an order to show cause, the court must state its reasons for doing so on the record.<sup>16</sup>

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<sup>13</sup> As defined in new subsection MCL 764.3 (5). See Appendix A for definitions.

<sup>14</sup> As defined in MCL 400.1501. See Appendix A for definitions.

<sup>15</sup> New section MCL 764.3.

<sup>16</sup> Amended section MCL 764.9e.

## Out-of-County Warrants

Finally, to prevent people from being held in jail on warrants originating in other counties, the new law establishes communication protocols between jails and creates a limit on the length of time someone can be held in jail on a warrant issued in another county.

Unless the warrant is for an assaultive crime<sup>17</sup> or domestic violence, the new law requires that someone arrested in one county on a warrant issued by another county must be released from custody if the issuing county does not make arrangements to pick the person up within 48 hours of arrest and does not in fact pick the person up within 72 hours of arrest.<sup>18</sup> An individual must be issued a court date and released if he or she has not been picked up within the required timeframe.<sup>19</sup>

The new law also requires each district court and county jail establish a communication protocol to enable the swift processing of defendants arrested in one county on a warrant issued in a different county. This communication protocol should include a process for remote hearings.<sup>20</sup>

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<sup>17</sup> As defined in new subsection MCL 764.6e (2). See Appendix A for definitions.

<sup>18</sup> New section MCL 765.6e.

<sup>19</sup> As defined in MCL 400.1501. See Appendix A for definitions.

<sup>20</sup> New section MCL 764.6f.

## Jail Sentencing

The new laws eliminate some mandatory minimum jail sentences and make others waivable upon completion of a specialty court program. They also implement presumptions of non-jail and non-probation sentences for most misdemeanors and non-jail sentences for lower-level felonies, requiring a justification on the record for departure from these presumptions. Finally, the laws expand eligibility for deferred judgement of guilt for young people under the Holmes Youthful Trainee Act (HYTA).

Legislation	Code Amended	Effective Date	Summary
<b>HB 5844</b> ( <a href="#">PA 375</a> )	Public health code (MCL 333)	March 24, 2021	Eliminates certain mandatory minimum jail sentences.
<b>HB 5854</b> ( <a href="#">PA 383</a> )	Michigan vehicle code (MCL 257)	March 24, 2021	Eliminates certain mandatory minimum jail sentences and makes others waivable.
<b>HB 5855</b> ( <a href="#">PA 384</a> )	Revised school code (MCL 380)	March 24, 2021	Eliminates certain mandatory minimum jail sentences.
<b>HB 5856</b> ( <a href="#">PA 385</a> )	Natural resources and environmental protection act (MCL 324)	March 24, 2021	Eliminates certain mandatory minimum jail sentences and makes others waivable.
<b>HB 5857</b> ( <a href="#">PA 386</a> )	Railroad code of 1993 (MCL 462)	March 24, 2021	Eliminates certain mandatory minimum jail sentences.
<b>SB 1048</b> ( <a href="#">PA 395</a> )	Code of criminal procedure (MCL 769)	March 24, 2021	Creates a rebuttable presumption for non-jail sentences in certain misdemeanor and felony cases.
<b>SB 1049</b> ( <a href="#">PA 396</a> )	Code of criminal procedure (MCL 762.11)	March 24, 2021 (Provision effective October 1, 2021)	Expands age eligibility for deferred judgement of guilt under the Holmes Youthful Trainee Act.

## Mandatory Minimum Jail Sentences

Existing Michigan statutes require mandatory minimum jail sentences for some misdemeanors. To allow judges the discretion to determine the facts of the case and whether a jail sentence is warranted, the new laws eliminate mandatory minimum sentences for many misdemeanor offenses. Under the new laws, offenses are still eligible for jail time, but most no longer require it. There are some exceptions – Operating While Intoxicated (OWI) offenses related to motor vehicles, boats, off-road vehicles, and snowmobiles still require mandatory minimum sentences but such sentences are now waivable upon completion of a specialty court program.

## Eliminated

The following offenses no longer require a minimum jail sentence but are still eligible for jail up to the maximum sentence listed. Many of these offenses are also punishable by community service and/or fines, either mandatory or discretionary. The new laws do not affect required fines or community service.

Legislation	MCL Statute	Description	Mandatory Minimum Eliminated	Maximum Jail Sentence
<b>HB 5844</b>	333.16296 (b)	Unauthorized Use of Health Profession Title – 2 <sup>nd</sup> Offense	60 days	1 year
<b>HB 5844</b>	333.16299 (1)(b)	Health Occupation Rule Violations – 2 <sup>nd</sup> Offense	90 days	6 months
<b>HB 5854</b>	257.625 (7)(a)(i)	Operating While Intoxicated/Impaired/With Controlled Substance – Occupant Less Than 16	5 days	1 year
<b>HB 5854</b>	257.904 (16)	Operating with Suspended/Revoked Commercial Vehicle Group Designation	3 days	93 days
<b>HB 5854</b>	257.904a	Operating Without Valid License in Previous Three Years – 2 <sup>nd</sup> Offense	2 days	90 days
<b>HB 5854</b>	257.905	Operating While Suspended for Failure to Prove Financial Responsibility	2 days	1 year
<b>HB 5855</b>	380.1599	Noncompliance of Parent with School Attendance Requirements	2 days	90 days
<b>HB 5855</b>	380.1809 (1)(b)	Invalid Use of Teaching Certificate – 2 <sup>nd</sup> Offense	93 days	6 months
<b>HB 5855</b>	380.1809 (2)(b)	Invalid Use of School Administrator Certificate – 2 <sup>nd</sup> Offense	93 days	6 months
<b>HB 5855</b>	380.1809 (3)(b)	Invalid Use of State School Board Approval – 2 <sup>nd</sup> Offense	93 days	6 months
<b>HB 5855</b>	380.1809 (4)(b)	Invalid Use of College Credentials – 2 <sup>nd</sup> Offense	93 days	6 months
<b>HB 5856</b>	324.40118 (3)	Wildlife Conservation – Taking Deer/Bear/Turkeys/Wolf	5 days	90 days
<b>HB 5856</b>	324.40118 (4)	Wildlife Conservation – Taking Elk	30 days	180 days
<b>HB 5856</b>	324.40118 (5)	Wildlife Conservation – Taking Moose	90 days	1 year
<b>HB 5856</b>	324.40118 (11)	Wildlife Conservation – Shining Artificial Light with Weapon Accessible	5 days	90 days
<b>HB 5856</b>	324.40118 (13)	Wildlife Conservation – Failure to Stop for Officer After Shining Light	5 days	90 days
<b>HB 5856</b>	324.40118 (18)	Wildlife Conservation – Rule Violation – 3 <sup>rd</sup> Offense	10 days	180 days
<b>HB 5856</b>	324.41105	Fish & Game – Rule Violation – 2 <sup>nd</sup> Offense	20 days	90 days
<b>HB 5856</b>	324.47327	Commercial Fishing – Rule Violation – 2 <sup>nd</sup> Offense	30 days	90 days
<b>HB 5856</b>	324.48738 (3)	Sports Fishing – Taking Sturgeon	30 days	180 days
<b>HB 5857</b>	462.257 (2)	Throwing Projectile at a Train	10 days	90 days
<b>HB 5857</b>	462.267 (2)	Removing or Tampering with Railroad Switches or Derailing Devices	10 days	60 days

## Waivable

The new laws retain mandatory minimum jail sentences for certain operating while intoxicated (OWI) offenses but make them waivable upon completion of a specialty court program.<sup>21</sup> The offenses eligible to have their mandatory minimum jail sentence waived upon completion of a specialty court program are below.

Legislation	MCL Statute	Description	Mandatory Minimum Waivable	Maximum Jail Sentence
<b>HB 5854</b>	257.625 (7)(a)(iii)	Operating While Intoxicated/Impaired/With Controlled Substance – Occupant Less Than 16 – 2 <sup>nd</sup> or Subsequent Offense*	30 days	1 year
<b>HB 5854</b>	257.625 (7)(b)(ii)	Minor Operating with Any BAC – Occupant Less Than 16 – 2 <sup>nd</sup> Offense	5 days	1 year
<b>HB 5854</b>	257.625 (9)(b)	Operating While Intoxicated/With Controlled Substance – 2 <sup>nd</sup> Offense	5 days	1 year
<b>HB 5854</b>	257.625 (9)(c)	Operating While Intoxicated/With Controlled Substance – 3 <sup>rd</sup> or Subsequent Offense*	30 days	1 year
<b>HB 5854</b>	257.625 (11)(b)	Operating While Impaired – 2 <sup>nd</sup> Offense	5 days	1 year
<b>HB 5854</b>	257.625 (11)(c)	Operating While Impaired – 3 <sup>rd</sup> or Subsequent Offense*	30 days	1 year
<b>HB 5856</b>	324.80177 (1)(b)(ii)	Marine Safety – Operating While Intoxicated – 2 <sup>nd</sup> Offense	48 hours	1 year
<b>HB 5856</b>	324.80177 (1)(c)	Marine Safety – Operating While Intoxicated – 3 <sup>rd</sup> or Subsequent Offense**	1 year	5 years
<b>HB 5856</b>	324.80178b (1)(a)(i)	Marine Safety – Operating While Intoxicated – Occupant Less Than 16	5 days	1 year
<b>HB 5856</b>	324.80178b (1)(b)(ii)	Marine Safety – Operating While Intoxicated – Occupant Less Than 16 – 2 <sup>nd</sup> Offense*	30 days	1 year
<b>HB 5856</b>	324.80178b (2)(b)(i)	Marine Safety – Minor with Any BAC – Occupant Less Than 16 – 2 <sup>nd</sup> Offense	5 days	1 year
<b>HB 5856</b>	324.81134 (8)(b)(i)	ORV – Operating While Intoxicated – 2 <sup>nd</sup> Offense	5 days	1 year
<b>HB 5856</b>	324.81134 (8)(c)(i)	ORV – Operating While Intoxicated – 3 <sup>rd</sup> or Subsequent Offense*	30 days	1 year
<b>HB 5856</b>	324.81134 (12)(a)(i)	ORV – Operating While Intoxicated – Occupant Less Than 16	5 days	1 year
<b>HB 5856</b>	324.81134 (12)(a)(ii)	ORV – Operating While Intoxicated – Occupant Less Than 16 – 2 <sup>nd</sup> Offense*	30 days	1 year
<b>HB 5856</b>	324.81134 (12)(b)(ii)	ORV – Minor with Any BAC – Occupant Less Than 16 – 2 <sup>nd</sup> Offense	5 days	1 year
<b>HB 5856</b>	324.82128 (1)(b)(ii)	Snowmobiles – Operating While Intoxicated – 2 <sup>nd</sup> Offense	48 hours	1 year
<b>HB 5856</b>	324.82128 (1)(c)	Snowmobiles – Operating While Intoxicated – 3 <sup>rd</sup> or Subsequent Offense**	1 year	5 years
<b>HB 5856</b>	324.82129b (1)(a)(i)	Snowmobiles – Operating While Intoxicated – Occupant Less Than 16	5 days	1 year
<b>HB 5856</b>	324.82129b (1)(b)	Snowmobiles – Operating While Intoxicated – Occupant Less Than 16 – 2 <sup>nd</sup> Offense*	30 days	1 year
<b>HB 5856</b>	324.82129b (2)(b)(i)	Snowmobiles – Minor with Any BAC – Occupant Less Than 16 – 2 <sup>nd</sup> Offense	5 days	1 year

\*Note that these offenses are felonies, also punishable by 5 years in prison with a 1-year minimum sentence that can be waived under the law.

\*\*Note that these offenses are felonies, and the sentence specified is prison time.

<sup>21</sup> Defined in new section MCL 257.83 and existing section MCL 324.80104 as one of the following: (a) A drug treatment court, as that term is defined in MCL 600.1060, in which the participant is an adult; (b) A DWI/sobriety court, as that term is defined in MCL 600.1084; (c) A hybrid of the programs under subdivisions (a) and (b); (d) A mental health court, as that term is defined in MCL 600.1090; or (e) a veterans treatment court, as that term is defined in MCL 600.1200.

## Presumptive Non-Jail Sentencing

Recognizing the significant negative impact of incarceration and the importance of community alternatives when appropriate, the new laws implement presumptive non-jail sentences for most misdemeanors and some lower-level felonies, requiring judges to state their reasoning on the record when departing from the presumption. For misdemeanors, the policy includes a presumption against probation as well, recognizing that probation for low-level offenses without rehabilitative needs can be resource intensive and counterproductive.

### Misdemeanors

- The new law requires that a judge sentence someone convicted of a misdemeanor, other than a serious misdemeanor,<sup>22</sup> to a fine, community service, or other non-jail, non-probation sentence, unless the judge states on the record reasonable grounds for departure from the presumption.
- For failing to comply with a non-jail, non-probation sentence, the law allows judges to issue an order to show cause why the person failed to comply and to impose an additional sentence to include jail or probation if appropriate.<sup>23</sup>

### Felonies

- For felonies, the new law redefines “intermediate sanction” for the purpose of the sentencing guidelines to exclude all incarceration, including incarceration in a county jail.<sup>24</sup>
- It allows judges to depart from the sentencing guidelines and sentence someone in an intermediate sanction cell to jail if the judge states on the record reasonable grounds for the departure.<sup>25</sup>

## Expansion of HYTA Eligibility

Existing Michigan law gives judges the discretion, with the consent of prosecutors in some cases, to defer the conviction of certain offenses committed before an individual’s 24th birthday. Under the Holmes Youthful Trainee Act (HYTA), young people who complete their sentence successfully are eligible to have the proceedings against them dismissed and avoid the stigma of a lifelong criminal record as a result of a youthful mistake. To keep up with established neuroscience indicating that young people’s brains continue developing into their mid-twenties, the new law extends eligibility for HYTA to young people through age 25.<sup>26</sup> The new law:

- Extends HYTA eligibility to young people aged 24 and 25 (for an offense committed before an individual’s 26th birthday).
- Continues to require prosecutor approval for HYTA for young people aged 21 and older.
- Adds a requirement that prosecutors consult with victims when a young person charged with a HYTA-ineligible offense<sup>27</sup> pleads to a lesser offense and becomes eligible for HYTA.

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<sup>22</sup> As defined in MCL 780.811. See Appendix A for definitions.

<sup>23</sup> Amended section MCL 769.5.

<sup>24</sup> Amended subsection MCL 769.31 (b).

<sup>25</sup> Amended subsection MCL 769.34 (4). Note that additional changes to statute reflect the 2015 Michigan Supreme Court decision in *Michigan v. Lockridge* that made sentencing guidelines discretionary rather than mandatory but should not change current practice [Amended subsections MCL 769.34 (2) and (3) and repealed subsection MCL 769.34 (1)].

<sup>26</sup> Note that while the effective date of this bill is March 24, 2021, the provisions within do not change until October 1, 2021.

<sup>27</sup> Includes offenses punishable by life in prison, major controlled substance offenses, traffic offenses, and criminal sexual conduct – offense eligible is unchanged under the law.

## Community Supervision

To ensure probation and parole can be a tool to help people succeed in the community and prevent future crime, the new laws align community supervision terms, conditions, and sanctions with established research.

Legislation	Code Amended	Effective Date	Summary
<b>SB 1050 (PA 397)</b>	Code of criminal procedure (MCL 771)	April 1, 2021	Amends maximum probation term lengths and updates procedures related to early discharge and technical violation response.
<b>SB 1051 (PA 398)</b>	Department of Corrections (MCL 791)	March 24, 2021	Requires that parole conditions be tailored to the individual on parole.

### Probation

The new law reduces the maximum probation term for most felonies to three years, with additional extensions allowed up to five years if necessary. It does not eliminate lifetime probation for felony stalking or sex offenses. Probation conditions must be tailored to the assessed risks and needs of the probationer and the needs of the victim, if applicable. The new law also establishes criteria for presumed earned early discharge from probation for most offenses, requiring a hearing only in certain cases with a victim. New limits for jail time and arrest warrants for technical probation violations are also created.

### Terms and Conditions

The new law changes some of the requirements for sentencing someone to probation. In particular, it:

- Requires the court to determine and put on the record “the rehabilitation goals” of probation, in addition to the period and conditions of probation.<sup>28</sup>
- Allows a probationer to report virtually to his or her probation officer as required.<sup>29</sup>
- Requires that conditions of probation:
  - Be individually tailored to the probationer;
  - Specifically address the assessed risks and needs of the probationer;
  - Be designed to reduce recidivism;
  - Be adjusted if the court determines adjustments are appropriate; and
  - Specifically address the harm caused to the victim, as well as the victim’s safety needs and other concerns, including any request for protective conditions or restitution.<sup>30</sup>
- Reduces probation terms for some offenses, according to the following table.<sup>31</sup>

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<sup>28</sup> MCL 771.2 (11) and 771.2a (5).

<sup>29</sup> MCL 771.3 (1)(c).

<sup>30</sup> MCL 771.3 (11).

<sup>31</sup> MCL 771.2 (1).

Offense Type	Former Maximum Probation Term	New Maximum Probation Term
<b>Murder, Treason, Criminal Sexual Conduct 1<sup>st</sup> and 3<sup>rd</sup>, Armed Robbery, Major Controlled Substance Offenses<sup>32</sup></b>	Not eligible for probation	No change
<b>Criminal Sexual Conduct 2<sup>nd</sup> and 4<sup>th</sup>, Other Listed Offenses, Aggravated Stalking<sup>33</sup></b>	Lifetime probation (5-year minimum)	No change
<b>Other Violent Felonies<sup>34</sup></b>	5 years	No change
<b>Other Felonies</b>	5 years	3 years, with up to 2 extensions of up to 1 year each*
<b>Misdemeanor Stalking and Child Abuse<sup>35</sup></b>	5 years	No change
<b>Other Misdemeanors</b>	2 years	No change

\* In order to extend probation, the court must find that: 1) there is a specific rehabilitation goal that has not yet been achieved; or 2) there is a specific, articulable, and ongoing risk of harm to a victim that can be mitigated only with continued probation supervision.

#### Earned Early Discharge

To reward people who are doing well on probation, the new law establishes a process for many misdemeanor and felony defendants to be discharged early from probation. After a defendant completes half of the original probation period, the defendant may be eligible for early discharge. The defendant must be notified at sentencing of his or her eligibility for early discharge, the requirements, and the procedure to notify the court of his or her eligibility. A defendant convicted of one or more of the following crimes is not eligible for reduced probation.

MCL	Offense
<b>750.81</b>	Domestic violence – First, second, or third offense
<b>750.81a</b>	Aggravated domestic violence – First or second offense
<b>400.1501</b>	Other offense involving domestic violence <sup>36</sup>
<b>750.84</b>	Assault with intent to do great bodily harm less than murder or by strangulation
<b>750.411h</b>	Stalking, stalking of a minor, or aggravated stalking of a minor
<b>750.411i</b>	Aggravated stalking
<b>750.520c</b>	Criminal sexual conduct – 2 <sup>nd</sup> degree
<b>750.520e</b>	Criminal sexual conduct – 4 <sup>th</sup> degree
<b>28.722</b>	“Listed Offense,” meaning a tier I, II, or III offense in the Sex Offenders Registration Act
<b>768.36</b>	An offense for which a defense was asserted under MCL 768.36 (guilty but mentally ill)
<b>750.462a-462j</b>	Human trafficking violations

<sup>32</sup> Felonies ineligible for probation are listed in MCL 771.1.

<sup>33</sup> Listed in MCL 28.722 and 750.411i.

<sup>34</sup> Listed in MCL 791.236. See Appendix A for definitions.

<sup>35</sup> MCL 750.411h and 750.136b.

<sup>36</sup> See Appendix A for definitions.

If a probationer has completed all required programming, the probation department may notify the sentencing court that the probationer may be eligible for early discharge from probation. If the probation department does not notify the sentencing court, and the probationer has not violated probation in the immediately preceding three months, the probationer may notify the court that he or she may be eligible for early discharge on a form provided by the State Court Administrative Office. The court may also consider a probationer for early discharge from probation at the court's discretion.

As long as a probationer has made good-faith efforts to make payments, he or she is not ineligible for early discharge because of an inability to pay for the conditions of probation, or for outstanding court-ordered fines, fees, or costs. If the probationer owes outstanding restitution, the court must consider the impact on the victim and the payment of restitution before granting early discharge. If a probationer has made a good-faith effort to pay restitution and is otherwise eligible for early discharge, the court may grant early discharge or retain the probationer on probation up to the maximum allowable term for the offense, with the sole condition of continuing restitution payments.

Upon notification as described above, the sentencing court may review the case and the probationer's conduct while on probation to determine if their behavior warrants an early discharge. Except as provided below, the court may grant an early discharge from probation without a hearing if the court determines the probationer's behavior warrants a reduction in the probationary term.

If, after reviewing the case, the court determines the probationer's behavior does not warrant an early discharge, the court must conduct a hearing to allow the probationer to present his or her case for an early discharge and find on the record 1) a specific rehabilitation goal that has not yet been achieved; or 2) a specific, articulable, and ongoing risk of harm to a victim that can only be mitigated with continued probation supervision.

The sentencing court must also hold a hearing before granting early probation discharge if the victim has requested to receive notice under the William Van Regenmorter Crime Victim's Rights Act,<sup>37</sup> or the probation is for a specific serious misdemeanor offense.<sup>38</sup> If a hearing is held in these circumstances, the prosecutor must notify the victim of the date and time of the hearing and the victim must be given an opportunity to be heard.<sup>39</sup>

### Technical Violations

Finally, the law establishes new requirements around technical probation violations, including when a warrant can be issued, when a jail sanction is appropriate and for how long, and when probation can be revoked. The law maintains legislative intent that "...the granting of probation is a matter of grace" but clarifies that the probationer must agree to its granting and continuance. However, except for exceptions outlined below, revocation of probation, and subsequent incarceration, may not be imposed for "conduct inconsistent with the public good," and should be imposed only:

- For repeated technical violations;
- For new criminal behavior; or
- Upon the request of the probationer.<sup>40</sup>

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<sup>37</sup> MCL 780.768b, 780.769, 780.769a, 780.770, or 780.770a – applicable only to felonies.

<sup>38</sup> Defined as a non-domestic violence violation of MCL 750.81 (assault or assault & battery, including of a pregnant individual), MCL 750.81a (aggravated assault), or MCL 750.136b (4<sup>th</sup> degree child abuse).

<sup>39</sup> Amended section MCL 771.2.

<sup>40</sup> Amended section MCL 771.4.

Incarceration eligibility for technical probation violations<sup>41</sup> is summarized in the table below.

Technical Violation	Maximum Jail Sentence*	
	Misdemeanor Probation	Felony Probation
1 <sup>st</sup> Violation	5 days	15 days
2 <sup>nd</sup> Violation	10 days	30 days
3 <sup>rd</sup> Violation	15 days	45 days
4 <sup>th</sup> Violation	Any number of days, up to remaining eligible jail sentence.	Jail or prison for any number of days, up to remaining eligible jail or prison sentence.

\*A jail sanction for a technical probation violation may be extended to not more than 45 days if the probationer is awaiting placement in a treatment facility and does not have a safe alternative location to await treatment.

Jail caps for technical probation violations do not apply to individuals on probation for domestic violence<sup>42</sup> or stalking under MCL 750.411h or 411i. The new law also specifies that a probationer may acknowledge a technical probation violation in writing without a hearing before the court. If more than one technical probation violation arises out of the same transaction, the court must treat the technical violations as a single violation.

Finally, the new law establishes a presumption that the court issue a summons or order to show cause for technical probation violations rather than a bench warrant. The court may overcome the presumption and issue a warrant if it finds on the record that:

- The probationer presents an immediate danger to himself or herself, another person, or the public;
- The probationer has left court-ordered inpatient treatment without the court’s or the treatment facility’s permission; or
- A summons or order to show cause was already issued for the technical probation violation and the probationer failed to appear as ordered.

If a probationer is arrested and detained for a technical probation violation, he or she must be brought to a hearing as soon as possible and be returned to community supervision if the hearing is not held within the applicable permissible jail sanction.<sup>43</sup>

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<sup>41</sup> “Technical probation violations” are defined in 771.4b (9) as any violation of the terms of a probation order, excluding: 1) Violation of a no contact order; 2) Violation of the law of this state, a political subdivision of this state, another state, or the United States or of tribal law whether or not a new criminal offense is charged; 3) The consumption of alcohol by a probationer who is on probation for a felony violation of MCL 257.625 (operating while intoxicated); or 4) Absconding, defined as the intentional failure of a probationer to report to his or her supervising agent or to advise his or her supervising agent of his or her whereabouts for a continuous period of not less than 60 days.

<sup>42</sup> As that term is defined in MCL 400.1501, explicitly including domestic violence violations of MCL 750.81 and 81a. See Appendix A for definitions.

<sup>43</sup> Amended section on MCL 771.4b.

## Parole Conditions

The new law requires that parole conditions are tailored to the assessed risks and needs of the parolee and the needs of the victim, if applicable.<sup>44</sup> Parole conditions are set by the Michigan Department of Corrections Parole Board before release. Tailored parole conditions allow released individuals to more easily participate in employment and other pro-social activities and reintegrate into their communities. Specifically, the new law:

- Allows the parole board to adjust conditions as appropriate; and
- Requires that conditions of parole:
  - Be individualized;
  - Specifically address the assessed risk and needs of the parolee;
  - Be designed to reduce recidivism; and
  - Consider the needs of the victim, if applicable, including, but not limited to, the safety needs of the victim or a request by the victim for protective conditions.

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<sup>44</sup> Amended section MCL 791.236.

## Driver's License Suspensions

The law previously required the suspension of driver's licenses for failure to appear in court, failure to pay court fines and fees, and other violations not related to driving safety. The new laws eliminate most reasons for driver's license suspensions, except those related to driving safety.

Legislation	Code Amended	Effective Date	Summary
<b>HB 5846</b> ( <a href="#">PA 376</a> )	Michigan vehicle code (MCL 257)	October 1, 2021	Eliminates license suspension as a sanction for vehicle code violations, except those related to driving safety.
<b>HB 5847</b> ( <a href="#">PA 377</a> )	Liquor control code (MCL 436)	October 1, 2021	Eliminates license suspension as a sanction for selling alcohol to minors and for minors purchasing alcohol.
<b>HB 5849</b> ( <a href="#">PA 378</a> )	Revised judicature act (MCL 600)	October 1, 2021	Updates reference to renumbered statute.
<b>HB 5850</b> ( <a href="#">PA 379</a> )	Support and parenting time enforcement act (MCL 552)	October 1, 2021	Requires an ability to pay assessment and use of other enforcement mechanisms before license suspension for nonpayment of support.
<b>HB 5851</b> ( <a href="#">PA 380</a> )	Public health code (MCL 333)	October 1, 2021	Eliminates license suspension as a sanction for controlled substance offenses.
<b>HB 5852</b> ( <a href="#">PA 381</a> )	Code of criminal procedure (MCL 769)	March 24, 2021 (tied to HB 5851)	Eliminates reference to controlled substance license suspensions no longer permitted.
<b>HB 6235</b> ( <a href="#">PA 387</a> )	Revised judicature act (MCL 600)	October 1, 2021	Eliminates license suspension for failure to appear on a civil infraction.
<a href="#">HCR 29</a>	N/A	N/A	Along with a Governor's statement, opts Michigan out of the federal requirement for license suspension upon conviction of a drug offense.

## Offenses Ineligible for License Suspension

The following specific violations are no longer eligible for license suspension or non-issuance under the new law. Additional penalties are not changed.

- Minor in possession of alcohol obtained with fraudulent identification, or furnishing a minor with fraudulent identification in order to purchase alcohol, under MCL 436.1703 (2).<sup>45</sup>
- Second or third offense of a minor purchasing, consuming, or possessing alcohol under MCL 436.1703 (1).<sup>46</sup>
- Second or subsequent violation of selling or furnishing alcohol to a minor under MCL 436.1701 (1).<sup>47</sup>
- Knowingly making a false report of explosives and related crimes involving a school under MCL 750.411a.<sup>48</sup>

<sup>45</sup> MCL 257.319(3)(d) and MCL 436.1703(6) are repealed.

<sup>46</sup> MCL 257.319(7) is amended and MCL 436.1703(6) is correspondingly repealed.

<sup>47</sup> MCL 257.319(12) is repealed and MCL 436.1701(1) is correspondingly amended.

<sup>48</sup> MCL 257.303(5) and MCL 257.319(11) are repealed.

## Controlled Substance Offenses

Federal law requires that states suspend driver's licenses for conviction of controlled substance offenses, even when the offense has nothing to do with driving, or risk losing a portion of their Federal Highway Funding. However, states can opt out of the requirement by submitting a statement to the federal Department of Transportation (DOT) endorsed by the governor and legislature. Until the adoption of these reforms, Michigan was one of only five states that had not yet opted out of the policy. The adoption of HCR 29, and the governor's subsequent submission to DOT, opted Michigan out of the federal requirement, and the new laws eliminate license suspension for conviction of controlled substance offenses as follows:

- Suspension of a license upon conviction for a controlled substance offense (violating, or attempting or conspiring to violate, MCL 333.7401 to MCL 333.7461 and MCL 333.17766a<sup>49</sup> or the similar laws of another state) is no longer allowed.<sup>50</sup>
- Delay of license issuance for individuals convicted (while not having a license) of a controlled substance offense described above is no longer allowed.<sup>51</sup>

## Failure to Appear, Answer Citation, or Comply with Judgment

The new law significantly reduces license suspension eligibility for failing to answer certain citations, appear in court, or comply with court orders or judgments.

- Failure to appear, answer a citation, or comply with a court order or judgment (FTA/FCJ) is no longer a separate 93 day misdemeanor.<sup>52</sup>
- License suspension for FTA/FCJ is now allowed, after a 14-day notice, only for violations for which license suspension is allowed under this act (except as provided below). Previously, license suspension was allowed for any violation reportable to the SOS under MCL 257.732.<sup>53</sup>
- License suspension for FTA/FCJ is now allowed, after a 7-day notice, for reckless driving violations under MCL 257.626, any driving violation causing injury, death, or serious impairment of a body function, and a serious offense involving a motor vehicle,<sup>54</sup> in addition to operating while intoxicated offenses under MCL 257.625.<sup>55</sup>
- License suspension for FTA/FCJ for possession or purchase of alcohol by a minor under MCL 436.1703 is no longer allowed.<sup>56</sup>
- Nonrenewal of license for failure to answer three or more parking violations (or two pertaining to disabled parking) is no longer allowed.<sup>57</sup>
- Non-issuance or nonrenewal of license for FTA/FCJ on a state civil infraction until the issue is resolved is no longer allowed.<sup>58</sup>

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<sup>49</sup> For a list of the specific controlled substance offenses for which license suspension is no longer allowed, see Appendix C.

<sup>50</sup> MCL 257.319e and MCL 333.7408a (1) are repealed. Subsequent subsections in 333.7408a that deal with the mechanics of license suspensions that are no longer allowed are also repealed.

<sup>51</sup> MCL 257.303 (1)(k) is repealed.

<sup>52</sup> MCL 257.321a (1) is repealed. Note that failure to comply with an order or judgment for a state civil infraction is still a misdemeanor under MCL 600.8827.

<sup>53</sup> MCL 257.321a (2) is amended.

<sup>54</sup> "Serious offense involving a motor vehicle" is defined in MCL 257.321a (10) as "a felony or misdemeanor punishable by at least 93 days in jail, during the commission of which the individual operated a motor vehicle in a manner that presented real or potential harm to a person or property and 1 or more of the following circumstances apply to the offense: (a) The motor vehicle was used as an instrument of the offense. (b) The motor vehicle was used to transport a victim of the offense. (c) The motor vehicle was used to flee the scene of the offense. (d) The motor vehicle was necessary for the commission of the offense."

<sup>55</sup> MCL 257.321a (3) is amended.

<sup>56</sup> MCL 257.321a (4) is repealed.

<sup>57</sup> MCL 257.321a (7) and (8) are repealed.

<sup>58</sup> MCL 257.321a (9) and MCL 600.8827 (8) are repealed.

## Friend of the Court Suspensions

Federal law requires states to allow driver's license suspension as a penalty for nonpayment of child support, or risk federal funding for support enforcement. As such, rather than eliminating license suspensions for failure to pay child support, the legislature required an ability to pay assessment and recommended the use of other sanctions before considering driver's license suspension. To pursue suspension of a driver's license, occupational license, or recreational or sporting license for nonpayment of support in a friend of the court case, current law stipulates that:

- A payment arrearage greater than two months of support payments has accrued; and
- An order of income withholding has not assured regular support and arrearage payments.

Before suspending a *driver's* license, the new law also requires that:

- The court conducts an ability to pay assessment and determines the payer has an ability to pay but is willfully not making support payments; and
- The Office of the Friend of the Court determines that no other sanction would be effective in assuring regular payments.

Requirements for suspension of an occupational, recreational, or sporting license are unchanged.<sup>59</sup>

## License Reinstatement Requirements

Upon the effective date of the new law, the Secretary of State must waive reinstatement fees for individuals whose operator's or chauffeur's licenses were suspended, revoked, or restricted for reasons that are no longer eligible under the legislation. The Secretary of State also must immediately reinstate licenses that were suspended, revoked, or restricted for reasons no longer eligible under the act.<sup>60</sup>

## Other Changes

The new law also:

- Extends the validity of a commercial learner's permit from 180 days to one year;<sup>61</sup> and
- Authorizes the Secretary of State to renew an operator's or chauffeur's license for two additional four-year periods.<sup>62</sup>

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<sup>59</sup> MCL 552.628.

<sup>60</sup> MCL 257.320e (4).

<sup>61</sup> MCL 257.306a (3).

<sup>62</sup> MCL 257.307 (9).

## Misdemeanor Reclassification

The law previously authorized arrest for dozens of traffic misdemeanors that do not seriously impact public safety. To reduce jail admissions for offenses that pose a low risk to public safety and are routinely sentenced with fines, the new laws reclassify certain traffic misdemeanors as civil infractions. Civil infractions are ineligible for arrest and jail time and are addressed in civil court instead of criminal court.

Legislation	Code Amended	Effective Date	Summary
<b>HB 5853</b> ( <a href="#">PA 382</a> )	Michigan vehicle code (MCL 257)	October 1, 2021	Reclassifies misdemeanors in nine vehicle code sections as civil infractions, ineligible for jail time.

The table below includes the statute, a description of the offense, the existing criminal penalty (until October 1, 2021), and the new civil fine. The fine for each new civil infraction is discretionary, meaning a judge can impose a fine of any amount up to the maximum.

MCL Statute	Description	Current Criminal Penalty	New Max Civil Fine
<b>257.208b (5)</b>	Driver Education Provider Failing to Provide Notice of Public Review	\$500 Criminal Fine	\$100
<b>257.208b (10)</b>	Driver Education Provider Record Violations	\$500 Criminal Fine	\$100
<b>257.208b (11)</b>	Limousine Carrier Record Violations	\$500 Criminal Fine	\$100
<b>257.208b (12)</b>	Limousine Driver Record Violations	\$500 Criminal Fine	\$100
<b>257.239</b>	Failing to Endorse and Deliver Certificate of Title to Transferee	90 Days in Jail	\$100
<b>257.312a (4)(a)</b>	Operating Motorcycle Without Indorsement – 1 <sup>st</sup> Offense*	90 Days or \$500	\$250
<b>257.325</b>	Allowing Unlicensed Minor to Operate Motor Vehicle	90 Days	\$100
<b>257.624b (4)</b>	Transferring Motor Vehicle to Avoid Impoundment for Minor Transporting Alcohol	90 Days	\$100
<b>257.677a</b>	Depositing Snow on Roadway Violations	90 Days	\$100
<b>257.682c</b>	Operating Commercial Snow Removal Vehicle Without Flashing Lights	90 Days or \$500	\$100
<b>257.698 (5)</b>	Use of Flashing Lights When Not Responding to an Emergency	90 Days or \$100	\$100
<b>257.698 (6)</b>	Sale and Use of Flashing Lights Violations	90 Days	\$100
<b>257.707c</b>	Motor Vehicle Noise Violations	90 Days	\$100

\*Operating Motorcycle Without Indorsement – 2<sup>nd</sup> Offense [MCL 257.312a (4)(b)] remains a 1-year misdemeanor, but the maximum criminal fine is reduced from \$1,000 to \$500.

## Appendices

### Appendix A – Definitions

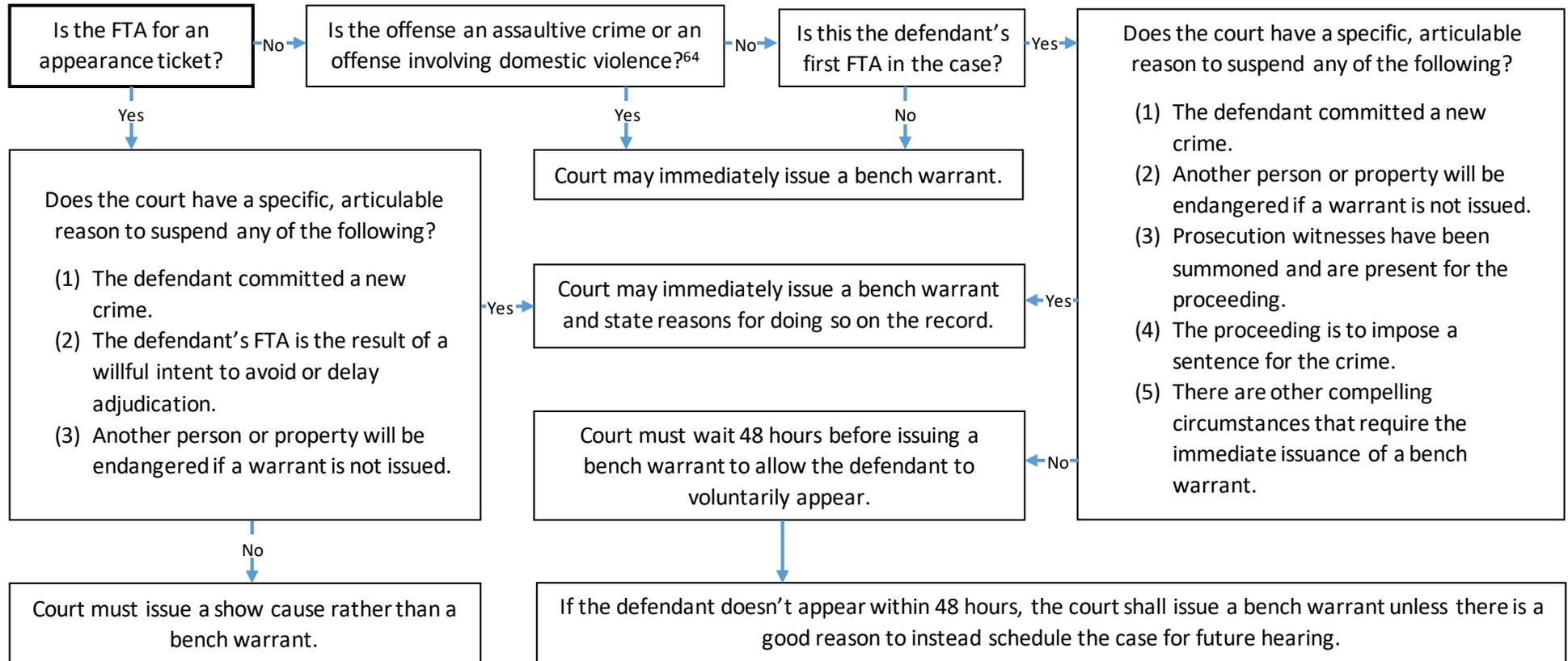
The following terms are referenced throughout the new laws.

Term	Statutory Reference	Definition
Domestic Violence	MCL 400.1501	<ul style="list-style-type: none"> <li>• The occurrence of any of the following acts by a person that is not an act of self-defense:               <ul style="list-style-type: none"> <li>○ Causing or attempting to cause physical or mental harm to a family or household member.</li> <li>○ Placing a family or household member in fear of physical or mental harm.</li> <li>○ Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress.</li> <li>○ Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.</li> </ul> </li> <li>• A family or household member is defined as:               <ul style="list-style-type: none"> <li>○ A spouse or former spouse.</li> <li>○ An individual with whom the person resides or has resided.</li> <li>○ An individual with whom the person has or has had a dating relationship.</li> <li>○ An individual with whom the person is or has engaged in a sexual relationship.</li> <li>○ An individual to whom the person is related or was formerly related by marriage.</li> <li>○ An individual with whom the person has a child in common.</li> <li>○ The minor child of an individual described above.</li> </ul> </li> </ul>
Serious Misdemeanor	MCL 780.811	<ul style="list-style-type: none"> <li>• Assault and battery, including domestic violence (MCL 750.81);</li> <li>• Assault; infliction of serious injury, including aggravated domestic violence (MCL 750.81a);</li> <li>• Breaking and entering or illegal entry (MCL 750.115);</li> <li>• Child abuse in the fourth degree (MCL 750.136b);</li> <li>• Contributing to the neglect or delinquency of a minor (MCL 750.145);</li> <li>• Using the internet or a computer to make a prohibited communication (MCL 750.145d);</li> <li>• Intentionally aiming a firearm without malice (MCL 750.233);</li> <li>• Discharge of a firearm intentionally aimed at a person (MCL 750.234);</li> <li>• Discharge of an intentionally aimed firearm resulting in injury (MCL 750.235);</li> <li>• Indecent exposure (MCL 750.335a);</li> <li>• Stalking (MCL 750.411h);</li> <li>• Injuring a worker in a work zone, MCL 257.601b (2);</li> <li>• Leaving the scene of a personal injury accident (MCL 257.617a);</li> </ul>

		<ul style="list-style-type: none"> <li>• Operating a vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual’s property or physical injury or death to another individual (MCL 257.625);</li> <li>• Selling or furnishing alcoholic liquor to an individual less than 21 years of age, if the violation results in physical injury or death to any individual (MCL 436.1701);</li> <li>• Operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual’s property or physical injury or death to any individual (MCL 324.80176).</li> <li>• A violation of a local ordinance substantially corresponding to a violation described above.</li> <li>• A violation charged as a felony or serious misdemeanor as described above but subsequently reduced to or pleaded to as a misdemeanor.</li> </ul>
Assaultive Crime	<p>MCL 764.1a (9)  MCL 764.10d (5)  MCL 764.3 (5)  MCL 764.6e (2)</p>	<ul style="list-style-type: none"> <li>• A violation as described in MCL 770.9a, which includes: <ul style="list-style-type: none"> <li>○ Assaults (MCL 750.81c (3) , 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.90a, 750.90b (a)-(b));</li> <li>○ Attempted murder (MCL 750.91);</li> <li>○ Explosives, bombs, and harmful devices (MCL 750.200 to 750.212a);</li> <li>○ Homicide (750.316, 750.317, and 750.321);</li> <li>○ Kidnapping (MLC 750.349, 750.349a, and 750.350);</li> <li>○ Mayhem (MLC 750.397);</li> <li>○ Stalking (MCL 750.411h (2)(b) or (3) and 750.411i);</li> <li>○ Criminal sexual conduct (MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g);</li> <li>○ Robbery (MCL 750.529, 750.529a, and 750.530); and</li> <li>○ Terrorism (MCL 750.543a to 750.543z).</li> </ul> </li> <li>• All other assaults not included above, including domestic violence (MCL 750.81 to 750.90h).</li> <li>• Additional violent offenses, including: <ul style="list-style-type: none"> <li>○ Home invasion (MCL 750.110a);</li> <li>○ Child abuse (MCL 750.136b);</li> <li>○ Intentionally discharging firearm from motor vehicle, at dwelling, or at law enforcement (MCL 750.234a, 750.234b, and 750.234c);</li> <li>○ Unlawful imprisonment (MCL 750.349b);</li> <li>○ Stalking (MCL 750.411h);</li> <li>○ Any other violent felony.</li> <li>○ 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 above.</li> </ul> </li> </ul>

## Appendix B – Failure to Appear Response Flowchart

The flowchart below summarizes the process for issuing bench warrants for failures to appear in court as it was updated under the new laws.<sup>63</sup> Judges still retain authority to issue show causes or summons as provided by law.



<sup>63</sup> New section MCL 764.3 and amended section MCL 764.9e.

<sup>64</sup> See Appendix A for definitions.

Appendix C – Controlled Substance Offenses No Longer Eligible for License Suspension

MCL	Description
333.7401 (2)(a)(1)	Controlled Substance – Delivery/Manufacture (Narcotic/Cocaine) 1000 > GR
333.7401 (2)(a)(2)	Controlled Substance – Delivery/Manufacture (Cocaine, Heroin or Another Narcotic) 450 to 999 Grams
333.7401 (2)(a)(3)	Controlled Substance – Delivery/Manufacture (Cocaine, Heroin or Another Narcotic) 50 to 449 Grams
333.7401 (2)(a)(4)	Controlled Substance – Delivery/Manufacture (Cocaine, Heroin, or Another Narcotic) Less Than 50 Grams
333.7401 (2)(b)(i)	Controlled Substance – Delivery/Manufacture – Ecstasy/MDMA
333.7401 (2)(b)(i)	Controlled Substance – Delivery/Manufacture - Methamphetamine
333.7401 (2)(b)(ii)	Controlled Substance – Delivery/Manufacture (Schedules 1, 2, & 3 Except Marihuana, Methamphetamine, Ecstasy, and Cocaine)
333.7401 (2)(b)(ii)	Controlled Substance – Delivery/Manufacture (Substance Added to Schedules 1, 2, & 3 by Rule)
333.7401 (2)(c)	Controlled Substance – Delivery/Manufacture (Schedule 4)
333.7401 (2)(c)	Controlled Substance – Delivery/Manufacture (Added to Schedule 4 by Board Rule)
333.7401 (2)(d)(i)	Controlled Substance – Delivery/Manufacture 45 Kilograms or More of Marijuana/Synthetic Equivalent; or 200 or More Plants
333.7401 (2)(d)(ii)	Controlled Substance – Delivery/Manufacture 5-45 Kilograms of Marijuana/Synthetic Equivalent; or 20-200 Plants
333.7401 (2)(d)(iii)	Controlled Substance – Delivery/Manufacture Marijuana/Synthetic Equivalents
333.7401 (2)(e)	Controlled Substance – Delivery/Manufacture (Schedule 5)
333.7401 (2)(f)	Prescription Forms – Manufacture/Deliver
333.7401a	Controlled Substance – Delivery to Commit Criminal Sexual Conduct
333.7401b (3)(a)	Controlled Substance – Delivery/Manufacture – GBL
333.7401b (3)(b)	Controlled Substance – Possession of GBL
333.7401c (2)(a)	Controlled Substance – Operating/Maintaining a Laboratory
333.7401c (2)(b)	Controlled Substance – Operating/Maintaining a Laboratory In Presence of Minor
333.7401c (2)(c)	Controlled Substance – Operating/Maintaining a Laboratory Involving Hazardous Waste
333.7401c (2)(d)	Controlled Substance – Operating/Maintaining a Laboratory Near Specified Places
333.7401c (2)(d)	Controlled Substance – Operating/Maintaining a Methamphetamine Laboratory Near Specified Places
333.7401c (2)(e)	Controlled Substance – Operating/Maintaining a Laboratory Involving Firearm/Other Harmful Device
333.7401c (2)(f)	Controlled Substance – Operating/Maintaining a Laboratory Involving Methamphetamine
333.7402 (2)(a)	Controlled Substance – Creation/Delivery Counterfeit Substance (Narcotic/Ecstasy)
333.7402 (2)(b)	Controlled Substance – Creation/Delivery of a Counterfeit Substance – Methamphetamine
333.7402 (2)(b)	Controlled Substance – Creation/Delivery of a Counterfeit Substance (Schedule 1, 2, or 3)
333.7402 (2)(c)	Controlled Substance – Creation/Delivery of a Counterfeit Substance (Schedule 4)
333.7402 (2)(d)	Controlled Substance – Creation/Delivery of a Counterfeit Substance (Schedule 5)
333.7402 (2)(e)	Controlled Substance – Creation/Delivery of an Analogue
333.7403 (2)(a)(i)	Controlled Substance – Possession (Cocaine, Heroin or Another Narcotic) 1000 or More Grams
333.7403 (2)(a)(ii)	Controlled Substance – Possession (Cocaine, Heroin or Another Narcotic) 450 to 999 Grams

333.7403 (2)(a)(iii)	Controlled Substance – Possession (Cocaine, Heroin or Another Narcotic) 50 to 449 Grams
333.7403 (2)(a)(iv)	Controlled Substance – Possession (Cocaine, Heroin or Another Narcotic) 25 to 49 Grams
333.7403 (2)(a)(v)	Controlled Substances – Possession (Cocaine, Heroin or Another Narcotic) Less Than 25 Grams
333.7403 (2)(b)(i)	Controlled Substance – Possession of Methamphetamine/Ecstasy
333.7403 (2)(b)(ii)	Controlled Substance – Possession/Analogues
333.7403 (2)(b)(ii)	Controlled Substance – Possession (Substance Added to Schedules 1,2,3, or 4 By Rule)
333.7403 (2)(c)	Controlled Substance – Possession (Schedule 5 and LSD, etc.)
333.7403 (2)(c)	Controlled Substance – Possession (Substance Added to Schedule 5 by Rule)
333.7403 (2)(d)	Controlled Substance – Possession of Marihuana/Synthetic Equivalents
333.7403 (2)(e)	Prescription Forms – Possession
333.7403a	Controlled Substance – Fraudulently Obtaining
333.7404 (2)(a)	Controlled Substance Use (Narcotic/Cocaine/Ecstasy)
333.7404 (2)(a)	Controlled Substance Use Methamphetamine
333.7404 (2)(b)	Controlled Substance – Use
333.7404 (2)(c)	Controlled Substance – Use (Schedule 5 or LSD, Etc.)
333.7404 (2)(d)	Controlled Substance – Use of Marihuana/Synthetic Marihuana/Spice/Salvia
333.7405 (1)(a)	Controlled Substances – Licensee Prescription Violations
333.7405 (1)(b)	Controlled Substances – Manufacture/Distribute Outside of License
333.7405 (1)(c)	Controlled Substances – Refusing Inspection
333.7405 (1)(d)	Controlled Substances – Maintaining a Drug House
333.7405 (1)(e)	Controlled Substances – Dispensing Prescription from Out-of-State Prescriber
333.7407 (1)(a)	Controlled Substances – Licensee/Distribute Without Order Form
333.7407 (1)(b)	Controlled Substances – Use A Fictitious License Number
333.7407 (1)(c)	Controlled Substance – Obtaining by Fraud
333.7407 (1)(d)	Controlled Substances – False Reporting
333.7407 (1)(e)	Controlled Substances – Counterfeiting Implements
333.7407 (1)(f)	Controlled Substance – Counterfeit Prescription Forms
333.7407 (2)	Controlled Substance – Failure to Keep Records
333.7407a	Controlled Substance – Inducing Person to Violate – Felony
333.7407a	Controlled Substance – Inducing Person to Violate – High Misdemeanor
333.7407a	Controlled Substance – Inducing Person to Violate – Misdemeanor
333.7407a (1)	Controlled Substance – Attempt – Felony
333.7407a (1)	Controlled Substance – Attempt – High Misdemeanor
333.7407a (1)	Controlled Substance – Attempt – Misdemeanor
333.7410 (1)	Controlled Substance – Delivery to Minor (Narcotic or Cocaine) Less Than 50 Grams
333.7410 (1)	Controlled Substance – Delivery to Minor (Schedules 1, 2 and 3 Except Marihuana, Methamphetamine, Ecstasy/MDMA and Cocaine)

333.7410 (1)	Controlled Substance – Delivery of Ecstasy/MDMA to Minor
333.7410 (1)	Controlled Substance – Delivery of Methamphetamine to Minor
333.7410 (1)	Controlled Substance – Delivery to Minor (Substance Added to Schedules 1, 2, & 3 By Rule)
333.7410 (1)	Controlled Substance – Delivery to Minor (Schedule 4)
333.7410 (1)	Controlled Substance – Delivery to Minor Marihuana
333.7410 (1)	Controlled Substance – Delivery to Minor (Added to Schedule 4 By Board Rule)
333.7410 (1)	Controlled Substance – Delivery to Minor (Schedule 5)
333.7410 (1)	Controlled Substance – Delivery of GBL To Minor
333.7410 (2)	Controlled Substance – Delivery on School or Library Property (Narcotics or Cocaine) Less Than 50 Grams
333.7410 (3)	Controlled Substance – Possession with Intent to Deliver on School or Library Property (Narcotic or Cocaine) Less Than 50 Grams
333.7410 (4)	Controlled Substances – Possession on School or Library Property (Narcotic or Cocaine) Less Than 25 Grams
333.7410 (4)	Controlled Substances – Possession on School or Library Property Schedules 1, 2, 3, 4
333.7410 (4)	Controlled Substances – Possession on School or Library Property (Schedule 5)
333.7410 (4)	Controlled Substance – Possession of Marijuana on School or Library Property
333.7410 (4)	Controlled Substance – Possession of GBL on School or Library Property
333.7410 (4)	Controlled Substances – Possession on School or Library Property – Methamphetamine
333.7410 (6)	Controlled Substance – Manufacture of Methamphetamine on School or Library Property
333.7410a	Controlled Substance – Delivery/Possession in a Park
333.7410a	Controlled Substance – Delivery/Possession in a Park – Methamphetamine
333.7413 (1)	Controlled Substance – 2 <sup>nd</sup> or Subsequent Offense Notice – Double Penalty – Felony
333.7413 (1)	Controlled Substance – 2 <sup>nd</sup> or Subsequent Offense Notice – Double Penalty – High Misdemeanor
333.7413 (1)	Controlled Substance – 2 <sup>nd</sup> or Subsequent Offense Notice – Double Penalty – Misdemeanor
333.7413 (2)	Controlled Substance – Delivery/Possession with Intent to Deliver on School property (Narcotic or Cocaine) Less Than 50 Grams – 2 <sup>nd</sup> or Subsequent Offense Notice
333.7416	Controlled Substance – Inducing A Minor to Commit A Felony
333.7417	Controlled Substance – Selling Falsely Represent Products
333.7453	Controlled Substance – Sale of Paraphernalia
333.7455	Controlled Substance – Sale of Paraphernalia to Minor