

Act No. 32
Public Acts of 2004
Approved by the Governor
March 19, 2004
Filed with the Secretary of State
March 22, 2004
EFFECTIVE DATE: June 30, 2004

STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004

Introduced by Reps. Drolet, Milosch, LaJoy, Hummel, Brandenburg, Caswell, Garfield, Nofs, Rocca, Bradstreet, Acciavatti, Palsrok, Voorhees, Robertson, Vander Veen, Ward, Shaffer, Woodward, Stahl, Huizenga, Kooiman, Ehardt, DeRoche, Bisbee, Pappageorge, Pastor, Farhat, Casperson, Hune, Emmons, Hoogendyk, Steil, Palmer, Amos, Tabor, Walker, Hager, Sheen, Wojno, Accavitti, Pumford, Caul, Julian, Ruth Johnson and Richardville

ENROLLED HOUSE BILL No. 5199

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 9 and 9a of chapter X (MCL 770.9 and 770.9a), section 9a as amended by 2002 PA 483, and by adding section 9b to chapter X.

The People of the State of Michigan enact:

CHAPTER X

Sec. 9. During the pendency of an appeal or application for leave to appeal, a justice or judge of the court in which the appeal or application is filed may admit the defendant to bail, if the offense charged is bailable and if the offense is not an assaultive crime as defined in section 9a of this chapter or sexual assault of a minor as described in section 9b of this chapter.

Sec. 9a. (1) A defendant convicted of an assaultive crime and awaiting sentence shall be detained and shall not be admitted to bail unless the trial court finds by clear and convincing evidence that the defendant is not likely to pose a danger to other persons and that section 9b of this chapter does not apply.

(2) A defendant convicted of an assaultive crime and sentenced to a term of imprisonment who has filed an appeal or an application for leave to appeal shall be detained and shall not be admitted to bail unless the trial court or the court to which the appeal is taken finds by clear and convincing evidence that section 9b of this chapter does not apply and that both of the following exist:

- (a) The defendant is not likely to pose a danger to other persons.
- (b) The appeal or application raises a substantial question of law or fact.

(3) As used in this section, "assaultive crime" means an offense against a person described in section 81c(3), 82, 83, 84, 86, 87, 88, 89, 90a, 90b(a) or (b), 91, 200 to 212a, 316, 317, 321, 349, 349a, 350, 397, 411h(2)(b) or (3), 411i, 520b, 520c, 520d, 520e, 520g, 529, 529a, 530, or 543a to 543z of the Michigan penal code, 1931 PA 328, MCL 750.81c, 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.90a, 750.90b, 750.91, 750.200 to 750.212a, 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.411h, 750.411i, 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529, 750.529a, 750.530, and 750.543a to 750.543z.

(4) The appeal or application for leave to appeal filed by a person denied bail under this section shall be expedited pursuant to rules adopted for that purpose by the supreme court.

Sec. 9b. (1) A defendant convicted of sexual assault of a minor and awaiting sentence shall be detained and shall not be admitted to bail.

(2) A defendant convicted of sexual assault of a minor sentenced to a term of imprisonment who has filed an appeal or an application for leave to appeal shall be detained and shall not be admitted to bail.

(3) As used in this section:

- (a) "Minor" means an individual less than 16 years of age.
- (b) "Sexual assault of a minor" means a violation of any of the following:

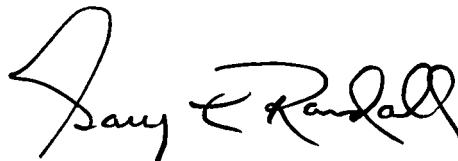
(i) Section 520b, 520c, 520d(1)(b), (c), (d), or (e) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, in which the victim of the offense is a minor.

(ii) Section 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d, if the actor is 5 or more years older than the victim.

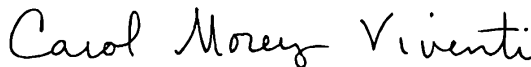
(iii) Section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g, for assaulting an individual with the intent to commit criminal sexual conduct described in subparagraphs (i) and (ii).

Enacting section 1. This amendatory act takes effect June 30, 2004.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor