

2006 CRIME LEGISLATION UPDATE

An Outline of Recently Passed Legislation From January 1 to December 31, 2006.

This outline is a summary of 170 Public Acts passed in 2006 affecting the criminal justice system. Some of the public acts are short and simple, others are very complex. Because this outline is a summary, I may have occasionally used ambiguous terms, or not completely covered every aspect of the law. You should carefully review the complete text of any public act listed in this outline before taking action regarding that new law. The outline is divided into the following sections:

I. NEW CRIMES & PENALTIES

II. CRIMINAL PROCEDURE

III. TRAFFIC SAFETY

IV. MISCELLANEOUS

Copies of legislation may be obtained at <http://www.michiganlegislature.gov/>

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I. NEW CRIMES & PENALTIES

- A. **AIRPORTS.** 2006 PA 454. Effective March 30, 2007. Makes it a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of up to \$1,000 to trespass at an airport. MCL 259.184.
- B. **ALCOHOL.** 2006 PA 131. Effective May 5, 2006. Prohibits the lease or rental of a premise or providing the premises to another person, to use for the unlicensed sale of alcohol. MCL 436.1913.
- C. **ATHLETIC TRAINERS.** 2006 PA 54. Effective December 1, 2006. Requires athletic trainers to be licensed. MCL 333.17901 et. seq. Penalties for violations are provided in MCL 333.12694, 333.12696, 333.12698.
- D. **BABIES.** 2006 PA 488. Effective January 1, 2007. Makes several amendments to the safe delivery of newborn act. Disclosing confidential information is a misdemeanor, punishable by imprisonment for up to 93 days and/or a fine of up to \$100. MCL 712.2a.
- E. **BICYCLES.** 2006 PA 339. Effective August 15, 2006. Regulates the operation of bicycles on roads and sidewalks. Violations are civil infractions. MCL 257.660a - 257.660d.
- F. **CONTAMINATED DREDGE MATERIALS.** 2006 PA 97. Effective April 4, 2006. Prohibits the open water disposal of contaminated dredge materials. MCL 324.3109e. Penalties are in MCL 324.3115.
- G. **CONTEMPT.** 2006 PA 544. Effective March 30, 2007. Increases the penalty for criminal contempt to 93 days and/or a fine of up to \$7,500. The person can also be placed on probation. MCL 600.1715.
- H. **CONTROLLED SUBSTANCES.**
 - 1. **SCHOOLS AND PARKS.** 2006 PA 216-217. Effective June 26, 2006. Prohibits the possession of GHB or a controlled substance by a person older than 17 within 1,000 feet of school property or a public or private park. Previous law required the possession to be on school property or in a park. MCL 333.7410(4) & MCL 333.7410a(1)(c).
 - 2. **LIBRARIES.** 2006 PA 552-3. Effective March 30, 2007. Includes libraries within the 1,000 foot drug free zone. MCL 333.7410.
 - 3. **EPHEDRINE.** 2006 PA 259 & 261. Effective October 1, 2006. Prohibits the sale or delivery of ephedrine or pseudoephedrine by mail, the internet, telephone or other electronic means. It's a felony punishable by imprisonment for up to 4 years and/or a fine of up to \$5,000. MCL 333.7340. It's an F felony under the guidelines. MCL 777.13m.
 - 4. **PARAPHERNALIA.** 2006 PA 458. Effective March 20, 2007. Eliminates the exemption in the drug paraphernalia law for items that can be used to smoke tobacco or herbs. MCL 333.7457.
- I. **CSC.** 2006 PA 165-172. Effective August 28, 2006. Creates mandatory penalties and lifetime electronic monitoring for adults convicted of 1st degree CSC, and 2nd degree CSC against a child under 13.
 - 1. 1st degree CSC requires a sentence of 25 years to life on a 1st offense if the offender is 17 or older and the victim is under 13, and life without parole if the person has a prior CSC conviction

against a child under 13. MCL 750.520b(2).

2. If anyone convicted of 1st degree CSC is released on parole, they must be placed on parole with electronic gps monitoring for life. MCL 750.520b(2)(d); MCL 750.520n; MCL 791.242.
3. Consecutive sentencing may be imposed on any 1st degree CSC conviction. MCL 750.520b(3).
4. 2nd degree CSC against a child under 13 requires electronic monitoring for life. MCL 750.520c(2)(b); MCL 750.520n.
5. It's a felony punishable by imprisonment for not more than 2 years and/or a fine of not more than \$2,000.00, to do any of the following:
 - a. Intentionally remove, deface, alter, destroy, or fail to maintain the electronic monitoring device in working order.
 - b. Fail to notify the department of corrections that the electronic monitoring device is damaged.
 - c. Fails to reimburse the department of corrections or its agent for the cost of the monitoring.
 - i. A term of imprisonment imposed for a gps violation may run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.
6. The parole board may require electronic gps monitoring for anyone else convicted of 1st or 2nd degree CSC. MCL 791.236(15).

J. EMBEZZLEMENT. 2006 PA 573-4. Effective March 30, 2007. Makes the following changes to the embezzlement statute.

1. Embezzlement of \$100,000 or more is a felony punishable by imprisonment for up to 20 years and/or a fine of up to \$50,000 or 3 times the value of the property. MCL 750.174(7). It's a B felony on the guidelines. MCL 777.16i.
2. Embezzlement of \$50,000 to \$100,000 is a felony punishable by imprisonment for up to 15 years and/or a fine of up to \$25,000 or 3 times the value of the property. MCL 750.174(6). It's a C felony on the guidelines. MCL 777.16i.
3. Embezzlement from a non-profit corporation of \$1,000 to \$20,000 is a felony punishable by imprisonment for up to 10 years and/or a fine of up to \$15,000 or 3 times the value of the property. MCL 750.174(5)(c). It's a D felony on the guidelines. MCL 777.16i.
4. Embezzlement from a non-profit corporation of \$200 to \$1,000 is a felony punishable by imprisonment for up to 5 years and/or a fine of up to \$10,000 or 3 times the value of the property. MCL 750.174(4)(c). It's an E felony on the guidelines. MCL 777.16i.
5. Embezzlement from a non-profit corporation of less than \$200 is a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of up to \$2,000 or 3 times the value of the property. MCL 750.174(3)(c).

K. FELONY MURDER. 2006 PA 415. Effective December 1, 2006. Adds torture and aggravated stalking to felony murder. MCL 750.316(1)(b).

L. FERTILIZER. 2006 PA 503. Effective March 30, 2007. Increases the fines for fertilizer violations. MCL 324.8520.

M. FIRE BADGES OR UNIFORMS. 2006 PA 405. Effective October 1, 2006. Prohibits the following acts involving the improper use or display of fire department identification.

1. With certain exceptions, a person shall not sell, furnish, possess, wear, exhibit, display or use the badge, patch or uniform or a facsimile of a badge, patch or uniform of a fire department, life support agency or medical first response service. MCL 750.217g.
 - a. A violation is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$500.
2. A person who is not a member or employee of a fire department, life support agency or medical first response service shall not wear or display the emblem, insignia, logo, service mark, or other identification of any such agency, or a facsimile thereof, if either of the following applies:
 - a. The person represents themselves to be a member or employee of such agency. MCL 750.217h(1)(a).
 - b. The wearing or display occurs in a manner that would lead a reasonable person to falsely believe that the represented agency is endorsing a commercial service or charitable endeavor. MCL 750.217h(1)(b).
 - c. A violation is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$500.

N. FOREIGN TRASH. 2006 PA 57-59. Effective 90 days after Congress acts. Makes it a felony punishable by imprisonment for up to 2 years and/or a fine of up to \$5,000 to import or accept foreign trash if Congress acts under the Commerce Clause to the U.S. Constitution to authorize such prohibitions. MCL 324.11526e. It's a G felony under the guidelines. MCL 777.13c.

O. FUNERALS. 2006 PA 148-151. Effective August 22, 2006. 2006 PA 152. Effective May 24, 2006. Makes it a felony to do any of the following within 500 feet of a funeral, memorial service, funeral procession or burial.

1. Make loud or raucous noises after being asked to stop. MCL 750.167d(1)(a).
2. Make any statement or gesture that would make a reasonable person under the circumstances feel intimidated, threatened, or harassed. MCL 750.167D(1)(b).
3. Engage in any other conduct that the person knows or should reasonably know will disturb, disrupt, or adversely affect the funeral, memorial service, viewing of the deceased person, funeral procession, or burial. MCL 750.167D(1)(c).
 - a. The penalty is imprisonment for up to 2 years and/or a fine of up to \$5,000 for a 1st offense. MCL 750.168d(2)(a). It's a G felony under the guidelines. MCL 777.16i.
 - b. The penalty is imprisonment for up to 4 years and/or a fine of up to \$10,000 for a 2nd offense. MCL 750.168d(2)(b). It's a F felony under the guidelines. MCL 777.16i.
4. Local governments may enact ordinances to protect funerals. PA 152.

P. GAS PUMPS. 2005 PA 125. Effective May 2, 2006. Creates civil fines for intentionally adjusting a gas pump to deliver less fuel than indicated by the pump. MCL 290.631.

1. \$5,000 for a 1st offense.
2. \$10,000 for a 2nd offense.
3. \$25,000 for a 3rd offense.
4. The facility may be closed until the problem is corrected, and any facility with 3 or more violations must be inspected annually.

Q. HABITUAL OFFENDERS. 2006 PA 655. Effective January 9, 2007.

1. The maximum sentence for a 2nd, 3rd or 4th offense habitual offender cannot be less than the maximum term for the predicate offense. MCL 769.10(2); 769.11(2); 769.12(2).
2. Prior convictions can be proved by a copy of the court register of actions. MCL 769.13(5)(c).

R. HARBORING A FUGITIVE. 2006 PA 242-243. Effective August 28, 2006. Increases the penalties for harboring a fugitive.

1. Harboring or concealing a person who has escaped from lawful custody is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$500. MCL 750.199(1).
2. Harboring or concealing a person who is wanted on an arrest or bench warrant for a misdemeanor, or a bench warrant in a civil case, is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$500. MCL 750.199(2).
3. Harboring or concealing a person who is wanted on an arrest or bench warrant for a felony is a felony punishable by imprisonment for up to 4 years and/or a fine of up to \$5,000. MCL 750.199(3). It's an F felony under the guidelines. MCL 777.16j.

S. HEALTH CLUBS. 2006 PA 23. Effective February 16, 2006. Beginning February 16, 2007 a health club must employ at least one person who has successfully completed a course in basic first aid, basic CPR and how to use an automated external defibrillator (AED). The club must also have an AED that is readily accessible to staff, members and guests. Violations are state civil infractions with the following fines:

1. Up to \$250 for a 1st offense.
2. Up to \$500 for a 2nd offense.
3. Up to \$1,000 for a 3rd or subsequent offense.

T. HUMAN TRAFFICKING. 2006 PA 156 & 162. Effective August 24, 2006. Creates the following crimes and penalties.

1. **FORCED LABOR.** A person shall not knowingly subject or attempt to subject another person to forced labor or services by:
 - a. Causing or threatening to cause physical harm to another person. MCL 750.462b.
 - b. Physically restraining or threatening to physically restrain another person. MCL 750.462c.
 - c. Abusing or threatening to abuse the law or legal process. MCL 750.462d.
 - d. Knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person. MCL 750.462e.
 - e. Using blackmail, using or threatening to cause financial harm to, or exerting or threatening to exert financial control over another person. MCL 750.462f.
 - i. A violation is a felony punishable by imprisonment for not more than 10 years. It's a D felony under the guidelines. MCL 777.16w.
 - ii. If the violation causes another person injury, it's imprisonment for not more than 15 years. It's a C felony under the guidelines. MCL 777.16w.
 - iii. If in the violation causes the death of another person, it's imprisonment for life or any term of years. It's an A felony under the guidelines. MCL 777.16w.
2. **RECRUITING FORCED LABOR.** A person shall not knowingly do any of the following:
 - a. Recruit, entice, harbor, transport, provide, or obtain by any means, or attempt to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services.
 - b. Benefit financially or receive anything of value from participation in a venture that has engaged in an act described in this chapter. MCL 750.462h.
 - i. A violation is a felony punishable by imprisonment for not more than 10 years. It's a D felony under the guidelines. MCL 777.16w.
 - ii. If the violation causes another person injury, it's imprisonment for not more than 15 years. It's a C felony under the guidelines. MCL 777.16w.
 - iii. If in the violation causes the death of another person, it's imprisonment for life or any term of years. It's an A felony under the guidelines. MCL 777.16w.
3. **RECRUITING MINORS FOR CHILD SEXUALLY ABUSIVE ACTIVITY.** A person shall not knowingly recruit, entice, harbor, transport, provide, or obtain by any means, or attempt to recruit, entice, harbor, provide, or obtain by any means, a minor knowing that the minor will be used for child sexually abusive activity. MCL 750.462g.
 - a. A violation is a felony punishable by imprisonment for not more than 20 years. It's a B felony under the guidelines. MCL 777.16w.
4. **LIFE VIOLATIONS.** If a violation involves kidnapping or an attempt to kidnap, criminal

sexual conduct or an attempt to commit criminal sexual conduct, or an attempt to kill, the defendant shall be imprisoned for life or any term of years. MCL 750.462i. It's an A felony under the guidelines. MCL 777.16w.

U. INTERFERING WITH COMMUNICATIONS. 2006 PA 60-62. Effective June 1, 2006. Makes it a felony punishable by imprisonment for up to 2 years and/or a fine of up to \$1,000 to do any of the following. MCL 750.540(5)(a). It's an H felony under the guidelines. MCL 777.16z. The penalty increases to imprisonment for up to 4 years and/or a fine of up to \$5,000 if an incident to be reported results in injury or death. MCL 750.540(5)(b). It's an F felony under the guidelines. MCL 777.16z.

1. Willfully and maliciously cut, break, disconnect, interrupt, tap, or make any unauthorized connection with any electronic medium of communication, including the internet or a computer, computer program, computer system, or computer network, or a telephone. MCL 750.540(1).
2. Willfully and maliciously read or copy any message from any telegraph, telephone line, wire, cable, computer network, computer program, or computer system, telephone or other electronic medium of communication that the person accessed without authorization. MCL 750.540(2).
3. Willfully and maliciously make unauthorized use of any electronic medium of communication, including the internet or a computer, computer program, computer system, or computer network, or telephone. MCL 750.540(3).
4. Willfully and maliciously prevent, obstruct, or delay by any means the sending, conveyance, or delivery of any authorized communication, by or through any telegraph or telephone line, cable, wire, or any electronic medium of communication, including the internet or a computer, computer program, computer system, or computer network. MCL 750.540(4).

V. JAIL ESCAPE. 2006 PA 535-6. Effective December 29, 2006. Increases the penalty for jail escape to 5 years. MCL 750.197c. It's an E felony on the guidelines. MCL 777.16j.

W. KIDNAPING AND UNLAWFUL IMPRISONMENT. 2006 PA 159-160, 164. Effective August 24, 2006. Revises the crime of kidnaping and creates the crime of unlawful imprisonment.

1. KIDNAPING.

- a. A person commits the crime of kidnapping if he or she knowingly restrains another person with the intent to do 1 or more of the following. MCL 750.349.
 - i. Hold that person for ransom or reward.
 - ii. Use that person as a shield or hostage.
 - iii. Engage in criminal sexual penetration or criminal sexual contact with that person.
 - iv. Take that person outside of this state.
 - v. Hold that person in involuntary servitude.

- b. "Restrain" means to restrict a person's movements or to confine the person so as to interfere with that person's liberty without that person's consent or without legal authority. The restraint does not have to exist for any particular length of time and may be related or incidental to the commission of other criminal acts.
- c. The penalty has been revised to allow for a fine of up to \$50,000.

2. UNLAWFUL IMPRISONMENT.

- a. A person commits the crime of unlawful imprisonment if he or she knowingly restrains another person under any of the following circumstances. MCL 750.349b
 - i. The person is restrained by means of a weapon or dangerous instrument.
 - ii. The restrained person was secretly confined.
 - iii. The person was restrained to facilitate the commission of another felony or to facilitate flight after commission of another felony.
- b. It's a felony punishable by imprisonment for not more than 15 years and/or a fine of not more than \$20,000.00. It's a C felony under the guidelines. MCL 777.16q.
- c. Restrain means to **forcibly** restrict a persons movements or to forcibly confine the person so as to interfere with that persons liberty without that persons consent or without lawful authority. The restraint does not have to exist for any particular length of time and may be related or incidental to the commission of other criminal acts.
- d. Secretly confined means either of the following:
 - i. To keep the confinement of the restrained person a secret.
 - ii. To keep the location of the restrained person a secret.

X. MARINE SAFETY DEVICES. 2006 PA 233-234. Effective July 1, 2006. Makes it a crime to tamper with, take or remove a marine safety device owned or maintained by the state or a political subdivision. Penalties are:

1. Imprisonment for up to 93 days and/or a fine of up to \$1,000. MCL 750.498b(1).
2. If the violation is the proximate cause of serious injury to another person, it's a felony punishable by imprisonment for up to 5 years and/or a fine of \$1,000 to \$5,000. MCL 750.498b(2)(a). It's an E felony under the guidelines. MCL 777.16x.
3. If the violation is the proximate cause of the death of another person, it's a felony punishable by imprisonment for up to 15 years and/or a fine of \$2,500 to \$10,000. MCL 750.498b(2)(b). It's a C felony under the guidelines. MCL 777.16x.
 - a. Marine safety device means a device designed or intended to be used to rescue individuals in marine emergency situations, including, but not limited to, life preservers, safety harnesses,

ladders, lines, and throw rings. MCL 750.498b(3)(a).

Y. MERCURY DEVICES. 2006 PA 492-4. Effective January 1, 2008 and January 1, 2009. Prohibits the sale of mercury thermostats, mercury blood pressure cuffs and mercury esophageal dilators. MCL 324.17204-17206.

Z. MIP. 2006 PA 443. Effective November 27, 2006. Allows a parent to request random or regular PBTs of their child if he or she is on probation for MIP. MCL 436.1703(4).

AA. MONEY TRANSMISSION SERVICES. 2006 PA 250-252. Effective July 3, 2006. Creates the money transmission services act. The following violations are felonies punishable by imprisonment for not more than 5 years and/or a fine of not more than \$100,000.00.

1. Intentionally making a false statement, misrepresentation, or false certification in any record or document filed or required to be maintained under this act or intentionally making a false entry or omission of a material entry in a record. MCL 487.1042(1). It's an E felony under the guidelines. MCL 777.14p.
2. Engaging in criminal fraud in the conduct of its money transmission services business. MCL 487.1042(2). It's an E felony under the guidelines. MCL 777.14p.
3. Knowingly engaging in an activity for which a license is required under this act without a license. MCL 487.1042(3). It's an E felony under the guidelines. MCL 777.14p.

BB. NURSING HOME BACKGROUND CHECKS. 2006 PA 27-29. Effective February 17, 2006. Requires criminal background checks of employees or contractors of the following facilities who regularly have direct access to or provide direct services to the facility residents. The facilities have 24 months to do a background check on current employees.

1. Adult foster care facilities. MCL 400.734b.
2. Nursing homes. MCL 333.20173a.
3. County medical care facilities. MCL 333.20173a.
4. Hospices. MCL 333.20173a.
5. Hospitals that provide swing bed services. MCL 333.20173a.
6. A home for the aged. MCL 333.20173a.
7. A home health agency. MCL 333.20173a.
8. A psychiatric facility. MCL 333.1134a.
9. An intermediate care facility for people with mental retardation. MCL 333.1134a.
 - a. Convictions for various misdemeanors, felonies, and substantiated findings of abuse and neglect will preclude employment until a set period of time has elapsed from the conclusion of the sentence for the crime or the time of the abuse event. See statutes for details.

- b. There are criminal penalties for the following violations:
- i. Knowingly providing false information regarding your identity, criminal convictions or substantiated findings of abuse and neglect on a statement for conditional employment pending the results of the background check. It's a misdemeanor, punishable by imprisonment for up to 93 days and/or a fine of up to \$500. MCL MCL 333.1134a(8); MCL 333.20173a(8); MCL 400.734b(9).
 - ii. Knowingly using or disseminating the criminal history information obtained from a background check except as authorized by these Acts is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$1,000. MCL MCL 333.1134a(9); MCL 333.20173a(9); MCL 400.734b(10).
 - iii. A licensee, owner, administrator or operator of a facility who knowingly and wilfully fails to conduct the required criminal history checks commits a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$5,000. MCL 333.1134a(11); MCL 333.20173a(11); MCL 400.734b(12).

CC. PRISONERS. 2006 PA 540-541. Effective December 29, 2006. It's a felony punishable by imprisonment for up to 5 years and/or a fine of up to \$1,000 to furnish a cell phone to a prisoner in a correctional facility. MCL 800.283a.

DD. RECEIVING AND CONCEALING. 2006 PA 374. Effective October 1, 2006. Amends the R & C law as follows:

1. Includes having reason to know or reason to believe the property was stolen as an alternative element to actual knowledge. MCL 750.535(1) & (7).
2. Precludes a defense that the property was not actually stolen if it was represented to the accused person as being stolen. MCL 750.535(11).

EE. SCANNERS. 2006 PA 39-40. Effective May 31, 2006. Replaces the law prohibiting the equipping of a vehicle with a scanner with the following:

1. A person convicted of a felony within the preceding 5 years shall not carry or possess a scanner. It's a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of up to \$1,000. MCL 750.508(1).
2. A person who carries or possesses a scanner in the commission or attempted commission of a crime with a penalty of at least 93 days but less than 1 year is guilty of a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of up to \$1,000. MCL 750.508(2)(a).
3. A person who carries or possesses a scanner in the commission or attempted of a crime with a penalty of 1 year or more is guilty of a felony punishable by imprisonment for up to 2 years and/or a fine of up to \$2,000. MCL 750.508(2)(b). It's a G felony under the guidelines. MCL 777.16x.

FF. SCRAP METAL. 2006 PA 594 & 675. Effective March 30, 2007. Increases the penalties for second hand junk dealers who purchase stolen scrap metal.

1. Knowingly buying or selling stolen scrap metal is a felony, punishable by imprisonment for up to

3 years and/or a fine of up to \$2,000. MCL 445.408(2). It's an F felony under the guidelines. MCL 777.14h.

2. Knowingly buying or selling stolen scrap metal that a second hand junk dealer has reason to believe was stolen from a utility or the government is a felony, punishable by imprisonment for up to 5 years and/or a fine of up to \$10,000. MCL 445.408(2). It's an E felony under the guidelines. MCL 777.14h.

GG. SEARCH AND RESCUE DOGS. 2006 PA 517-8. Effective December 29, 2006. Includes search and rescue dogs in the statute making it a crime to kill, injure or harass a police dog or police horse.

1. It's a felony punishable by imprisonment for up to 5 years and/or a fine of up to \$10,000 to intentionally kill or cause serious physical harm to a search and rescue dog. MCL 750.50c(2).
2. It's a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of up to \$5,000 to intentionally cause physical harm, or to interfere with or harass a search and rescue dog. MCL 750.50c(3)(4).
 - (a) If the violation occurred during the commission of a crime, it's a felony, punishable by imprisonment for up to 2 years and/or a fine of up to \$15,000. MCL 750.50c(7).

HH. SEX OFFENDER REGISTRATION.

1. **E-MAIL NOTIFICATION.** 2006 PA 46. Effective January 1, 2007. Requires the MSP to provide email notification to subscribers whenever a person registers or changes their registration within a designated zip code.
2. **INMATE REGISTRATION.** 2006 PA 402-404. Effective December 1, 2006. Requires a prison inmate who is subject to the Sex Offender Registration Act to provide a registration address before being paroled or maxed out.
 - a. Refusing to provide an address or knowingly providing a false address is a felony punishable by imprisonment for up to 4 years and/or a fine of up to \$2,000. MCL 791.236(17). It is an F felony under the guidelines. MCL 777.17f.

II. TELEPHONE RECORDS. 2006 PA 246. Effective June 30, 2006. Makes it a crime to obtain or sell confidential telephone records. It's a misdemeanor, punishable by imprisonment for up to 90 days and/or a fine of up to \$100. MCL 445.65a.

JJ. TOBACCO. 2006 PA 236. Effective September 1, 2006. Revises the youth tobacco act to make it a crime for a minor to use, purchase or possess a tobacco product or to attempt to purchase or possess a tobacco product. MCL 722.642.

II. CRIMINAL PROCEDURE

A. CHILD ABUSE. 2006 PA 507. Effective December 29, 2006. Allows a person convicted of misdemeanor child abuse under MCL 750.136b to be placed on probation for 5 years. MCL 771.2a(3).

B. DOMESTIC VIOLENCE.

1. **DEFERRALS.** 2006 PA 663. Effective January 10, 2007. Makes the following changes to the DV deferral statute, MCL 769.4a.

- a. Precludes a domestic violence deferral if the defendant has a prior conviction for an assaultive crime. Assaultive crime means a violation of MCL 750.81 - 750.90g or as listed in MCL 770.9a.
- b. Allows the court to impose probation conditions allowed under MCL 771.3 and to order a jail term of up to 12 months.

2. **HEARSAY.** 2006 PA 79. Effective March 24, 2006. Allows the following statements of domestic violence victims to law enforcement to be admitted in evidence. MCL 768.27c. The law applies to trials and evidentiary hearings commenced or in progress on or after May 1, 2006.

- a. The statement purports to narrate, describe, or explain the infliction or threat of physical injury upon the declarant.
- b. The action in which the evidence is offered under this section is an offense involving domestic violence.
- c. The statement was made at or near the time of the infliction or threat of physical injury. Evidence of a statement made more than 5 years before the filing of the current action or proceeding is inadmissible under this section.
- d. The statement was made under circumstances that would indicate the statement's trustworthiness.
- e. The statement was made to a law enforcement officer.
- f. "Domestic violence" or "offense involving domestic violence" means an occurrence of 1 or more of the following acts by a person that is not an act of self-defense:
 - i. Causing or attempting to cause physical or mental harm to a family or household member.
 - ii. Placing a family or household member in fear of physical or mental harm.
 - iii. Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress.
 - iv. Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.
- g. "Family or household member" means any of the following:

- i. A spouse or former spouse.
 - ii. An individual with whom the person resides or has resided.
 - iii. An individual with whom the person has or has had a child in common.
 - iv. An individual with whom the person has or has had a dating relationship. "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.
 - h. The prosecuting attorney shall disclose the evidence, including the statements of witnesses or a summary of the substance of any testimony that is expected to be offered, to the defendant not less than 15 days before the scheduled date of trial or at a later time as allowed by the court for good cause shown.
- 3. PRIOR ACTS.** 2006 PA 78. Effective March 24, 2006. Allows prior acts of domestic violence to be admitted in DV cases. MCL 768.27b. It applies to all trials and evidentiary hearings in progress or commenced on or after May 1, 2006.
- a. "Domestic violence" or "offense involving domestic violence" is defined in the previous section.
 - b. The prosecuting attorney shall disclose the evidence, including the statements of witnesses or a summary of the substance of any testimony that is expected to be offered, to the defendant not less than 15 days before the scheduled date of trial or at a later time as allowed by the court for good cause shown.
 - c. Prior acts more than 10 years old are not admissible, unless the court determines admission is in the interest of justice.
- C. DRUG COURTS.** 2006 PA 620. Effective January 3, 2007. Allows drug courts to accept participants from other jurisdictions. MCL 600.1052(4).
- D. GARRITY.** 2006 PA 563. Effective December 29, 2006. Makes an officer's *Garrity* statement confidential.
- 1. The statement, and any evidence derived therefrom cannot be used against an officer in a criminal proceeding.
 - 2. The statement may be discovered by search warrant, subpoena or court order for use in an investigation. It may be turned over to the defense if it is *Brady* material.
 - 3. It can also be disclosed in administrative or civil proceedings between the officer and his or her department.
- E. JURY SELECTION.** 2006 PA 655. Effective January 9, 2007. Aligns statutory peremptory challenges with MCR 6.412.
- F. ORDINANCE VIOLATIONS.** 2006 PA 631. Effective January 3, 2007. Allows probation for ordinance violations. MCL 771.1.

G. PAROLE

1. **ARREST.** 2006 PA 543 & 668. Effective December 29, 2006 and January 10, 2007. Whenever a person is arrested or a warrant is issued, the police agency involved must check LEIN to determine if the person is a parolee. If they are a parolee, they must promptly notify DOC by telephonic or electronic means. MCL 764.1g & 764.15g.
2. **COUNSEL.** 2006 PA 532. Effective December 29, 2006. Requires appointed counsel at a parole revocation hearing if the parolee is indigent and requests counsel. MCL 791.240a.
3. **HEARINGS.** 2006 PA 315-6. Effective July 20, 2006. Precludes the release of a prisoner in custody for a parole violation until a hearing has been conducted. Requires the Director of DOC or her designee to be notified whenever a hearing has not been timely held. MCL 791.40a.
4. **SUPERVISION.** 2006 PA 487. Effective January 1, 2007. Requires the following for certain parolees.
 - a. If the parolee was convicted of a violent felony, the parole agent must make a home visit within 45 days of placement on parole, and must check LEIN quarterly. MCL 791.240(1).
 - b. If the parolee has a history of substance abuse and is assigned to intensive, maximum or medium supervision, they must have substance abuse testing twice a month. MCL 791.240(2).
 - c. The DOC must report to the legislature quarterly on the number of parolees who are absconders, and the number who have been absconders for more than 3 months. MCL 791.240(4).
 - d. The DOC must report to the legislature annually on the number of parolees returned to prison for substance abuse violations. MCL 791.240(3).

H. SCRAP TIRES. 2006 PA 530. Effective December 29, 2006. Allows employees of the DEQ to conduct inspections of scrap tire businesses. MCL 324.16909a.

I. SELF DEFENSE. 2006 PA 309-314. Effective October 1, 2006. Changes Michigan law on the use of force in self defense.

1. Eliminates the duty to retreat before using force or deadly force under the following conditions:
 - a. The person must not be engaged in the commission of a crime at the time of using force.
 - b. They must be in a place they have a legal right to be.
 - c. They must honestly and reasonably believe that the use of deadly force is necessary to prevent the imminent death, sexual assault or great bodily harm to themselves or another person.
 - d. They must honestly and reasonably believe that the use of force is necessary to

defend themselves or another person from the imminent unlawful use of force.

2. Creates a rebuttable presumption that a person has an honest and reasonable belief that imminent death, sexual assault or great bodily harm will occur if:
 - a. The force is used against a person breaking into a dwelling, business or occupied vehicle, or against a person attempting to remove another person from a dwelling, business or occupied vehicle against their will.
 - b. The person using deadly force honestly and reasonably believes the breaking and entering or abduction is occurring.
3. The presumption is not available under the following circumstances:
 - a. The force is used against a person with a legal right to be in the building or vehicle, and there is no PPO against that person.
 - b. A child is being removed by a parent, grandparent or lawful custodian.
 - c. The person using force is engaged in the commission of a crime, or is using the building or vehicle to further the commission of a crime.
 - d. The force is used against a peace officer who is entering the building or vehicle in the performance of his or her duties.
 - e. The person using deadly force has a history of domestic violence, and the force is used in a domestic violence situation.
3. Prosecutors must present evidence to the magistrate at charging and at any prelim that a person's actions were not lawful under the self defense act.
4. A person who lawfully uses force under the self defense act has civil immunity.

J. SENTENCING GUIDELINES.

1. **GENERAL AMENDMENTS.** 2006 PA 655. Effective January 9, 2006.
 - a. When scoring an offense under MCL 777.18, which involves crimes that have varying penalties, such as conspiracy or inducing a minor to commit a felony, score the offense variables for the underlying offense and any additional offense variables for the offense category listed in 777.18. MCL 777.21(4)
 - b. Determine the offense class by the underlying crime. If there are multiple underlying crimes, you use the class of the most serious crime. If no underlying offense is a felony, the offense class is G.
 - c. A "prior high severity felony conviction" or "high severity juvenile adjudication" now applies to any crime with a penalty of 10 years or more in addition to any crime on the M2 and A-D grids. MCL 777.51(2)(c)(d); 777.53(2)(c)(d)
 - d. A "prior low severity felony conviction" or "low severity juvenile adjudication" now applies to any crime with a penalty of less than 10 years in addition to any crime on the E-H grids. MCL 777.52(2)(c)(d); 777.54(2)(c)(d).

2. **OV 9.** 2006 PA 548. Effective March 30, 2007. Allows OV 9 to be scored on property crimes. MCL 777.39.

a. Score 25 points if 20 or more victims were placed in danger of property loss.

b. Score 10 points if 4-19 victims were placed in danger of property loss.

c. Score 0 points if fewer than 4 victims were placed in danger of property loss.

K. VICTIM RIGHTS. 2006 PA 461. Effective January 1, 2007. Makes the following changes to the William Van Regenmorter CVRA.

1. Provides that rights must be provided to a victim even if the case is resolved by YTA, a deferred or delayed sentence, or any other way that does not result in an acquittal or unconditional dismissal. MCL 780.752a.

2. Payments from a jail or DOC administrative account, or from a wage assignment, or designated for the victim must be first applied to victim payments. MCL 780.766a.

3. Allows the sheriff to retain a 5% administrative fee for deducting restitution payments from an inmate's administrative account. MCL 780.767a.

III. TRAFFIC SAFETY

- A. **DISABLED VEHICLES.** 2006 PA 509. Effective December 29, 2006. Requires special permits for the transport of disabled vehicles. MCL 257.716(4).
- B. **IMPLEMENTS OF HUSBANDRY.** 2006 PA 14. Effective February 9, 2006. Requires all implements of husbandry sold after January 1, 2007 to comply with specific national standards. MCL 257.684a. The penalty for a violation is a civil infraction. MCL 257.683(6).
- C. **PRIVATE ROADS.** 2006 PA 297. Effective July 20, 2006. Allows peace officers to enforce ordinance violations on private roads that are accessible to the general public. MCL 257.951. 2006 PA 549. Effective December 29, 2006. Allows a private road owner to contract with local government for traffic enforcement. 257.601a.
- D. **COMMERCIAL VEHICLES.** 2006 PA 298. Effective July 20, 2006. Allows the Secretary of State to suspend or revoke commercial vehicle designations for certain violations committed by the operator in both commercial and noncommercial vehicles. MCL 257.319b.
- E. **OWI.** 2006 PA 564-5. Effective January 3, 2007.
 - 1. Eliminates the 10 year limitation period on repeat alcohol offenders for the following offenses.
 - a. OWI with a Minor in the vehicle. MCL 257.625(7)(a)(ii).
 - b. Zero tolerance with a Minor in the vehicle. MCL 257.625(7)(b)(ii).
 - c. OWI or operating with the presence of a schedule 1 controlled substance. MCL 257.625(9)(c).
 - d. Operating while impaired. MCL 257.625(11)(c).
 - 2. Proof of prior convictions can now be established by the following. MCL 257.625(17).
 - a. A copy of the judgment of conviction.
 - b. A plea or trial transcript.
 - c. A copy of the court register of actions.
 - d. Information contained in a pre-sentence report.
 - 3. Beginning October 31, 2010 the SOS must keep a record of a conviction under 257.625 for life. MCL 257.208(2).
- F. **SPEED LIMITS.** 2006 PA 85-86. Effective April 3, 2006. Makes the following changes to the speed laws.
 - 1. Increases the speed limit for a school bus to 55 mph, and to 60 mph on 70 mph freeways. MCL 257.627(6) & (7).
 - 2. Sets 25 mph as the speed limit in subdivisions, parks, business districts and on highways with 60

or more vehicular access points within ½ mile. MCL 257.627(2)(a-d).

3. Sets 35 mph as the speed limit on highways with 45-59 vehicular access points within ½ mile. MCL 257.627(e).
4. Sets 45 mph as the speed limit on highways with 30-44 vehicular access points within ½ mile. MCL 257.627(e).
5. Sets the general speed limit on highways at 55 mph. MCL 257.628(1).

G. TRUCK SPEED LIMITS. 2006 PA 19. Effective November 9, 2006. Increases the speed limit to 60 mph for trucks, truck-tractors, or truck tractors with a semi-trailer on 70 mph freeways. MCL 257.627(6).

IV. MISCELLANEOUS

A. ALCOHOL. 2006 PA 682. Effective January 10, 2007. Allows a military ID to be used as proof of age to purchase alcohol. MCL 436.1701(8).

B. BICYCLES. 2006 PA 556 & 587. Effective December 29, 2006. Allows abandoned or stolen bicycles to be donated to a state licensed charitable organization. MCL 434.171 & 181.

C. CCW.

1. **CARRYING ANOTHER'S PISTOL.** 2006 PA 75. Effective July 1, 2006. Allows a person with a CCW license to carry another person's licensed pistol. MCL 28.432(I).
2. **CARRYING IN A VEHICLE.** 2006 PA 433. Effective October 5, 2006. Allows an unloaded firearm to be transported in a location that is not readily accessible to any occupant of the vehicle. It no longer has to be transported in the trunk or in a case.
3. **FOIA.** 2006 PA 350. Effective September 18, 2006. Exempts from FOIA the names, DOB and addresses of CCW applicants and the names, addresses and phone numbers of their references. Requires applicants to list only misdemeanor convictions that have occurred in the previous 8 years.
4. **LICENSE EXPIRATION.** 2006 PA 184. Effective June 19, 2006. Provides that CCW licenses issued after July 1, 2006 expire on the licensee's birthday. MCL 28.425L.
5. **LICENSE RENEWAL.** 2006 PA 92. Effective July 1, 2006. Requires renewal of a CCW license within 60 days of properly filing the renewal application. If the license renewal is not approved in 60 days, the applicant's current license is extended for 180 days or until the renewal license is issued, whichever occurs first. MCL 28.425L.

2006 PA 456. Effective December 20, 2006. People who renew their CCW permit do not have to be re-fingerprinted if the MSP has up and running an automated database that keeps their original prints. MCL 28.425L.

6. **LOCAL CORRECTIONS OFFICERS.** 2006 PA 559. Effective December 29, 2006. Allows local corrections officers to carry concealed during the performance of their duties if authorized by the sheriff or chief. MCL 28.432a.

D. CHILD PROTECTION.

1. **CENTRAL REGISTRY.** 2006 PA 621. Effective January 3, 2007. Give the Friend of the Court access to the child abuse central registry in certain cases. MCL 722.627(2)(t).
2. **DHS EMPLOYEES.** 2006 PA 583. Effective January 3, 2007. Requires certain DHS employees to report child abuse in the same manner as other professionals. MCL 722.623(b).
3. **PETITIONS.** 2006 PA 630. Effective January 3, 2007. Removes the requirement for DHS to file petitions in serious cases of child abuse if they determine the perpetrator was not a parent or legal guardian, and that the parent or legal guardian did not neglect or fail to protect the child. MCL 722.17(2).

4. **REPORTS.** 2006 PA 618. Effective January 3, 2007. Requires DHS to report to the legislature annually how Category III cases were handled. MCL 722.628d(6)(b) & (c).

E. CHILD SUPPORT.

1. **MILITARY PERSONNEL.** 2006 PA 484. Effective December 29, 2006. Allows a person called up to emergency military service to obtain a military service adjustment to their child support obligation. MCL 552.615a.
2. **STATE COLLECTION.** 2006 PA 615. Effective January 3, 2007. Transfers from the Department of Treasury to the Department of Human Services the responsibility for collecting unpaid child support owed the state. MCL 205.13(2).

- F. CRIME STOPPERS.** 2006 PA 557. Effective December 29, 2006. Makes crime stoppers information confidential. PA can petition a court for disclosure. MCL 600.2157b.

- G. CROWS.** 2006 PA 585. Effective January 3, 2007. Repeals MCL 433.301 et. seq., the bounty on crows and starlings.

- H. DRIVER EDUCATION.** 2006 PA 384. Effective October 1, 2006. Creates the Driver Education Provider and Instructor Act.

- I. FIREARMS.** 2006 PA 545-6. Effective December 29, 2006. Prohibits the confiscation of lawfully possessed firearms when the governor declares a disaster or state of emergency. MCL 10.31(3) & 30.405(2).

- J. FIRE MARSHALL.** 2006 PA 189-213. Effective June 19, 2006. Transfers the office and duties of the State Fire Marshall to the Department of Labor and Economic Growth, and establishes the Bureau of Fire Services. MCL 29.1 et. seq.

K. FORFEITURE

1. **INTEREST.** 2006 PA 128-130. Effective May 5, 2006. Allows interest to be earned on money held for forfeiture. MCL 600.4703(6), MCL 750.49(20), MCL 750.159J(10), MCL 750.535a(9), MCL 333.7523.
2. **PROCEEDS.** 2006 PA 558. Effective December 29, 2006. Allows drug forfeiture funds to be given to nonprofit organizations whose primary activity is to assist law enforcement with drug-related criminal investigations and obtaining information for solving crimes. MCL 333.7524(b)(ii).

- L. HEALTH PROFESSIONAL BACKGROUND CHECKS.** 2006 PA 26. Effective February 17, 2006. Requires applicants for a health profession license to have a criminal background check prior to being issued a license. MCL 333.16174.

- M. HUNTING.** 2006 PA 280 & 282. Effective July 10, 2006. Allows 12 year olds to obtain a hunting license for deer, bear or elk. Allows 10 year olds to obtain a hunting license for other game. MCL 324.43520.

- N. INTERNET DROP OFF STORES.** 2006 PA 292-5. Effective July 20, 2006. Establishes the

conditions by which an Internet drop off store can be exempted from licensing under the pawnbroker, second hand junk dealers, and precious gem and metal dealers act. The requirements are:

1. A fixed place of business.
2. All transactions conducted over the Internet.
3. Property is viewable by website, at no charge.
4. Maintain a record of the sale for at least 2 years.
5. Provide the police access to the premises during normal business hours.
6. Provide information regarding a sale to the local police within 24 hours of a police request.
7. Payments cannot be made in cash.
8. Immediately remove any stolen property from the website.

O. JAIL INMATE HEALTH CARE. 2006 PA 20. Effective February 9, 2006. Requires health insurance covering a jail inmate to be billed for medical services provided the inmate. MCL 801.4 & 801.4a.

P. JAIL REIMBURSEMENT. 2006 PA 127. Effective May 2, 2006. Increases the statute of limitations for seeking reimbursement for the costs of jail confinement to 6 years. MCL 801.87.

Q. LIFE SUPPORT VEHICLES. 2006 PA 582. Effective January 3, 2007. Requires all life support vehicles to be equipped with an automated external defibrillator by September 3, 2007. MCL 333.20911.

R. MEDICAL EXAMINERS.

1. **IDENTIFICATION.** 2006 PA 569-70. Effective January 3, 2007. Requires the ME to verify identity when a fatal incident involves 2 or more people with similar characteristics. MCL 52.205(4).
2. **NON-RESIDENT EXAMINERS.** 2006 PA 3. Effective February 3, 2006. Allows counties without an accredited hospital to appoint a physician from a state that borders that county as the county ME. MCL 52.201.

S. METHAMPHETAMINE

1. **ANHYDROUS AMMONIA.** 2006 PA 417-418. Effective September 29, 2006. Provides immunity for anyone who stores anhydrous ammonia in accordance with the anhydrous ammonia security act. MCL 600.2976.
2. **CHILD PROTECTION.** 2006 PA 256, 263-4, 266. Effective July 6, 2006. Requires DHS to file a child abuse petition within 24 hours whenever they determine a child has been exposed to methamphetamine. MCL 722.637.
3. **LAB CLEANUP.** 2006 PA 258 & 260. Effective July 6, 2006. Requires law enforcement to

notify the local health department and the state Department of Community of Health whenever they discover a drug lab. The health department may require the property to be vacated until rehabilitated under standards developed by the Department of Community Health. MCL 333.12103; MCL 125.485A.

4. **LAB LISTS.** 2006 PA 255. Effective January 1, 2007. Requires the Department of Community Health to maintain a list of all meth labs on its website, including a statement whether the site has been rehabilitated according to Department standards.
 5. **METH REPORTS.** 2006 PA 262. Effective October 1, 2006. Creates the methamphetamine reporting act which requires local law enforcement agencies and various state agencies to report information to the MSP on the manufacture, use, possession or distribution of meth.
 6. **METH WEBSITES.** 2006 PA 257. Effective October 1, 2006. Allows the AG to enjoin websites that publish instructions for making meth. MCL 600.2975.
- T. MISSING PERSONS.** 2006 PA 450. Effective December 14, 2006. Allows a description of a missing person who is believed to be incapable of returning to his or her residence without assistance to be entered in LEIN. MCL 28.258.
- U. MUNICIPAL JAILS.** 2006 PA 88. Effective April 3, 2006. Allows a municipality to seek reimbursement from an inmate in a municipal jail or in a county jail for expenses.
- V. PATERNITY.** 2006 PA 105. Effective April 7, 2006. An acknowledgment of parentage establishes initial custody in the mother until otherwise determined by a court or otherwise agreed upon by the parties and acknowledged by a court. MCL 722.1006.
- W. PRIVATE CORRECTIONS OFFICERS.** 2006 PA 533. Effective December 29, 2006. Authorizes correction officers of a private vendor who receives prisoners to use force to defend themselves and enforce rules and disciplines. MCL 800.41.
- X. SCHOOL EMPLOYEES.** 2006 PA 84. Effective March 31, 2006. Exempts from FOIA for 15 days the list of school employees convicted of crimes to allow the schools to review the list for errors. MCL 380.1230h.
- Y. SELF-DEFENSE SPRAY OR FOAM.** 2006 PA 401. Effective December 28, 2006. Changes the definition of self defense sprays in MCL 750.224d to include self defense foams. Allows the solution to contain up to 10% oleoresin capsicum. Includes state security employees and state motor carrier officers within the exemptions to the weapon statutes contained in MCL 750.231.
- Z. SHOOTING RANGES.** 2006 PA 15. Effective February 9, 2006. Requires the hours of operation of every state park shooting range to be posted at the entrance to the park. MCL 324.74103a.
- AA. TASERS.** 2006 PA 457. Effective December 20, 2006. Allows trained private security guards and authorized employees at municipal lockups to use Tasers. MCL 750.224a(a)(iv)(ix).
- BB. YOUTH CORRECTIONAL FACILITY.** 2006 PA 351. Effective September 18, 2006. Allows the Michigan Youth Correctional Facility to house inmates from county jails, other states or the federal government. MCL 791.220i.