

2008 CRIME LEGISLATION UPDATE

An Outline of Recently Passed Legislation From January 1 to December 31, 2008.

This outline is a summary of 158 Public Acts passed in 2008 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. CORRECTIONS

IV. VEHICLES

V. MISCELLANEOUS

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I. NEW CRIMES & PENALTIES

- A. AGRICULTURAL PESTICIDE DEALERS.** 2008 PA 18. Effective February 29, 2008. Requires a distributor of agricultural pesticides to be licensed. MCL 324.8310a. Penalty is a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of up to \$5,000. MCL 324.8333.
- B. ALCOHOL/RETAIL HOME DELIVERY.** 2008 PA 474. Effective January 9, 2009. Prohibits the retail home delivery of alcohol unless the retailer holds a specially designated merchant license. MCL 436.1203. A violation is a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of up to \$100. MCL 436.1909(1).
- C. ANATOMICAL GIFTS.** 2008 PA 37-41. Effective May 1, 2008. Enacts the *Revised Uniform Anatomical Gift Act* in Michigan. Makes it a felony, punishable by imprisonment for up to 5 years and/or a fine of up to \$50,000 to do either of the following. It is an E felony under the guidelines. MCL 777.13n.
1. To knowingly purchase or sell a body part for transplantation or therapy if removal of the body part is intended to occur after the individual's death. MCL 333.10116.
 2. For financial gain, to falsify, forge, conceal, deface, delete or obliterate a document of gift, an amendment or revocation of a document of gift, or a refusal to donate an organ. MCL 333.10117.
- D. ANIMALS.**
1. **TORTURE.** 2008 PA 339. Effective January 1, 2009.
 - a. Prohibits the commission of a reckless act that will cause an animal to be killed, tortured, mutilated, maimed or disfigured.
 - b. Increases the potential fine for killing or torturing an animal to \$2,500 for each animal involved in the violation, up to a maximum of \$20,000. MCL 750.50b.
 2. **DOGS.** 2008 PA 205-206. Effective January 1, 2009. Requires the adult owner of a dog or wolf dog that bites someone to remain on the scene and provide the following information to the victim. Violations are misdemeanors punishable by imprisonment for up to 93 days and/or a fine of up to \$500. MCL 750.66 & 750.66a.
 - a. The owner's name and address. MCL 750.66(1)(a).
 - b. Whether the animal is current on all legally required vaccinations. MCL 750.66(1)(b).
 3. **GREY WOLVES.** 2008 PA 290. Effective October 6, 2008. Allows the owner of livestock to remove, capture or kill a grey wolf that is preying on the livestock. An owner or agent who takes a grey wolf must do the following. A violation is a misdemeanor, punishable by imprisonment for up to 90 days and/or a fine of \$100 to \$1,000. **Enforcement of this Act was suspended by 2008 PA 317 & 318 pending resolution of a federal lawsuit seeking to enjoin the removal of the grey wolf from the endangered species act.**
 - a. Report the taking to the DNR within 12 hours. MCL 324.95153(2).

- b. Retain possession of the wolf until the DNR can take possession. MCL 324.95153(3).
 - c. If the wolf is killed, take a picture of the wolf and the surrounding area before moving the remains. MCL 324.95153(4).
- E. B & E OF SHIPPING CONTAINERS.** 2008 PA 10. Effective June 1, 2008. Includes shipping containers in the statutes prohibiting breaking and entering a structure and entering without breaking a structure. MCL 750.110 & 750.111.
- F. CATALYTIC CONVERTERS.** 2008 PA 475-476. Effective April 1, 2009. Includes catalytic converters in larceny from a vehicle statute. MCL 750.356a(1). Allows prior convictions to be proved by a copy of the register of actions. MCL 750.356a(5)(e).
- G. CEMETERIES.** 2008 PA 477-478. Effective January 12, 2009. Increases the misdemeanor penalty for cemetery act violations from a fine to imprisonment for up to 1 year and/or a fine of up to \$10,000. MCL 456.541.
- H. CHILDREN.**
- 1. CHILD ENDANGERMENT.** 2008 PA 521 & 577. Effective April 1, 2009. Includes reckless endangerment in 3rd and 4th degree child abuse.
 - a. Knowingly and intentionally committing an act that under the circumstances poses an unreasonable risk of injury or harm to a child is 3rd degree child abuse if harm results. MCL 750.136b(6)(b). It was also changed from a 2 year misdemeanor to a felony.
 - b. It's 4th degree child abuse if no harm results. MCL 750.136b(7)(b).
 - c. 2nd degree child abuse now includes reckless acts causing serious mental harm. MCL 750.136b(3)(a).
 - 2. KIDS IN CARS.** 2008 PA 519-520. Effective April 1, 2009. Makes it a crime to leave a child under 6 years of age unattended in a vehicle for a period of time or under circumstances that pose an unreasonable risk of harm to the child. Unattended means alone or without the supervision of a person 13 years of age or older.
 - a. If the child dies, it's a felony punishable by imprisonment for up to 15 years and/or a fine of up to \$10,000. MCL 750.135a(2)(d). It's a B felony under the guidelines. MCL 777.16g.
 - b. If the child suffers serious physical harm as defined in MCL 750.136b, it's a felony punishable by imprisonment for up to 10 years and/or a fine of up to \$5,000. MCL 750.135a(2)(c). It's a D felony under the guidelines. MCL 777.16g.
 - c. If the child suffers physical harm, it's a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of up to \$1,000. MCL 750.135a(2)(b).
 - d. If there is no harm, it's a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$500. MCL 750.135a(2)(a).

3. FALSE REPORT REGARDING A CHILD CARE VIOLATION. 2008 PA 15 & 16.
Effective June 1, 2008.

- a. Requires a child care organization to notify parents when DHS is investigating the organization for possible abuse or neglect that resulted in serious injury or death to a child, or for sexual abuse. MCL 722.113f.
- b. Makes it a crime to make a false report to DHS regarding child care organizations.
 - 1. If the false report would not constitute a crime, or would constitute a misdemeanor if the report were true, the violation is a misdemeanor punishable by imprisonment for up to 93 days and/or fine of up to \$100. MCL 722.115L(a).
 - 2. If the false report would be a felony if true, the violation is a felony punishable by either the penalty for the false crime reported or by imprisonment for up to 4 years and/or a fine of not more than \$5,000, whichever is less. MCL 722.115L(b). It's an F felony under guidelines. MCL 777.15g.

I. CIGARETTES. 2008 PA 458-459. Effective January 9, 2009. Creates new penalties for the knowing possession, acquisition, transport or offer to sell less than 1,199 illegal cigarettes, or tobacco products with a value of less than \$100.

- 1. It's a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of up to \$1,000 if the value of the tobacco products is between \$50 and \$100 or involves 600 to 1,199 cigarettes. MCL 205.428(11).
- 2. It is a civil infraction with a maximum fine of \$100 for lesser amounts. MCL 205.428(12).

J. FALSE HEALTH CLAIMS. 2008 PA 421. Effective January 6, 2009. Changes the knowledge requirement for filing a false claim for a health benefit to include acting in reckless disregard of the truth or falsity of facts. MCL 400.602.

K. FINANCING STATEMENTS. 2008 PA 381-383. Effective March 29, 2009.

- 1. Allows the Secretary of State to refuse to record financing statements that are not filed by a regulated financial institution for the following reasons. MCL 440.9520(5).
 - a. The record is not required or authorized to be filed.
 - b. The record is being recorded or filed for a purpose outside the scope of Article 9 of the UCC.
 - c. The SOS has reasonable cause to believe the record is materially false or fraudulent.
 - d. The record asserts a claim against a current or former government employee and the filer does not hold a properly executed security agreement or court judgment.
 - e. The debtor and secured party are substantially the same.
 - f. An individual debtor is a transmitting utility.

2. Allows an individual identified in a financing statement to file an affidavit with the SOS claiming that the financing statement is fraudulent. An affidavit cannot be used to terminate a financing statement filed by a regulated financial institution. MCL 440.9501a.
 - a. Filing of the affidavit terminates the financing statement. MCL 440.9501a(3).
 - b. Filing a materially false or fraudulent affidavit is a felony punishable by imprisonment for up to 5 years and/or a fine of up to \$5,000. MCL 440.9501a(9). It's an E felony under the guidelines. MCL 777.14g.

L. FIREARMS. 2008 PA 194-196. Effective January 7, 2009.

1. **PISTOL SAFETY INSPECTIONS.** Repeals the pistol safety inspection statutes. MCL 750.228 & MCL 28.429.
2. **CCW IN PROHIBITED AREAS.** Deletes the prohibition on officers carrying concealed in prohibited areas, such as schools and bars when off-duty. MCL 28.425o(4)(d).
 - a. 2008 PA 407. Effective April 6, 2009. Allows the following individuals who have a CCW license to carry in prohibited areas. MCL 28.425o(4)(d-i).
 1. Correction officers of a county sheriff's department.
 2. A motor carrier officer or capitol security officer of the MSP.
 3. A member of a sheriff's posse.
 4. Auxiliary officer or reserve officer of a police or sheriff department.
 5. A parole or probation officer of the DOC.
 6. A state court judge or retired state court judge.
3. **RETIRED POLICE OFFICERS.** 2008 PA 537-538. Effective March 31, 2009. Creates the Michigan retired law enforcement officer's firearm carry act. MCL 28.510 et.seq.
 - a. Allows qualified retired law enforcement officers to be certified by MCOLES to carry a concealed firearm.
 - b. Knowingly providing false or misleading information on the application for certification is a felony punishable by imprisonment for up to 4 years and/or a fine of up to \$2,000. MCL 28.516. It's an F felony under the guidelines. MCL 777.11b.
 - c. The certificate holder must immediately report the following information to MCOLES. Failure to report is a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of up to \$5,000. MCL 28.518.
 1. An arrest or a conviction.
 2. Becoming subject to a PPO, or an order that prohibits or limits firearm possession or use.

3. A lab test indicating unauthorized presence of a controlled substance.
- d. A certificate holder gives implied consent to submit to a chemical test. MCL 28.519.
 1. .02-.08 BAC while carrying is a civil infraction.
 2. .08-.10 BAC is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$100. Three year revocation of carry certificate.
 3. .10 or more BAC is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$100. Permanent revocation of carry certificate.
4. **MINORS.** 2008 PA 406. Effective April 6, 2009. Allows a minor to possess a firearm without a license at a target range while under direct parental supervision. MCL 28.422(11).

M. FUNERAL PROTESTS. 2008 PA 166. Effective June 26, 2008. Measures the 500 foot distance for protests at a funeral from the property line of the building or other location where the service is being held. The property line specification is only for ordinance violations. MCL 123.1113.

N. GANGS.

1. RECRUITING MEMBERS. 2008 PA 562-563. Effective April 1, 2009.

- a. Causing, encouraging, soliciting, recruiting or coercing a person to join a gang or to assist a gang in committing a felony is a felony punishable by imprisonment for up to 5 years and/or a fine of up to \$5,000. MCL 750.411v(1). It's an E felony under the guidelines. MCL 777.16b.
- b. Threatening another person to deter that person from withdrawing from a gang or to punish them for withdrawing from a gang is a felony punishable by imprisonment for up to 20 years and/or a fine of up to \$20,000. MCL 750.411v(2-3). It's a B felony under the guidelines. MCL 777.16b.
- c. Score 25 points under OV 13 for committing either of these crimes as a pattern of criminal activity. MCL 777.43.
- d. Gang means an ongoing organization, association, or group of 5 or more people, other than a nonprofit organization, that identifies itself by all of the following:
 1. A unifying mark, manner, protocol, or method of expressing membership, including a common name, sign or symbol, means of recognition, geographical or territorial sites, or boundary or location.
 2. An established leadership or command structure.
 3. Defined membership criteria. MCL 750.411v(5)(a).

2. **COMMITTING GANG CRIMES.** 2008 PA 564-565. Effective April 1, 2009. It's a felony for a gang member or an associate of a gang to commit a felony or an attempted felony when the person's association or membership in the gang provides the motive, means or opportunity to commit the felony.
 - a. The penalty is imprisonment for up to 20 years. MCL 750.411u. It's a B felony under the guidelines. MCL 777.16b.
3. **CONSECUTIVE SENTENCING.** The court has discretion to impose a consecutive sentence for the gang crime and any other felony arising out the same transaction. MCL 750.411u(2); MCL 750411v(4).

O. LEGAL DEFENSE FUNDS. 2008 PA 288-289. Effective October 6, 2008. Requires an elected official to file a statement of organization and expenditure reports with the Secretary of State when he or she receives contributions for the purpose of defending the official in a criminal, civil or administrative proceeding.

1. It is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$1,000 to fail to file a statement of organization within 10 days of receiving a contribution or making an expenditure of a contribution. MCL 15.525.
2. It is a misdemeanor punishable by imprisonment for up to 180 days and/or a fine of up to \$5,000 to knowingly submit false information on transaction reports. MCL 15.527.
3. It is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$1,000 to fail to file 2 transaction reports if both of the reports remain unfiled for more than 30 days passed the filing deadline. MCL 15.529.
4. It is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$1,000 to knowingly solicit or accept contributions for an elected officials legal defense that are not accounted for in a legal defense fund that complies with these acts. If the violation is not committed by an individual, the fine is up to \$10,000. MCL 15.533.
5. It is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$1,000 to knowingly spend money in a legal defense fund for purposes other than legal defense, such as for media purchases. If the violation is not committed by an individual, the fine is up to \$10,000. MCL 15.535.

P. LIQUOR LICENSE VIOLATIONS. 2008 PA 11. Effective February 29, 2008. Establishes the following new violations for licensees. The penalty is a misdemeanor, punishable by imprisonment for up to 6 months and/or a fine of up to \$500.

1. Allowing an intoxicated person to consume alcohol on licensed premises. MCL 436.1707(2).
2. For the licensee or employee to be intoxicated on the licensed premises. MCL 436.1707(3).
3. Allowing an intoxicated person to frequent or loiter on licensed premises. MCL 436.1707(4).
4. Allowing a minor to consume or possess alcohol on licensed premises. MCL 436.1707(5).

5. Allowing a person under 18 to sell or serve alcohol. MCL 436.1707(6).
6. Allowing a person under 18 to work or entertain on the licensed premises unless authorized by the youth employment standards act. MCL 436.1707(7).
7. Allowing unlawful gambling or gaming devices on the licensed premises. MCL 436.1901(2).
8. To sell, possess or offer for sale, or allow a customer to consume illegal alcohol. MCL 436.1901(3).
9. To sell or furnish alcohol to a person who maintains premises that are not licensed. MCL 436.1901(4).
10. To allow the sale or consumption of alcohol on the licensed premises that the licensee did not purchase from a licensed seller. There is an exception for consumption in hotel guest rooms. MCL 436.1901(5).
 - a. Proof of intoxication may only be made by direct observation and not by a chemical testing device. MCL 436.1025(4).

Q. MDOP TO UTILITY PROPERTY. 2008 PA 413-414. Effective March 1, 2009. Updates the MDOP to utility property statute to include telecommunication lines, towers or posts, and increases the maximum penalty from 4 to 5 years. MCL 750.383a. It's an E felony under the guidelines. MCL 777.16s.

R. MASSAGE THERAPY. 2008 PA 471. Effective January 9, 2009. Requires a license to practice massage therapy. MCL 333.17951. Violations are misdemeanors punishable by imprisonment for up to 90 days and/or a fine of \$100. MCL 333.16296.

S. MORTGAGE LICENSE VIOLATIONS.

1. 2008 PA 59-71. Effective April 3, 2008. Prohibits individuals with felony or certain misdemeanor convictions from being licensed as a mortgage broker, mortgage lender, mortgage servicer or loan officer. Violations are misdemeanors, punishable by imprisonment for up to 1 year and/or a fine of up to \$15,000. MCL 445.1679.
2. 2008 PA 528-530. Effective January 13, 2009. Requires individuals who provide secondary mortgage loans to be licensed, and prohibits coercion of a real estate appraiser. Violations are misdemeanors, punishable by imprisonment for up to 1 year and/or a fine of up to \$15,000. MCL 493.77.
3. 2008 PA 531. Effective January 13, 2009. It's a misdemeanor, punishable by imprisonment for up to 1 year and/or a fine of up to \$15,000 for an appraiser to do an appraisal as a result of the client doing either of the following:
 - a. Setting preconditions on the outcome of an appraisal as a condition to being selected
 - b. Representing or implying that payment for the appraisal is conditioned upon attaining a desired minimum appraisal value. MCL 339.2635(2).

T. NON RETURNABLE CONTAINERS.

1. REDEMPTION. 2008 PA 384-386. Effective March 31, 2009. Creates the following penalties for redeeming nonreturnable containers. MCL 445.574a.

- a. Returning or knowingly accepting 25 to 100 nonreturnable containers is a civil fine of up to \$100.
- b. Returning or knowingly accepting 100 to 10,000 nonreturnable containers, or a second offense of returning or accepting 25 to 100 nonreturnable containers, is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$1,000.
- c. A second offense of returning or knowingly accepting 100 to 10,000 nonreturnable containers is a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of up to \$2,000.
- d. Returning or knowingly accepting more than 10,000 nonreturnable containers is a felony punishable by imprisonment for up to 5 years and/or a fine of up to \$5,000. It's an E felony under the guidelines. MCL 777.14h.

2. REVERSE VENDING MACHINES. 2008 PA 387. Effective December 29, 2008. Requires use of reverse vending machines that will only accept Michigan containers. Altering the machines is a felony punishable by imprisonment for up to 2 years and/or a fine of up to \$10,000. All other violations are misdemeanors punishable by imprisonment for up to 90 days and/or a fine of up to \$5,000. **Compliance with this provision is contingent on state funding.**

3. DESIGNATED RETURNABLE CONTAINERS. 2008 PA 389. Effective December 29, 2008. It's a misdemeanor punishable by imprisonment for up to 180 days and/or a fine of up to \$2,000 to sell or offer for sale a container that does not contain a mark or symbol readable by a reverse vending machine as a Michigan returnable container. **Compliance with this provision is contingent on state funding.**

U. PHOSPHORUS. 2008 PA 426-427. Effective January 6, 2009. Prohibits the sale of laundry detergent containing more than .5% phosphorus and the sale of other cleaning agents containing more than 8.7% phosphorus. MCL 324.3902.

V. POST CONVICTION DNA TESTING. 2008 PA 410-412. Effective January 6, 2009.

1. It's a felony punishable by imprisonment for up to 5 years and/or a fine of up to \$10,000 to make a material false statement in a post conviction DNA petition. The court may impose a consecutive sentence. MCL 750.422a. It's an E felony under the guidelines. MCL 777.16v.
2. Extends the time for filing a petition for eligible cases until January 1, 2012. MCL 770.16(1).
3. Allows a person convicted after January 1, 2001 to file a petition if DNA testing was done on the case and the testing was inconclusive, and current technology would be likely to result in conclusive results. MCL 770.16(1)(a-c).
4. Allows the court to order police agencies, hospitals or ME's to search for biological material. MCL 770.16

W. RESTROOM ACCESS. 2008 PA 469. Effective March 31, 2009. Requires retail establishments to allow customers with documented medical conditions to use their private restrooms. Violations are civil infractions.

1. A customer who forges or knowingly possesses a forged prescription making them eligible to use a private restroom commits a misdemeanor, punishable by imprisonment for up to 90 days and/or a fine of up to \$100.

X. SCRAP METAL. 2008 PA 428-432. Effective April 1, 2009. Creates the “nonferrous metal regulatory act”. Non ferrous metal means metal that does not contain significant quantities of iron or steel. MCL 445.423(f).

1. Requires a dealer in nonferrous metals to do the following:
 - a. Keep purchase records available for inspection by law enforcement. MCL 445.427.
 - b. Obtain identification and a thumbprint from the metal seller. MCL 445.425(2)(a-b).
 - c. Obtain a signed statement from the seller that the seller is the owner of the metal or otherwise authorized to sell it. MCL 445.425(2)(c).
 - d. To make payment by a method capable of being traced. Payments cannot be made by cash. MCL 445.425(1)(d).
 - e. To tag and hold for 7 days certain types of metal articles. MCL 445.429.
 - f. To register with or subscribe to an Internet based database available to dealers, law enforcement and the general public that lists and tracks thefts of non ferrous metals. MCL 445.431.
2. General violations are misdemeanors, punishable by imprisonment for up to 93 days and/or a fine of up to \$500. MCL 445.433(1).
3. The purchase or sale of non ferrous metal that the person knows or has reason to know is stolen is a felony punishable by imprisonment for up to 5 years and/or a fine of up to \$5,000 for a first offense. The fine increases to \$10,000 for a second offense. MCL 445.433(2). They are E felonies under the guidelines. MCL 777.14h.
4. Requires second hand junk dealers to pay for items by check or by an electronic payment system. MCL 445.408.
5. Provides the same felony penalties for a second hand junk dealer to knowingly purchase or sell stolen scrap metal. MCL 445.408.

Y. SPEARING FISH. 2008 PA 291. Effective October 6, 2008. Allows the DNR to issue an order to regulate the taking of fish with a spear or bow and arrow. MCL 324.48703(3).

Z. STREET RAILWAYS. 2008 PA 481 & 484. Effective January 12, 2009.

1. Causing or attempting to cause the derailment of a streetcar, tram or trolley, or wilfully endangering or attempting to endanger persons on a streetcar, is a felony punishable by imprisonment for life or any number of years. MCL 472.21(2). It's an A felony under the guidelines.
2. Throwing a missile at a streetcar, tram or trolley is a misdemeanor punishable by imprisonment for 10-90 days and/or a fine of \$100-\$500. MCL 472.21(3).

AA. TRANQUILIZING GAME. 2008 PA 301. Effective November 13, 2008. Prohibits the taking of game by using a tranquilizer propelled by a bow or a gun. MCL 324.40111c.

BB. UNIFORM SECURITIES ACT. 2008 PA 551-552. Effective October 1, 2009. Creates the "uniform securities act." Violations are felonies punishable by imprisonment for up to 10 years and/or a fine of up to \$500,000. MCL 451.2508. It's an E felony under the guidelines. MCL 777.14j.

CC. UNLICENSED ARCHITECTS, ENGINEERS AND LAND SURVEYORS. 2008 PA 319 & 340. Effective March 31, 2009. Creates the following penalties for performing these professions without a license.

1. First offense is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of \$5,000 to \$25,000. MCL 339.601(7)(a).
2. Second or subsequent offense is a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of \$5,000 to \$25,000. MCL 339.601(7)(b).
3. A violation that causes death or serious injury is a felony punishable by imprisonment for up to 4 years and/or a fine of \$5,000 to \$25,000. MCL 339.601(7)(c). It's an F felony under the guidelines. MCL 777.13p.

II. CRIMINAL PROCEDURE

A. DNA.

1. **ARREST SAMPLES.** 2008 PA 380. Effective July 1, 2009. Requires a DNA sample to be taken upon the arrest of a person charged with one or more of the following violent felonies. MCL 750.520m(1)(a).
 - a. Assault. MCL 750.82 - 89.
 - b. Murder and manslaughter. MCL 750.316, 317 & 321.
 - c. Kidnaping. MCL 750.349, 349a & 350.
 - d. CSC. MCL 750.520b - 520g.
 - e. Robbery and carjacking. MCL 750.529, 529a & 530.
2. **SAMPLE QUALITY.** 2008 PA 533. Effective January 13, 2009. Requires a person to give a second DNA sample if the first is inadequate for analyses. MCL 28.173a(2).
3. **SAMPLE USES.** 2008 PA 534-535. Effective January 13, 2009.
 - a. Samples may only be used for law enforcement purposes, identification of missing persons or remains, or academic research. MCL 28.175a.
 - b. Unauthorized use or tampering with a sample is a misdemeanor, punishable by imprisonment for up to 1 year and/or a fine of up to \$1,000. MCL 28.175.
 - c. The sample must be disposed of upon request of the investigating agency, prosecutor, or upon of a final court order establishing that the defendant was acquitted or the charges dismissed. MCL 28.176(11).
 - d. An error in obtaining or disposing of a sample does not invalidate an identification, arrest, warrant or conviction based upon a DNA match. MCL 28.176(15).

B. DISTRICT COURT MAGISTRATES.

2008 PA 95. Effective April 8, 2008. Allows a district court magistrate to conduct arraignments for contempt violations or probation violations.

1. The magistrate may set bond or accept a plea, but cannot conduct a hearing.
2. Authority is limited to offenses with a maximum penalty of 1 year. MCL 600.8511(d).

C. FORGED REAL ESTATE DOCUMENTS.

2008 PA 378. Effective December 23, 2008.

1. Allows venue for forgery of a real estate document to be in the county in which the rightful property owner resides. MCL 750.248(3).

2. If the forged document was recorded, the prosecutor must provide the circuit court with liber and page number or other unique identifying number of the invalid document. MCL 750.248(4) & 750.249(3).
3. Upon conviction for forgery or U & P of a document involving property, the circuit court must enter an order indicating that the document is invalid, and the order must be recorded in the appropriate register of deeds office(s). MCL 750.248(4) & 750.249(3).

D. GPS BAIL CONDITIONS. 2008 PA 192. Effective July 10, 2008. Allows the court to order GPS monitoring of a domestic violence defendant as a condition of bail. MCL 765.6b(6). If GPS is ordered, the court shall also order that the defendant not purchase or possess a firearm. MCL 765.6b(3).

E. JAIL OVERCROWDING. 2008 PA 542. Effective January 13, 2009. Modifies the jail overcrowding release act.

1. Requires the sheriff to divide prisoners into those serving sentences and those who are not. MCL 801.56(2)(a).
2. Allows the judge to determine whether the prisoners not serving a sentence may be safely released on bond or electronic monitoring. MCL 801.56(4)(b).

F. JUSTICE SYSTEM FUND COSTS. 2008 PA 543-548. Effective April 1, 2009. Increases minimum costs on convicted juveniles and defendants by \$8 to establish a fund for child advocacy centers and SANE programs.

G. SEXUAL ASSAULT EXAMINATIONS. 2008 PA 390-391. Effective December 29, 2008.

1. Provides that all sexual assault examinations will be paid directly to the health care provider by the Crime Victims Compensation Board, unless the victim consents in writing to bill her insurance. MCL 18.355a.
2. Victim information obtained by the Crime Victims Compensation Board is confidential and non-discoverable by FOIA or subpoena. MCL 18.355a(9).
3. The victim cannot be required to cooperate with law enforcement as a condition for an examination. MCL 18.355a(10).

H. VACATED CONVICTIONS. 2008 PA 508. Effective January 13, 2009. Requires the clerk of the court that entered a conviction to notify the MSP and DOC if the conviction is vacated and dismissed, or the defendant is found not guilty on retrial. MCL 769.16a(8).

III. CORRECTIONS

- A. BOOT CAMPS.** 2008 PA 158. Effective June 5, 2008. Expands boot camp eligibility to prisoners serving their second prison sentence, or who previously failed boot camp. MCL 791.234a
1. The DOC must give the sentencing judge, prosecutor and victim 45 days notice of its intent to place the prisoner serving their second prison sentence in boot camp. MCL 791.234a(4)
 2. Requires boot camp graduates to participate in MPRI. MCL 791.234a(12)
 3. Requires a 3rd party evaluation of the boot camp program. MCL 791.234a(11).
 4. Repeals the boot camp statute on September 30, 2009. MCL 791.234a(13)
- B. GPS PAROLE CONDITIONS.** 2008 PA 191. Effective July 10, 2008. Requires GPS monitoring of a parolee who was serving a sentence for aggravated stalking if the victim has registered with DOC. MCL 791.236(18).

IV. VEHICLES

- A. ABANDONED VEHICLES.** 2008 PA 539. Effective January 13, 2009. Modifies the notice and bond provisions for processing abandoned vehicles.
- B. BASIC DRIVER IMPROVEMENT COURSES.** 2008 PA 568. Effective December 31, 2010. Allows a person to complete a basic driver improvement course to prevent the entry of points on his or her record. MCL 257.320d. A person is ineligible to take the course if:
1. They were operating a commercial motor vehicle or have a CMV license.
 2. The violation is a crime.
 3. It requires 4 or more points.
 4. It's a violation of 257.626b, 627(9), 627a or 682.
 5. There was more than 1 moving violation from the same incident.
 6. The driver's license was suspended in connection with the violation.
 7. The person previously successfully completed an improvement course.
 8. The person has 3 or more points on their record.
 9. The person's license is restricted, suspended or revoked, or he or she never had a license.
- C. CHILD SAFETY SEATS.** 2008 PA 43. Effective July 1, 2009. Requires a child to be secured in a child safety seat until they are 8 years old or taller than 4 feet 9 inches. MCL 257.710e.
- D. ENHANCED DRIVER LICENSES.** 2008 PA 23 & 24. Effective March 13, 2008. Creates the enhanced driver license and enhanced state personal ID card for use in entering the US.
1. Making a false statement or certification in applying for either document is a felony punishable by imprisonment for up to 5 years and/or a fine of up to \$5,000. MCL 28.308. It's an E felony under the guidelines. MCL 777.11b.
- E. HAULING LOGS.** 2008 PA 131. Effective May 21, 2008. Repeals MCL 257.720(5) which specified how logs and tubular products must be secured when transported. MCL 257.720.
- F. HOV LANES.** 2008 PA 303 & 304. Effective December 9, 2008. Allows portions of US 12 in the city of Detroit to be designated High Occupancy Vehicle Lanes. MCL 247.651.
- G. LEGAL ALIEN DRIVER LICENSES & STATE ID.** 2008 PA 7 & 31. PA 7 took effect on February 15, 2008. PA 31 took effect on March 13, 2008. Allows non-citizens, who are legally present in the state, to obtain an operator's or chauffeur's license, or a state personal identification card. MCL 257.307.

H. LICENSE RESTORATION FEES. 2008 PA 460. Effective April 1, 2009. Allows a person to avoid a driver license suspension by setting up a payment schedule for payment of license restoration fees. MCL 257.732a(5).

I. MOTOR VEHICLE VIDEO DEVICES. 2008 PA 19. Effective March 7, 2008. Updates MCL 257.708b, which precludes having a television or other video images in a location where a driver can see them while operating a vehicle, to exclude navigational devices and monitors that help safely drive the vehicle. MCL 257.708b.

J. OFF ROAD VEHICLES.

1. OPERATION. 2008 PA 240-241. Effective July 17, 2008. Makes the following changes to ORV operation laws:

- a. Allows counties, townships and municipalities to authorize the operation of ORVs on the maintained portion of roads located within their jurisdiction. MCL 324.81131.
- b. Increases the penalties for operating an ORV in a manner likely to cause an erosive condition on another person's land or in a river, stream, bog, wetland, swamp, marsh or quagmire. It's a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of \$250 to \$1,000. MCL 324.81147.

2. RACES. 2008 PA 164. Effective June 19, 2008. Allows an underage child to operate an ORV in an organized racing event. MCL 324.81129(18).

K. OWI.

1. FEDERAL CONVICTIONS. 2008 PA 341. Effective January 1, 2009. Specifies that OWI convictions under federal law that substantially correspond to MCL 257.625 may be used as prior convictions. MCL 257.625(25).

2. HIGH BAC. 2008 PA 461-462. Effective October 31, 2010. Creates a high BAC offense of operating at .17 or more.

- a. The penalty is imprisonment for up to 180 days and/or a fine of \$200-\$700. MCL 257.625(9)(a)(ii-iii).
- b. License is suspended for 1 year, with a restricted license available after 45 days if an interlock device is installed. MCL 257.319(8)(g-i).
- c. Operating a vehicle without a required interlock, blowing into an interlock for another person or tampering with an interlock is a misdemeanor punishable by imprisonment for up to 6 months and/or a fine of up to \$5,000. MCL 257.625L(6).
- d. An officer shall impound a vehicle without a required interlock and shall issue a paper plate for the vehicle. MCL 257.625L(7-10).
- e. Immobilization for 90 days is required for operating a vehicle without an interlock. MCL 257.904d(1)(c) .

L. NEGLIGENT HOMICIDE/FELONIOUS DRIVING. 2008 PA 463, 465-468. Effective October 31, 2010.

1. Replaces negligent homicide with the new crime of committing a moving violation causing death.
 - a. It's a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of up to \$2,000. MCL 257.601d(1). 6 points on driving record. MCL 257.320a(1)(b).
2. Creates the new crime of committing a moving violation causing serious impairment of a body function.
 - a. It's a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$500. MCL 257.601d(2). 6 points on driving record. MCL 257.320a(1)(b).
3. A person may be charged with and convicted for any other violation. MCL 257.601d(3).
4. Replaces felonious driving with the new crimes of reckless driving causing death or causing a serious impairment of a body function.
 - a. Reckless driving causing death is a felony punishable by imprisonment for up to 15 years and/or a fine of not less than \$2,500 to \$10,000. MCL 257.626(4). It's a C felony under the guidelines. MCL 777.12g. License revoked. MCL 257.303(2)(c)(iii).
 - b. Reckless driving causing serious impairment of body function is a felony punishable by imprisonment for up to 5 years and/or a fine of not less than \$1,000 to \$5,000. MCL 257.626(3). It's an E felony under the guidelines. MCL 777.12g. License revoked. MCL 257.303(2)(c)(iii).
5. 4 points are entered for committing any moving violation resulting in an at-fault collision with another vehicle, person or object. MCL 257.320a(1)(m).

M. PARKING VIOLATIONS. 2008 PA 171. Effective July 2, 2008. Expands the violations for which volunteers may issue a parking citation. MCL 257.675d.

N. PERSONAL WATERCRAFT. 2008 PA 178. Effective approximately March 30, 2009.

1. Beginning October 1, 2011 a personal watercraft cannot be operated by a person under 14. MCL 324.80215(4).
2. Allows a PWC to be operated until sunset. MCL 324.80205.

O. SNOWMOBILES. 2008 PA 27. Effective March 13, 2008. Makes the following snowmobile violations civil infractions. MCL 324.82126(9).

1. Operating at an unreasonable speed.
2. Operating in a forest nursery.
3. Operating within 100 feet of an ice shanty/ice skating area.

4. Excess noise levels.
5. Operating near dwellings.
6. Operating in a hunting area.
7. Operating with bow/firearm.
8. Operating on cemeteries.
9. Operating within 100 feet of a ski, slide or skating area.
10. Operating on a railroad right of way.
11. Damaging/defacing snowmobile trail signs.

P. WASTE COLLECTION/UTILITY VEHICLES. 2008 PA 464. Effective January 9, 2009. Requires the use of due care when approaching and passing a stationary solid waste collection vehicle, utility service vehicle or road maintenance vehicle. MCL 257.653b.

1. Violations are misdemeanors punishable by imprisonment for up to 90 days and/or a fine of up to \$100. MCL 257.901

Q. WORK ZONE VIOLATIONS.

1. **DEATHS OR INJURIES.** 2008 PA 296 & 297. Effective October 8, 2008. Expands the coverage of MCL 257.601b to cover the injury or death of any person caused by a 3 point moving violation that occurred in a work zone. The previous version only covered injury or death to a person working in the work zone.
2. **TRAFFIC DIRECTIONS.** 2008 PA 298. Effective October 8, 2008. Makes it a civil infraction to disobey traffic directions provided by a trained person working in a work zone. MCL 257.611a.

V. MISCELLANEOUS

- A. BOATERS WITH A DISABILITY.** 2008 PA 119. Effective April 29, 2008. Allows a boater with a disability that prevents him or her from paddling or rowing a vessel to use an electric motor when it would otherwise be prohibited. MCL 324.80114a.
1. The boater must have a marine exemption certification from the DNR or local Sheriff's Department based upon a physician's attestation that the boater has a disability that prevents him or her from rowing or paddling. MCL 324.80114a(3).
- B. BEAR/BOBCAT HUNTS.** 2008 PA 347. Effective December 23, 2008. Allows an unlicensed person to accompany a licensed person on a bear or bobcat hunt so long as the person does not carry a firearm, bow, or crossbow and does not own or possess dogs used to chase or locate a bear or bobcat during the hunt. MCL 324.43523.
- C. CHILDREN.**
1. **CHILD ABUSE.**
 - a. 2008 PA 46. Effective March 27, 2008. Requires CPS to notify law enforcement when investigating a child's death, sexual abuse of a child or a severe physical injury of a child. MCL 722.628.
 - b. 2008 PA 300. Effective October 8, 2008. Requires professional employees in the office of the Friend of the Court to report suspected child abuse. MCL 722.623. Requires DHS to determine if there is an open FOC case and to notify the FOC when it takes certain actions regarding the child abuse investigation. MCL 722.627(18-21).
 - c. 2008 PA 405. Effective January 6, 2009. Requires the FOC, after receiving notice from DHS about a child abuse case, to keep DHS informed about any pending custody or parenting time case. MCL 552.520.
 - d. 2008 PA 511. Effective April 1, 2009. Requires DHS to implement a checklist to be used when investigating child abuse and neglect cases. MCL 722.628e.
 2. **CHILD PROTECTIVE PROCEEDINGS.** Effective July 11, 2008. Makes the following changes to improve placements for children who are unlikely to be adopted if parental rights are terminated.
 - a. 2008 PA 200. Allows a court to continue a child in long term foster care, or to appoint a guardian for the child, after a permanency planning hearing. MCL 712A.19a.
 - b. 2008 PA 202. Allows DHS to develop an alternate permanency plan or to develop adoption plans concurrently with their efforts to reunify a child with his or her family. MCL 712A.19.
 - c. 2008 PA 203. Allows the court to appoint a guardian for a child who remains in a placement after termination of parental rights. MCL 712A.19c.
 - d. 2008 PA 260. Effective August 4, 2008. Provides for subsidized guardianship assistance payments to assist the placement of a child with a guardian. MCL 722.871 et. seq.

3. **CENTRAL REGISTRY.** 2008 PA 374. Effective December 23, 2008. Allows a person to authorize DHS to send documentation to an employer or volunteer agency that they are not on the child abuse registry. MCL 722.627j.
 4. **POST FOSTER CARE SERVICES.** 2008 PA 215. Effective July 16, 2008. Allows the state to provide services to abused children who age out of foster care. MCL 722.981 et. seq.
 5. **CHILDREN'S MIRACLE NETWORK.** 2008 PA 558-559. Effective January 16, 2009. Allows an income tax checkoff for the children's miracle network.
 6. **FOSTER CARE TRUST FUND.** 2008 PA 525-526. Effective January 13, 2009. Allows for an income tax checkoff for the foster care trust fund.
- D. COUNTY SIGN ORDINANCES.** 2008 PA 93. Effective April 8, 2008. Allows a county to enact a sign ordinance. MCL 252.304.
- E. CRIME VICTIM RIGHTS FUND.** 2008 PA 396. Effective December 29, 2008. Allows money in the crime victim rights fund in excess of that necessary to provide victim rights services and victim compensation to be used for the following purposes until October 1, 2009..
1. Operation of the SORA. MCL 780.904(2)(a).
 2. The Amber Alert program. MCL 780.904(2)(b).
 3. Treatment services for sexual assault victims. MCL 780.904(2)(c).
 4. Polygraph examinations. MCL 780.904(2)(d).
 5. The expert witness testimony of a forensic scientist. MCL 780.904(2)(e).
- F. DISABLED HUNTERS.** 2008 PA 365. Effective December 23, 2008. A person holding a valid permit to hunt from a standing vehicle, or a person with disabilities using an ORV, may display a flag to identify himself or herself as a person with disabilities. MCL 324.81133.
- G. 911 FEES.** 2008 PA 379. Effective December 23, 2008. Allows a county to assess a 911 fee of up to \$.42 per month by resolution and/or \$3.00 per month with voter approval. MCL 484.1401b.
- H. NATIONAL CRIME PREVENTION COMPACT.** 2008 PA 493. Effective January 13, 2009. Allows the states and federal government to exchange criminal history information for non criminal justice purposes, such as employment background checks.
- I. POLICE MEMORIALS.** 2008 PA 162. Effective June 16, 2008. Allows an income tax checkoff for the Michigan Law Enforcement Officers Memorial Monument fund. MCL 206.435(1)(g).
- J. PRIVATE DETECTIVES.** 2008 PA 146. Effective May 28, 2008. Changes the private detective licensing act to the *Professional Investigator Licensure Act*. MCL 338.821 et. seq.
- K. SMALL DISTILLERIES.** 2008 PA 218. Effective July 16, 2008. Permits a distiller who manufactures less than 60,000 gallons of liquor a year to obtain a small distiller license allowing the sampling and sale of liquor on the licensed premises. MCL 436.1534.