

# **2002 CRIME LEGISLATION UPDATE**

## **An Outline of Recently Passed Legislation From January 1 to December 31, 2002.**

This outline is a summary of 2002 Legislation 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 AND PENALTIES**

### **II. CRIMINAL PROCEDURE**

### **III. TERRORISM**

### **IV. TRAFFIC SAFETY**

### **V. MISCELLANEOUS**

Copies of legislation may be obtained from the legislative document room, P.O. Box 30036, Lansing, MI 48909-7536; 517/373-0169, or at <http://www.michiganlegislature.org/>

Prepared by:  
Thomas M. Robertson  
Executive Secretary  
Prosecuting Attorneys Coordinating Council  
January 15, 2003



# INDEX

<b>I. NEW CRIMES AND PENALTIES</b> .....	<b>6</b>
A. ALCOHOL .....	6
B. ASSAULTING A POLICE OFFICER .....	6
C. ASSAULTING A PUBLIC OFFICIAL .....	6
D. CCW .....	7
E. CHILDREN .....	7
1. BORN ALIVE INFANT PROTECTION ACT .....	7
2. CHILD PORNOGRAPHY .....	7
3. CHILD PROTECTION LAW .....	8
4. SOLICITING A CHILD FOR AN IMMORAL PURPOSE .....	8
F. CONTROLLED SUBSTANCES .....	8
1. ECSTACY .....	8
2. MANDATORY MINIMUM SENTENCES .....	9
G. CRIMINAL SEXUAL CONDUCT .....	10
H. FALSE BOMB THREATS .....	10
I. FELONIES .....	10
J. MASKS .....	10
K. MISDEMEANORS .....	10
L. MOTOR VEHICLES .....	11
M. PRIVATE DETECTIVES .....	11
N. PROBATION AND PAROLE .....	11
O. PROSTITUTION .....	12
P. RAILROADS .....	12
Q. TASERS .....	12

R. TELECOMMUNICATIONS .....	12
S. THEFT .....	12
<b>II. CRIMINAL PROCEDURE .....</b>	<b>14</b>
A. ARREST .....	14
1. BOND FEES .....	14
2. CHILD SUPPORT .....	14
3. HOT PURSUIT .....	14
B. BAIL .....	14
1. APPELLATE BAIL .....	14
2. EXTRADITION .....	14
3. FORFEITURE .....	15
C. CHILDREN .....	15
D. DOMESTIC VIOLENCE .....	15
E. EXTRADITION .....	15
F. GUILTY BUT MENTALLY ILL .....	15
G. INTOXICATION .....	15
H. JURISDICTION .....	15
I. JURY DUTY .....	16
J. JURY FUNDING .....	16
K. PROBATION AND PAROLE .....	16
L. SEARCH WARRANTS .....	16
M. SENTENCING GUIDELINES .....	16
N. SEX OFFENDER REGISTRATION .....	16
O. SPECIAL PROSECUTORS .....	17

<b>III. TERRORISM</b> .....	18
A. MICHIGAN’S ANTI-TERRORISM ACT .....	18
1. TERRORISM .....	18
2. HINDERING PROSECUTION OF TERRORISM .....	18
3. SOLICITING MATERIAL SUPPORT FOR TERRORISM .....	19
4. TERRORIST THREATS .....	19
5. INTERNET TERRORISM .....	19
6. SECURITY PLANS .....	19
B. VULNERABLE TARGETS .....	20
C. SENTENCING GUIDELINES .....	20
D. TERRORIST ORGANIZATION .....	21
E. STATUTE OF LIMITATIONS .....	21
F. GRAND JURY INFORMATION .....	21
G. COSTS .....	21
H. RACKETEERING .....	21
I. MONEY LAUNDERING .....	21
J. FORFEITURE .....	21
K. POISONING FOOD/MEDICINE/WATER .....	21
1. POISONING .....	21
2. FALSE REPORTS .....	22
3. CONSECUTIVE SENTENCE .....	22
L. DRIVER LICENSES .....	22
1. HAZARDOUS MATERIALS .....	22
2. USE IN A CRIME .....	22

3.	SALE OF FORGED LICENSES .....	23
4.	POSSESSION OF FORGED LICENSES .....	23
M.	FAKE BOMBS .....	23
N.	STATES OF EMERGENCY .....	23
1.	TIME LIMITS .....	23
2.	STATE DEPARTMENTS .....	23
3.	COLLEGES .....	23
4.	IMMUNITY .....	23
5.	STATES OF ALERT .....	23
6.	NATIONAL GUARD .....	23
<b>IV.</b>	<b>TRAFFIC SAFETY .....</b>	<b>24</b>
A.	BLIND PEDESTRIANS .....	24
B.	FLEEING AND ELUDING .....	24
C.	OPERATING TRAINS UNDER THE INFLUENCE .....	24
<b>V.</b>	<b>MISCELLANEOUS .....</b>	<b>25</b>
A.	CCW .....	25
B.	CHILDREN .....	26
1.	AMBER ALERTS .....	26
2.	CHILD CARE REGISTRY .....	26
3.	CLERGY .....	26
4.	PHYSICIAN ASSISTANTS .....	26
C.	CORRECTIONS .....	26
D.	DOMESTIC VIOLENCE .....	26
1.	CIVIL LAWSUITS .....	26

2. FATALITY REVIEW TEAMS .....	26
E. EXPUNGEMENT .....	26
F. FINGERPRINTING .....	26
G. MEDICAL EXAMINERS .....	27
H. PAWNBROKERS .....	27
I. SECURITY COMPANIES .....	27

## I. NEW CRIMES AND PENALTIES

**A. ALCOHOL.** 2002 PA 725. Effective December 30, 2002. Changes the penalty from a misdemeanor to a civil infraction when a person licensed under the liquor control act furnishes alcohol to a minor who is working for the police as part of a sting operation. MCL 436.1701(1).

**B. ASSAULTING A PEACE OFFICER.** 2002 PA 266 & 269. Effective July 15, 2002. Increases the penalties for knowingly assaulting or obstructing a police officer, firefighter or emergency medical service personnel in the performance of their duties.

1. Assault, battery, wounding, obstruction or endangerment of a police officer, firefighter or EMT is a felony punishable by imprisonment for up to 2 years and/or a fine of up to \$2,000. MCL 750.81d(1). It's a G felony under the guidelines. MCL 777.16d.
2. Assault, battery, obstruction or endangerment of a police officer, firefighter or EMT resulting in bodily injury requiring medical attention is a felony punishable by imprisonment for up to 4 years and/or a fine of up to \$5,000. MCL 750.81d(2). It's an F felony under the guidelines. MCL 777.16d.
3. Assault, battery, obstruction or endangerment of a police officer, firefighter or EMT resulting in serious impairment of a bodily function is a felony punishable by imprisonment for up to 15 years and/or a fine of up to \$10,000. MCL 750.81d(3). It's a C felony under the guidelines. MCL 777.16d.
4. Assault, battery, obstruction or endangerment of a police officer, firefighter or EMT resulting in death is a felony punishable by imprisonment for up to 20 years and/or a fine of up to \$20,000. MCL 750.81d(4). It's a B felony under the guidelines. MCL 777.16d.
5. An individual may be prosecuted for any other crime arising out of the same transaction, and the court may impose a consecutive sentence. MCL 750.81d(5) & (6).
6. Obstruct is defined to include the use or threatened use of physical interference or force or a knowing failure to comply with a lawful command. MCL 750.81d(7)(a).

**C. ASSAULTING A PUBLIC OFFICIAL.** 2002 PA 270 & 271. Effective July 15, 2002. Increases the penalties for assaulting or obstructing a medical examiner, township treasurer, judge, magistrate, probation officer, parole officer, prosecutor, city attorney, court employee, court officer, or duly authorized process server in the performance of their duties.

1. Assault, battery, wounding, obstruction or endangerment of a public official is a felony punishable by imprisonment for up to 2 years and/or a fine of up to \$2,000. MCL 750.479(2). It's a G felony under the guidelines. MCL 777.16x.
2. Assault, battery, wounding, obstruction or endangerment of a public official resulting in bodily injury requiring medical attention is a felony punishable by imprisonment for up to 4 years and/or a fine of up to \$5,000. MCL 750.479(3). It's a G felony under the guidelines. MCL 777.16x.

3. Assault, battery, wounding, obstruction or endangerment of a public official resulting in serious impairment of a bodily function is a felony punishable by imprisonment for up to 10 years and/or a fine of up to \$10,000. MCL 750.479(4). It's a D felony under the guidelines. MCL 777.16x.
4. Assault, battery, obstruction or endangerment of a public official resulting in death is a felony punishable by imprisonment for up to 20 years and/or a fine of up to \$20,000. MCL 750.479(5). It's a B felony under the guidelines. MCL 777.16x.
5. An individual may be prosecuted for any other crime arising out of the same transaction, and the court may impose a consecutive sentence. MCL 750.479(6) & (7).
6. Obstruct is defined to include the use or threatened use of physical interference or force or a knowing failure to comply with a lawful command. MCL 750.479(8)(a).

**D. CCW.** 2002 PA 82. Effective March 26, 2002. Allows the transport of a pistol for a lawful purpose without a CCW license. MCL 750.231a.

1. The pistol must be unloaded and enclosed in a container or case designed for the pistol. If the car has a trunk, it must be in the trunk. Lawful purposes include:
  - a. While en route to or from a hunting or target shooting area. MCL 750.231a(2)(b)(i).
  - b. While en route from home or place of business to a place of repair. MCL 750.231a(2)(b)(ii).
  - c. While moving goods from one home or place of business to another. MCL 750.231a(2)(b)(iii).
  - d. While en route to or from a safety inspection. MCL 750.231a(2)(b)(iv).
  - e. While en route to or from home or place of business and a gun show or other place of purchase or sale. MCL 750.231a(2)(b)(v).
  - f. While en route to or from home to a public shooting facility or public land where shooting is allowed. MCL 750.231a(2)(b)(vi).
  - g. While en route to or from home to a private property location where shooting is allowed. MCL 750.231a(2)(b)(vii).

**E. CHILDREN.**

1. **BORN ALIVE INFANT PROTECTION ACT.** 2002 PA 687 & 689. Effective March 31, 2003. Creates the Born Alive Infant Protection Act for infants who are alive after an abortion is performed.
  - a. If the parent does not want the child, the child's care and custody shall be determined under the Safe Delivery of Newborns Act.
  - b. The mother's surrender of the child protects her from child abandonment charges, but an

attending physician who fails to comply with the Born Alive Infant Protection Act is subject to prosecution for abandonment. MCL 750.135(3).

2. **CHILD PORNOGRAPHY.** 2002 PA 629-630. Effective March 31, 2003. Makes the following changes to the child sexually abusive material statute:
  - a. Makes the possession of child sexually abusive material a felony punishable by imprisonment for up to 4 years and/or a fine of up to \$10,000. MCL 750.145c(4).
  - b. Makes the child's status as an emancipated minor an affirmative defense the defense must prove by a preponderance of the evidence. MCL 750.145c(6).
  - c. Includes material that appears to be a child. Defined as:
    - i. A depiction of any part of a real person under the age of 18. MCL 750.145c(1)(a)(i).
    - ii. A depiction that does not include any part of a real person under the age of 18, but that meets the *Miller* test for obscenity. MCL 750.145c(1)(a)(ii).
  - d. If the defense intends to present evidence that the material is not a depiction of a real child, they must provide notice to the prosecutor within 15 days of arraignment. The notice must include the names of witnesses to establish the defense and the specific facts that establish that the depiction was not of an actual child. MCL 750.145c(7).
3. **CHILD PROTECTION LAW.** 2002 PA 14. Effective February 19, 2002. Increases the penalties for failure to report child abuse to imprisonment for up to 93 days, and/or a fine of up to \$500. MCL 722.633(2).
4. **SOLICITING A CHILD FOR AN IMMORAL PURPOSE.** 2002 PA 45 & 47. Effective June 1, 2002. Makes the following changes to MCL 750.145a & 145b.
  - a. Defines the crime as accosting, enticing or soliciting a child less than 16 years of age, or a person that he or she believed was a child under the age of 16, to commit an immoral act, an act of sexual intercourse or gross indecency, or any other act of depravity or delinquency. MCL 750.145a.
  - b. The crime is a felony, punishable by imprisonment for up to 4 years, and/or a fine of up to \$4,000. MCL 750.145a. It's an F felony under the guidelines. MCL 777.16g.
  - c. A second offense is a felony punishable by imprisonment for up to 10 years, and/or a fine of up to \$10,000. MCL 750.145b. It's a D felony under the guidelines. MCL 777.16g.

## **F. CONTROLLED SUBSTANCES.**

1. **ECSTACY.** 2002 PA 710 & 711. Effective April 1, 2003. Makes ecstasy a schedule 1 controlled substance and changes the penalties for ecstasy violations.
  - a. The manufacture, delivery or possession with intent to deliver ecstasy is a felony punishable

by imprisonment for up to 20 years and/or a fine of up to \$25,000. MCL 333.7401(1)(b)(i). It's a B felony on the guidelines. MCL 777.13m.

- b. The manufacture, delivery or possession with intent to deliver counterfeit ecstasy is a felony punishable by imprisonment for up to 10 years and/or a fine of up to \$15,000. MCL 333.7402(2)(a). It's a D felony on the guidelines. MCL 777.13m.
- c. The possession of ecstasy is a felony punishable by imprisonment for up to 10 years and/or a fine of up to \$15,000. MCL 333.7403(1)(b)(i). It's a D felony on the guidelines. MCL 777.13m.
- d. The use of ecstasy is a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of up to \$2,000. MCL 333.7404(2)(a).

**2. MANDATORY MINIMUM SENTENCES.** 2002 PA 665, 666 & 670. Effective March 1, 2003.

- a. Changes the penalties for the manufacture, delivery, or possession with intent to deliver a mixture containing heroin or cocaine as follows:
  - i. If the amount is 1,000 or more grams, it's a felony punishable by imprisonment for life or any term or years and/or a fine of up to \$1,000,000. MCL 333.7401(2)(a)(i).
  - ii. If the amount is between 450 and 1,000 grams, it's a felony punishable by imprisonment for up to 30 years and/or a fine of up to \$500,000. MCL 333.7401(2)(a)(ii).
  - iii. If the amount is between 50 and 450 grams, it's a felony punishable by imprisonment for up to 20 years and/or a fine of up to \$250,000. MCL 333.7401(2)(a)(iii).
  - iv. If the amount is less than 50 grams, it's a felony punishable by imprisonment for up to 20 years and/or a fine of up to \$25,000. MCL 333.7401(2)(a)(iv).
- b. Discretionary consecutive sentencing is allowed for a violation of 333.7401(2)(a). MCL 333.7401(3).
- c. Changes the penalties for the possession of a mixture containing heroin or cocaine as follows:
  - i. If the amount is 1,000 or more grams, it's a felony punishable by imprisonment for life or any term or years and/or a fine of up to \$1,000,000. MCL 333.7403(2)(a)(i).
  - ii. If the amount is between 450 and 1,000 grams, it's a felony punishable by imprisonment for up to 30 years and/or a fine of up to \$500,000. MCL 333.7403(2)(a)(ii).
  - iii. If the amount is between 50 and 450 grams, it's a felony punishable by imprisonment for up to 20 years and/or a fine of up to \$250,000. MCL 333.7403(3)(a)(iii).
  - iv. If the amount is between 25 and 50 grams, it's a felony punishable by imprisonment for up to 4 years and/or a fine of up to \$25,000. MCL 333.7403(2)(a)(iv).

- d. Lifetime probation will no longer be a sentencing option. A person who has served more than 5 years on lifetime probation, may petition the court for discharge. MCL 333.7401(4) & MCL 333.7403(3).
- e. Violations of MCL 333.7401(2)(a)(i) to (iii) and MCL 333.7403(2)(a)(i) to (iii) are included in OV 13 as part of a pattern of criminal activity. MCL 777.43.
- f. Points are awarded under OV 15 based upon the amount of the mixture of heroin or cocaine involved in the violation.
  - i. 1000 or more grams = 100 points. MCL 777.45(1)(a).
  - ii. 450 to 1000 grams = 75 points. MCL 777.45(1)(b).
  - iii. 50 to 450 grams = 50 points. MCL 777.45(1)(b).
- g. If the offense involved the manufacture, delivery or possession with intent to deliver heroin or cocaine in a minor's home, 10 points is scored. MCL 777.45(1)(f).
- h. An individual sentenced to a 10 or 20 year minimum sentence under MCL 333.7401 or 333.7403 will be eligible for parole after serving 50% of each 10 or 20 year sentence. MCL 791.234(11) & (12).
- i. An individual given consecutive sentences for multiple violations of MCL 333.7401(2)(a)(iv) or MCL 333.7403(2)(a)(iv) will be eligible for parole after serving 50% of each sentence. MCL 791.234(13).
- j. The parole board must provide notice to the prosecutor before granting parole. MCL 791.234(14).

**G. CRIMINAL SEXUAL CONDUCT.** 2002 PA 714. Effective April 1, 2003. Amends the CSC statutes to cover sexual activity between a teacher, substitute teacher or school administrator and a public or non-public school student as follows:

1. Makes it 1<sup>st</sup> degree CSC for penetration with a 13 to 15 year old student. MCL 750.520b(1)(b)(iv).
2. Makes it 2<sup>nd</sup> degree CSC for sexual contact with a 13 to 15 year old student. MCL 750.520c(1)(b)(iv).
3. Makes it 3<sup>rd</sup> degree CSC for penetration with a 16 or 17 year old student. MCL 750.520d(1)(e).
4. Makes it 4<sup>th</sup> degree CSC for sexual contact with a 16 or 17 year old student. MCL 750.520e(1)(f).

**H. FALSE BOMB THREATS.** 2002 PA 422. Effective October 1, 2002. Requires a 3 year operator license suspension if a person under 21 is convicted of making a false bomb report involving a school. MCL 257.319(11). They can have a restricted license after one year.

1. If the person does not have a license, they face a 3 year delay in becoming eligible for a license. MCL 257.303(1)(m).

**I. FELONIES.** 2002 PA 722. Effective March 31, 2003. Increases the maximum fine for general law felonies from \$2,000 to \$5,000. MCL 750.503.

**J. MASKS.** 2002 PA 679. Effective March 31, 2003. Amends the law which made it a crime to wear a mask during a march or parade. The law now prohibits intentionally concealing identity by use of a mask for the purpose of facilitating a crime. It's a misdemeanor, punishable by imprisonment for up to 93 days in jail, and/or a fine of up to \$500. MCL 750.396.

**K. MISDEMEANORS.** 2002 PA 679 & 723. Effective March 31, 2003. Increases the maximum fine for general law misdemeanors from \$100 to \$500. MCL 750.504.

1. Increases the maximum fine for the following misdemeanors to \$500.

750.57	750.90c	750.354	750.368	750.375	750.411a
750.414	750.490a	750.540f			

2. Increase the maximum fine for the following misdemeanors to \$750.

750.64	750.113	750.114	750.123	750.151	750.173
750.410	750.428	750.429	750.454	750.502b	750.519
750.524					

3. Increases the maximum fine for the following misdemeanors to \$1,000.

750.16	750.25	750.33	750.34	750.44	750.45
750.50c(6)	750.60	750.125	750.138	750.140	750.149
750.150	750.153	750.172	750.183	750.184	750.191
750.192	750.197a	750.215	750.217	750.217c(2)	750.219
750.220	750.240	750.263	750.264	750.287	750.288
750.294	750.295	750.298	750.301	750.302	750.304
750.305	750.306	750.314	750.330	750.331	750.335
750.335a	750.359	750.371	750.389	750.393	750.404
750.407	750.408	750.411d	750.430	750.466	750.478

750.482	750.492	750.508	750.509	750.537	750.538
750.561					

4. Increases the maximum fine for the following misdemeanors to \$1,500: 750.217c(3); 750.414.

**L. MOTOR VEHICLES.** 2002 PA 720. Effective April 1, 2003. Makes receiving and concealing a motor vehicle 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 stolen vehicle. A person cannot be convicted of both receiving and concealing a motor vehicle and receiving and concealing stolen property if the only stolen property is the vehicle. MCL 750.535(7).

**M. PRIVATE DETECTIVES.** 2002 PA 474 & 475. Effective October 1, 2002. Makes it a felony punishable by imprisonment for up to 4 years and/or a fine of up to \$5,000 to engage in the business of private detective without a license. MCL 338.823. It's an F felony under the guidelines. MCL 777.13p.

**N. PROBATION AND PAROLE.** 2002 PA 502. Effective July 16, 2002. Increases the schedule of probation and parole supervision fees. The maximum fee is \$135/month. MCL 791.225a & MCL 791.236a.

**O. PROSTITUTION.** 2002 PA 43-46. Effective June 1, 2002. Makes the following changes to the prostitution laws.

1. Lowers the age of prostitution to 16. MCL 750.448, 449, 450, 451 and 462.
2. Increases the penalty for a first offense to imprisonment for up to 93 days and/or a fine of up to \$500. MCL 750.451(1).
3. Increases the penalty for a 2<sup>nd</sup> offense to imprisonment for up to 1 year and/or a fine of up to \$1,000. MCL 750.451(2).
4. Increases the penalty for a 3<sup>rd</sup> or subsequent offense to imprisonment for up to 2 years and/or a fine of up to \$2,000. MCL 750.451(3).
  - a. Prior convictions include violations of MCL 750.448, 449, 449a, 450 or 462 or a conviction under a similar law of another state or under a local ordinance. MCL 750.451(5).
  - b. Prior conviction status is determined at sentencing. MCL 750.451(4)

**P. RAILROADS.** The following statutes regarding crimes against railroads were repealed.

1. **Embezzling railroad tickets.** 2002 PA 278 & 294. Effective May 9, 2002. MCL 750.179.
2. **Forgery of railroad tickets.** 2002 PA 296 & 321. Effective May 9, 2002. MCL 750.266.
3. **Larceny of railroad tickets.** 2002 PA 279 & 295. Effective May 9, 2002. MCL 750.366.

4. **Issuing fraudulent railroad tickets.** 2002 PA 293 & 320. Effective May 9, 2002. MCL 750.513.
  5. **Seizing a locomotive with a mail car.** 2002 PA 292 & 320. Effective May 9, 2002. MCL 750.514.
  6. **Forcibly detaining a railroad train.** 2002 PA 291 & 320. Effective May 9, 2002. MCL 750.516.
- Q. TASERS.** 2002 PA 709. Effective December 30, 2002. Exempts law enforcement and department of corrections personnel from the prohibition on possessing tasers. MCL 750.224a.
- R. TELECOMMUNICATIONS.** 2002 PA 577. Effective November 1, 2002. Updates the malicious phone call statute to cover use of telecommunication services or devices. MCL 750.540e.
- S. THEFT.** 2002 PA 101 & 102. Effective July 1, 2002. Creates the following crimes involving theft detection devices.
1. Possession of a laminated or coated bag or device designed to shield merchandise from an electronic or magnetic theft detection device, with the intent to commit or attempt to commit larceny. MCL 750.360a(1)(a).
  2. Manufacture, sell, offer for sale or distribute such a bag or device knowing or reasonably believing that the bag or device will be used to commit or attempt to commit a larceny. Attempts to manufacture, etc are included. MCL 750.360a(1)(b).
  3. Possession of a tool or device designed to deactivate or remove a theft detection device, with the intent to use the tool or device to commit or attempt to commit larceny. MCL 750.360a(1)(c).
  4. Manufacture, sell, offer for sale or distribute a tool or device designed to deactivate or remove a theft detection device, knowing or reasonably believing that the tool or device will be used to commit or attempt to commit a larceny. MCL 750.360a(1)(d).
  5. Deactivate or remove a theft detection device from merchandise in a retail establishment with the intent to commit or attempt commit a larceny. MCL 750.360a(1)(e).
    - a. A first offense is a misdemeanor punishable by imprisonment for up to 1 year, and/or a fine of up to \$1,000. MCL 750.360a(2)(a).
    - b. A second offense is a felony punishable by imprisonment for up to 4 years, and/or a fine of up to \$4,000. MCL 750.360a(2)(b).

## II. CRIMINAL PROCEDURE

### A. ARREST.

1. **BOND FEES.** 2002 PA 631. Effective December 30, 2002. Allows a police agency to charge a fee up to \$10 for the cost of processing bail or bond money received from a person arrested on a warrant. MCL 760.12a.
2. **CHILD SUPPORT.** 2002 PA 567. Effective June 1, 2003. Establishes procedures for arrests on child support bench warrants.
  - a. Requires the court to set a cash performance bond of \$500 or 25% of the arrearage, whichever is greater. MCL 552.631(2).
  - b. Requires law enforcement to arrest and detain a person wanted on a child support bench warrant until they receive a hearing or post the cash performance bond. MCL 552.631(2).
  - c. The hearing on the bench warrant must be held within 48 hours, excluding weekends and holidays. MCL 552.632.
3. **HOT PURSUIT.** 2002 PA 483. Effective October 1, 2002. Expands the authority of an officer to make an arrest outside his jurisdiction when the officer has witnessed the person violate a state law, local ordinance, administrative rule or civil infraction within the officer's jurisdiction. MCL 764.2a(1)(c).

### B. BAIL.

1. **APPELLATE BAIL.** 2002 PA 483. Effective October 1, 2002. Adds the following offenses to the list of assaultive crimes for which bail must be denied on appeal. MCL 770.9a.
  - a. Intentionally causing a miscarriage or stillbirth. MCL 750.90a & 750.90b(a).
  - b. Attempted murder. MCL 750.91.
  - c. Explosives offenses. MCL 750.200 - 212a.
  - d. Felony stalking. MCL 750.411h(2)(b) or (3) & 750.411i.
  - e. Terrorism offenses. MCL 750.543a - 543z.
2. **EXTRADITION.** 2002 PA 583 & 584. Effective January 1, 2003. Makes the following changes regarding bail and extradition.
  - a. Allows a court to require a written waiver of extradition as a condition of bail. MCL 765.6d(1). A waiver of extradition is required if the person is charged with a crime for which bail can be denied. MCL 765.6d(2).

- b. Precludes bail for a fugitive if they are wanted on a crime with a penalty of 20 or more years. MCL 780.15. Requires that bail be revoked upon issuance of a governor's warrant. MCL 780.6.
- 3. **FORFEITURE.** 2002 PA 658. Effective April 1, 2003. Provides that a bail forfeiture can be set aside within one year of the defendant's apprehension upon payment of the costs of apprehension. MCL 765.28(2).
- C. **CHILDREN.** 2002 PA 604 & 625. Effective March 31, 2003. Creates protections for video recorded statements of children and witnesses with developmental disabilities.
  - 1. The statement may used to support a no contest plea or a guilty plea. MCL 600.2163a(6)(d).
  - 2. The statement must be taken in accordance with the forensic interviewing protocol required by the child protection law. MCL 600.2163a(7); MCL 712a.17b(6).
  - 3. The statement can only be released to the law enforcement agency and prosecuting attorney involved with the case, or to an entity included in the county protocol established under the child protection law. MCL 600.2163a(8); MCL 712a.17b(7).
  - 4. A copy may be provided to the defense attorney, with a prohibition on its copying, release, display or circulation. MCL 600.2163a(8); MCL 712a.17b(7).
  - 5. The statement is not subject to FOIA or discovery. MCL 600.2163a(12); MCL 712a.17b(11).
  - 6. Unauthorized release of a video recorded statement is a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$500. MCL 600.2163a(20); MCL 712a.17b(19).
- D. **DOMESTIC VIOLENCE.** 2002 PA 694. Effective March 31, 2003. Makes technical changes to the fingerprinting statute, MCL 28.243, to treat fingerprints taken in PPO and foreign PPO cases the same as misdemeanor and felony fingerprints.
- E. **EXTRADITION.** 2002 PA 120. Effective April 22, 2002. Requires the defendant to pay the cost of extradition for certain crimes. Extradition costs include transportation costs and the salaries of law enforcement and prosecution personnel for obtaining the return of the person to the state. MCL 769.1f.
- F. **GUILTY BUT MENTALLY ILL.** 2002 PA 245. Effective May 1, 2002. Requires the defendant to prove by a preponderance of the evidence that he or she was mentally ill at the time of the offense. MCL 768.36.
- G. **INTOXICATION.** 2002 PA 366. Effective September 1, 2002. Eliminates voluntary intoxication as a defense. MCL 768.37(1).
  - 1. In a specific intent crime, the defendant has the burden of proof by a preponderance of the evidence, that he or she voluntarily consumed a legal medication, and that he or she did not know

or reasonably could be expected to know that he or she would become intoxicated or impaired. MCL 768.37(2).

2. The law applies only to crimes committed on or after September 1, 2002.

**H. JURISDICTION.** 2002 PA 129. Effective April 22, 2002. Expands state criminal law jurisdiction over an out of state defendant in the following circumstances:

1. The person commits an offense wholly or partly in this state. MCL 762.2(1)(a).
2. The person's conduct constitutes an attempt to commit a crime in this state. MCL 762.2(1)(b).
3. The person's conduct constitutes a conspiracy to commit a crime in this state, and an act in furtherance of the conspiracy is committed in this state. MCL 762.2(1)(c).
4. A victim of the offense or a governmental employee posing as a victim resides in this state at the time of the offense. MCL 762.2(1)(d).
5. The offense produces substantial and detrimental effects within the state. MCL 762.2(1)(e).

**I. JURY DUTY.** 2002 PA 739 & 742. Effective October 1, 2003. Precludes convicted felons from serving on a jury. MCL 600.1307a(1)(e). Increases jury pay to \$25/day, \$12.50 per ½ day for the first day of service, and to \$40/day, \$20 per ½ day for each succeeding day.

**J. JURY FUNDING.** 2002 PA 605, 740 & 741. Effective January 1, 2003. Creates the Juror Compensation Reimbursement Fund to reimburse local units of government for the cost of juror fees. Funding sources are:

1. A \$25 increase in the circuit court jury demand fee. MCL 600.2529(1)(c).
2. A \$10 increase in the district court jury demand fee. MCL 600.8371(9).
3. A \$20 increase in the driver license clearance fee for reinstating a suspended license. MCL 257.321a.

**K. PROBATION AND PAROLE.** 2002 PA 40. Effective March 12, 2002. Enacts the interstate compact for adult offender supervision. MCL 3.1011 et. seq.

**L. SEARCH WARRANTS.** 2002 PA 112, 128 & 506. PA 112 and 128 took effect April 22, 2002. PA 506 took effect July 19, 2002. Makes the following changes to the search warrant statutes:

1. Makes a search warrant affidavit contained in a court file or record retention system a non-public record for 56 days. MCL 780.651(8) & (9). The 56 day period may be extended for additional 56 day periods upon an ex parte showing that continued suppression is necessary to protect an ongoing investigation or the privacy or safety of a victim or witness. MCL 780.651(9).
2. Allows the magistrate to suppress an affidavit upon a showing that it is necessary to protect an ongoing investigation or the safety or privacy of a victim. Suppression lasts until the person is

charged. MCL 780.654(3).

3. Removes the requirement that a copy of the affidavit be left with the subject of the search. MCL 780.655(1).

**M. SENTENCING GUIDELINES.** 2002 PA 28-31, 34 & 206. Effective April 1, 2002. Subdivides the sentencing guidelines sections of the Michigan Compiled Laws to allow for easier updating in the future.

**N. SEX OFFENDER REGISTRATION.** 2002 PA 542. Effective October 1, 2002. Makes the following changes to the sex offender registration act.

1. Contains a statement of legislative intent that registered sex offenders pose a threat to the future safety of Michigan's citizens and children. MCL 28.721a.
2. Requires individuals who are students at or employees or volunteers of an institute of higher education to register with the law enforcement agency with jurisdiction over the campus. MCL 28.724a.
  - a. An institute of higher education includes: a public or private college, community college or university, or a public or private trade, vocational or occupational school. MCL 28.722.
  - b. Employee or volunteer at an institute of higher education, includes contract employees or employees of contractors who are at the institution for 14 consecutive days or 30 days in a calendar year. MCL 28.724a.
3. The sex offender data base must include the institutions of higher education a person is registered for, and the data base must be searchable by institution. MCL 28.728.
4. The misdemeanor fines for violation of the sex offender registration act have increased from \$500 to \$1,000. MCL 28.729 & MCL 28.730.

**O. SPECIAL PROSECUTORS.** 2002 PA 706. Effective February 1, 2003. Makes the following changes to the special prosecutor statute.

1. The petition for appointment is filed with the AG. MCL 49.160(1).
2. The AG can keep the case or appoint a consenting prosecuting attorney to handle the case. MCL 49.160(2).
3. The special prosecutor has specific authority to investigate and initiate charges. MCL 49.160(3).
4. All costs of the special prosecution are borne by the county of the disqualified prosecutor. MCL 49.160(3).

### III. TERRORISM

**A. MICHIGAN'S ANTI-TERRORISM ACT.** 2002 PA 113, 122, & 131. Effective April 22, 2002. Any person charged with or convicted of any of the following acts of terrorism may be convicted of any other violation arising out of the same transaction. MCL 750.543y. A prosecutor is not to prosecute any person or seize any property in violation of the State or Federal constitution. MCL 750.543z.

**1. TERRORISM.** It is a felony punishable by imprisonment for life or any term of years, and/or a fine of up to \$100,000 to knowingly and with premeditation commit an act of terrorism. MCL 750.543f. Its an A felony under the guidelines. MCL 777.16z. An act of terrorism is a willful and deliberate act that is all of the following:

- a. A violent felony. MCL 750.543b(a)(i).
- b. An act the person knows or would have reason to know is dangerous to human life. MCL 750.543b(a)(ii). An act is dangerous to human life if it causes a substantial likelihood of death or serious injury, or involves kidnaping. MCL 750.543b(b).
- c. Intended to intimidate or coerce a civilian population or influence or affect the conduct of government or a unit of government through intimidation or coercion. MCL 750.543b(a)(iii).

**2. HINDERING PROSECUTION OF TERRORISM.** It is a felony punishable by imprisonment for life or any term of years and/or a fine of up to \$100,000 to knowingly render criminal assistance to a person who has violated the terrorism chapter, or is wanted as a material witness in connection with an act of terrorism. MCL 750.543h. Its an A felony under the guidelines. MCL 777.16z.

- a. Renders criminal assistance means that the person does any of the following acts with the intent to avoid, prevent, hinder, or delay the discovery, apprehension, prosecution, trial or sentencing of a person they know or have reason to know has violated the Anti-Terrorist Act, or is wanted as a material witness in connection with an act of terrorism. MCL 750.543b(f).
  - i. Harbors or conceals the person. MCL 750.543b(f)(i).
  - ii. Warns the other person of impending discovery or apprehension. MCL 750.543b(f)(ii).
  - iii. Provides the other person with money, transportation, a weapon, disguise, false ID or any other means of avoiding discovery or apprehension. MCL 750.543b(f)(iii).
  - iv. Prevents or obstructs by means of force, intimidation or deception anyone from performing an act that might aid in the discovery, apprehension or prosecution of the other person. MCL 750.543b(f)(iv).
  - v. Suppresses by an act of concealment, alteration or destruction, any physical evidence that might aid in the discovery, apprehension or prosecution of the other person. MCL 750.543b(f)(v).

vi. Engages in jury tampering, witness intimidation or jail or prison escape. MCL 750.543b(f)(vi).

3. **SOLICITING MATERIAL SUPPORT FOR TERRORISM.** It is a felony punishable by imprisonment for up to 20 years and/or a fine of up to \$20,000 to solicit or provide material support for terrorism. MCL 750.543k. It's a B felony under the guidelines. MCL 777.16z. Elements are:
  - a. Knowingly raising, soliciting, or collecting material support or resources with the intent that it be used to plan, prepare, carry out or avoid apprehension for committing an act of terrorism, or with the knowledge that it will be used by a terrorist or a terrorist organization. MCL 750.543k(1)(a).
  - b. Knowingly providing material support or resources to a person knowing that the person will use the support to plan, prepare, carry out, facilitate or avoid apprehension for committing an act of terrorism. MCL 750.543k(1)(b).
4. **TERRORIST THREATS.** It is a felony punishable by imprisonment for up to 20 years and/or a fine of up to \$20,000 to make a terrorist threat or a false report of terrorism. MCL 750.543m. It's a B felony under the guidelines. MCL 777.16z. Elements are:
  - a. Threatens to commit an act of terrorism and communicates that threat to another person. MCL 750.543m(1)(a).
  - b. Knowingly makes a false report of an act of terrorism and communicates that report to another person. MCL 750.543m(1)(b).
  - c. It is not a defense that the defendant did not intend or have the capacity to commit the act of terrorism. MCL 750.543m(1)(c).
5. **INTERNET TERRORISM.** 2002 PA 117. Effective April 22, 2002. It is a felony punishable by imprisonment for up to 20 years and/or a fine of up to \$20,000 to use the internet or a telecommunications device or system or other electronic device or system to disrupt the functions of public safety, educational, commercial, or governmental operations within the state, with the intent to commit a willful and deliberate act that is all of the following:
  - a. A felony, whether or not committed in this state. MCL 750.543p(1)(a).
  - b. An act the person knows or has reason to know is dangerous to human life. MCL 750.543p(1)(b). An act is dangerous to human life if it causes a substantial likelihood of death or serious injury, or involves kidnapping. MCL 750.543b(b).
  - c. Intended to intimidate or coerce a civilian population or influence or affect the conduct of government or a unit of government through intimidation or coercion. MCL 750.543p(1)(c).
6. **SECURITY PLANS.** 2002 PA 115 & 130. Effective April 22, 2002. It is a felony punishable by imprisonment for up to 20 years and/or a fine of up to \$20,000 to obtain or possess a blueprint, architectural or engineering diagram, security plan or other similar information of a vulnerable

target with the intent to commit a terrorist offense. MCL 750.543r.

- a. Exempts security plans, blueprints, etc from the Freedom of Information Act. MCL 15.243(1)(y).

**B. VULNERABLE TARGETS.** 2002 PA 116 & 140. Effective April 22, 2002. Expands the list of vulnerable targets and makes a violation against a vulnerable target punishable by imprisonment for up to 20 years. The sentence may be ordered to be served consecutively. MCL 750.212a(1). Vulnerable targets include:

1. A child or day care center. MCL 750.212a(2)(b)(i).
2. A health care facility. MCL 750.212a(2)(b)(ii).
3. A building or structure open to the public. MCL 750.212a(2)(b)(iii).
4. A church, synagogue, mosque or other place of worship. MCL 750.212a(2)(b)(iv).
5. A K-12 school. MCL 750.212a(2)(b)(v).
6. An institution of higher education. MCL 750.212a(2)(b)(vi).
7. A stadium. MCL 750.212a(2)(b)(vii).
8. A transportation structure or facility open to the public, including bridges, tunnels, highways or railroads. MCL 750.212a(2)(b)(viii).
9. An airport. MCL 750.212a(2)(b)(ix).
10. Port facilities. MCL 750.212a(2)(b)(x).
11. A public service facility. (Natural gas, electric, water or nuclear facility). MCL 750.212a(2)(b)(xi).
12. A petroleum refinery, storage facility or pipeline. MCL 750.212a(2)(b)(xii).
13. A vehicle, train, aircraft or watercraft used to transport people or goods. MCL 750.212a(2)(b)(xiii).
14. A government building. MCL 750.212a(2)(b)(xiv).

**C. SENTENCING GUIDELINES.** 2002 PA 137 & 143. Effective April 22, 2002. Establishes offense variables for terrorism crimes.

1. **OV 1.** Provides 20 points if a victim is exposed to a harmful biological, chemical or radioactive substance or device, or an incendiary device or explosive. Provides 5 points if the offender used a chemical irritant, chemical irritant device, smoke device, or imitation harmful device or substance. MCL 777.31.

2. **OV 19.** Provides 15 points if the offender uses force or the threat of force to interfere with the rendering of emergency services. MCL 777.49.
  3. **OV 20.** Provides 100 points if the offender committed an act of terrorism by using or threatening to use a harmful biological, chemical or radioactive substance or device, or an incendiary device or explosive. MCL 777.49a(1)(a).
    - a. Provides 50 points if the offender committed an act of terrorism without using or threatening to use a harmful biological, chemical or radioactive substance or device, or an incendiary device or explosive. MCL 777.49a(1)(b).
    - b. Provides 25 points if the offender supported an act of terrorism, a terrorist or a terrorist organization. MCL 777.49a(1)(c).
- D. TERRORIST ORGANIZATION.** 2002 PA 131. Effective April 22, 2002. Defines a terrorist organization as an organization that is designated by the U.S. State Department as engaging in or sponsoring an act of terrorism. MCL 750.543c.
- E. STATUTE OF LIMITATIONS.** 2002 PA 119. Effective April 22, 2002. Eliminates the statute of limitations for violations of the Anti-Terrorism Act. MCL 767.24(1).
- F. GRAND JURY INFORMATION.** 2002 PA 114. Effective May 1, 2002. Allows communications between law enforcement officers of grand jury information involving violations of the Anti-Terrorism Act. MCL 767.19f.
- G. COSTS.** 2002 PA 120 & 141. Effective April 22, 2002. Allows the court to order a person convicted of the following crimes to reimburse the government for the costs of emergency response, and the costs of investigation, extradition and prosecution. MCL 750.453x & MCL 769.1f(9).
1. A violation of the Michigan Anti-Terrorism Act. MCL 750.543a-543z.
  2. A violation of the explosives chapter. MCL 750.201-212a.
  3. Death due to explosives. MCL 750.327 & 328.
  4. Sale of explosives to a minor. MCL 750.327a.
  5. Poisoning food, medicine, or a water supply. MCL 750.436.
- H. RACKETEERING.** 2002 PA 124. Effective April 22, 2002. Includes violations of the Anti-Terrorism Act in the RICO statute. MCL 750.159g(hh).
- I. MONEY LAUNDERING.** 2002 PA 136. Effective April 22, 2002. Includes violations of the Anti-Terrorism Act in the Money Laundering statute. MCL 750.411j(g)(xxxi).
- J. FORFEITURE.** 2002 PA 142. Effective May 1, 2002. Includes violations of the Anti-Terrorism Act in the omnibus forfeiture statute. MCL 600.4701(a)(vii).

**K. POISONING FOOD/MEDICINE/WATER.** 2002 PA 123 & 135. Effective April 22, 2002.

1. **POISONING.** Makes it a felony to willfully mingle a poison or harmful substance with food, drink, medicine or a pharmaceutical product, or to place such a substance in a spring, well, reservoir, or public water supply, knowing or having reason to know that the substance will be ingested. MCL 750.436(1)(a).
  - a. The penalty is imprisonment for up to 15 years and/or a fine of up to \$10,000. MCL 750.436(2)(a). It's a C felony under the guidelines. MCL 777.16v.
  - b. The penalty increases to imprisonment for up to 20 years and/or a fine of up to \$15,000 if the violation results in property damage. MCL 750.436(2)(b). It's a B felony under the guidelines. MCL 777.16v.
  - c. The penalty increases to imprisonment for up to 25 years and/or a fine of up to \$20,000 if the violation results in a personal injury. MCL 750.436(2)(c). Its an A felony under the guidelines. MCL 777.16v.
  - d. The penalty increases to imprisonment for life or any term of years and/or a fine of up to \$25,000 if the violation results in a serious impairment of a body function. MCL 750.436(2)(d). Its an A felony under the guidelines. MCL 777.16v.
  - e. The penalty increases to life without parole if the violation results in a death. MCL 750.436(2)(e).
2. **FALSE REPORTS.** Makes it a felony to maliciously inform another person that a poison or harmful substance has been or will be placed in food, drink, medicine, a pharmaceutical product, spring, well, reservoir, or public water supply, knowing that the information is false and that it is likely that it will be disseminated to the public. MCL 750.436(1)(b).
  - a. The penalty is imprisonment for up to 4 years and/or a fine of up to \$2,000. MCL 750.436(3)(a). Its an F felony under the guidelines. MCL 777.16v.
  - b. The penalty increases to imprisonment for up to 10 years and/or a fine of up to \$5,000 for a second offense. MCL 750.436(3)(b). It's a D felony under the guidelines. MCL 777.16v.
3. **CONSECUTIVE SENTENCE.** A term of imprisonment may be ordered to be served consecutively. MCL 750.436(4).

**L. DRIVER LICENSES.** 2002 PA 118, 126 & 127. Effective April 22, 2002.

1. **HAZARDOUS MATERIALS.** Makes it a misdemeanor punishable for up to 1 year and/or a fine of up to \$500 to transport hazardous materials without a hazardous material endorsement on the operator's or chauffeur's license. MCL 480.17c(2).
2. **USE IN A CRIME.** The intentional reproduction, alteration, counterfeiting, or forgery of a license, or the use of such a license, with the intent to aid in the commission of a crime is subject to the following penalties:

- a. If the crime intended has a penalty of 10 or more years, the person is guilty of a felony punishable by imprisonment for up to 10 years and/or a fine of up to \$20,000. MCL 257.310(7)(a). It's a D felony under the guidelines. MCL 777.12d.
- b. If the crime intended has a penalty between 6 months and 10 years, the person is guilty of a felony punishable by imprisonment for up to 5 years and/or a fine of up to \$10,000. MCL 257.310(7)(b). It's an E felony under the guidelines. MCL 777.12d.
- c. If the crime intended has a penalty of less than 6 months, the person is guilty of a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of up to \$2,000. MCL 257.310(7)(c).

**3. SALE OF FORGED LICENSES.** The sale or possession with intent to deliver a reproduced, altered, counterfeited or forged license is a felony punishable by imprisonment for up to 5 years and/or a fine of up to \$10,000. MCL 257.310(8). It's an E felony under the guidelines. MCL 777.12d.

**4. POSSESSION OF FORGED LICENSES.** The possession of 2 or more reproduced, altered, counterfeited or forged licenses is a felony punishable by imprisonment for up to 5 years and/or a fine of up to \$10,000. MCL 257.310(9). It's an E felony under the guidelines. MCL 777.12d.

- a. The possession of 1 reproduced, altered, counterfeited or forged license is a misdemeanor punishable by imprisonment for up to 1 year and/or a fine of up to \$2,000. MCL 257.310(10).

**M. FAKE BOMBS.** 2002 PA 134. Effective April 22, 2002. Expands MCL 750.204a to include the possession of a device that is constructed to represent an explosive, incendiary device or bomb when used with the intent to terrorize, frighten, intimidate, threaten, harass or annoy another person.

**N. STATES OF EMERGENCY.** 2002 PA 132 & 133. Effective May 1, 2002.

**1. TIME LIMITS.** Allows the governor to declare a state of disaster for up to 28 days. MCL 30.403(3).

**2. STATE DEPARTMENTS.** Makes the director of each state department the emergency management coordinator for the department. MCL 30.408(1). The Chief Justice is the emergency management coordinator for the Courts. MCL 30.408(2).

**3. COLLEGES.** Requires colleges and universities with populations in excess of 25,000 students to appoint an emergency management coordinator. MCL 30.409(5).

**4. IMMUNITY.** Provides that governmental employees engaged in disaster relief efforts are immune from any suit for damages. MCL 30.411(2) & (3).

**5. STATES OF ALERT.** Allows the governor to declare a heightened state of alert when he or she has good cause to believe that terrorists are within the state, or that acts of terrorism may be committed in the state. MCL 30.421(1).

- a. Violation of an order issued by the Governor during a state of alert is a misdemeanor

punishable by up imprisonment for up to 90 days and/or a fine of up to \$100. MCL 30.421(2).

6. **NATIONAL GUARD.** Allows the Governor to call out the national guard to respond to acts or threats of terrorism and to safeguard military or other vital resources of the state. MCL 32.579.
  - a. A vital resource is a public or private building, facility, property or location that the governor considers necessary to protect the public health, safety and welfare of the citizens of the state. MCL 32.505(m).
  - b. National guard members have the immunity of a peace officer when responding to terrorist acts or when safeguarding a vital resource. MCL 32.579(3)(c).

## IV. TRAFFIC SAFETY

- A. BLIND PEDESTRIANS.** 2002 PA 401. Effective June 3, 2002. Includes blind individuals using a walker in the provisions of MCL 752.52, making it a crime not to use due care when approaching a crosswalk or pedestrian crossing to prevent accident or injury to the blind person.
- B. FLEEING AND ELUDING.** 2002 PA 270. Effective July 15, 2002. Increases the fines for fleeing and eluding to:
1. Up to \$2,000 for 4<sup>th</sup> degree fleeing and eluding. MCL 750.479a(2).
  2. Up to \$5,000 for 3<sup>rd</sup> degree fleeing and eluding. MCL 750.479a(3).
  3. Up to \$10,000 for 2<sup>nd</sup> degree fleeing and eluding. MCL 750.479a(4).
  4. Up to \$15,000 for 1<sup>st</sup> degree fleeing and eluding. MCL 750.479a(5).
- C. OPERATING TRAINS UNDER THE INFLUENCE.** 2002 PA 658 & 659. Effective April 1, 2003. Aligns the penalties of operating a train under the influence with the penalties for operating a motor vehicle under the influence.
1. Operating a locomotive while impaired by or under the influence of alcohol or a controlled substance, or with a BAC of .04% or more is a misdemeanor with a penalty of imprisonment for up to 93 days and/or a fine of \$100 - \$500. MCL 436.353(3).
  2. A 2<sup>nd</sup> offense within 7 years is a misdemeanor with a penalty of imprisonment for up to 1 year and/or a fine of \$200 - \$1,000. MCL 436.353(4).
  3. A 3<sup>rd</sup> offense within 10 years is a felony with a penalty of imprisonment for up to 5 years and/or a fine of up to \$5,000. MCL 436.353(5).
  4. Causing death while operating a locomotive while impaired by or under the influence of alcohol or a controlled substance, or with a BAC of .04% or more, is a felony with a penalty of imprisonment for up to 15 years and/or a fine of \$2,500 - \$10,000. MCL 436.353(6). It's a C felony under the guidelines. MCL 777.14m.
  5. Causing serious impairment of a bodily function while operating a locomotive while impaired by or under the influence of alcohol or a controlled substance, or with a BAC of .04% or more, is a felony with a penalty of imprisonment for up to 5 years and/or a fine of \$1,000 - \$5,000. MCL 436.353(7). It's an E felony under the guidelines. MCL 777.14m.

## V. MISCELLANEOUS

- A. **CCW.** 2002 PA 719. Effective July 1, 2003. Makes the following changes to the CCW law.
1. Authorizes access by the CCW board to the applicant's medical records. The board must keep the records confidential. MCL 28.425b(1)(c).
  2. Allows CCW license records to be destroyed 1 year after the license expires. MCL 28.425b(4).
  3. Increases the application fee to \$105, which covers all costs, including fingerprinting. MCL 28.425b(5).
  4. Increases the number of misdemeanor convictions which disqualify an applicant for an 8 year period following the conviction. MCL 28.425b(7)(h).
  5. Removes the 3 year disqualification period for the conviction of any misdemeanor, and replaces it with a list of misdemeanors requiring a 3 year disqualification period. MCL 28.425b(7)(i).
  6. Increases the time period for deciding on an application to 45 days from receipt of the fingerprint report. MCL 28.425b(13).
  7. Requires the surrender of a suspended or revoked CCW license. MCL 28.425b(16).
  8. Requires a licensee who is stopped by a police officer to immediately inform an officer that he or she is carrying a firearm. MCL 28.425f(2).
  9. Requires the firing of 30 rounds of ammunition during the training program. MCL 28.425j.
  10. Increases the CCW license term from 3 to 5 years. MCL 28.425L.
  11. Exempts police officers who retired in good standing from the firearm training requirements. MCL 28.425L(2).
  12. Allows the carrying of firearms in places where liquor by the glass is not the primary source of income. The establishment can post a sign prohibiting concealed weapons. MCL 28.425o(1)(d).
  13. The gun free zones do not apply to retired police officers or private detectives. Nor to sheriff department corrections officers, motor carrier officers, sheriff's posse, auxiliary or reserve officers, or parole or probation officers while on duty and acting in the course of their employment. MCL 28.425o(4).
    - a. A first offense gun free zone violation is a civil infraction, and a 6 months CCW license suspension. MCL 28.425o(5)(a).
    - b. A second offense gun free zone violation is a misdemeanor, punishable by a fine of up to \$1,000 and revocation of the CCW license. MCL 28.425o(5)(b).
    - c. A third offense gun free zone violation is a felony, punishable by imprisonment for up to 4

years and/or a fine of up to \$5,000 and revocation of the CCW license. MCL 28.425o(5)(c).

14. Canadian police officers are excluded from the licensing requirements. MCL 28.432a.

**B. CHILDREN.**

1. **AMBER ALERTS.** 2002 PA 712 & 713. Effective December 30, 2002. Creates the Michigan Amber Alert Act and the Child Abduction Broadcast Act.
2. **CHILD CARE REGISTRY.** 2002 PA 645 & 661. Effective December 23, 2002. Creates a web based registry of child care centers in the department of consumer and industry services. MCL 722.121b. Requires FIA and prosecutors to notify CIS when a child care provider abuses a child in their care. MCL 722.623(6) & 722.628a(5).
3. **CLERGY.** 2002 PA 706. Effective March 1, 2003. Includes the clergy as mandatory reporters under the child protection law. MCL 722.623.
  - a. Information obtained by a member of the clergy in his or her professional character in a confession or similar confidential communication is privileged. MCL 722.631.
  - b. The definition of child abuse was amended to clarify that only abuse or maltreatment committed by a person responsible for the child's health or welfare or a teacher, teacher's aide or member of clergy is required to be reported. MCL 722.622.
4. **PHYSICIAN ASSISTANTS.** 2002 PA 10. Effective February 14, 2002. Includes physician assistants as mandatory reporters under the child protection law. MCL 722.623.

**C. CORRECTIONS.** 2002 PA 670. Effective March 1, 2003. Raises the population cap on prisoners at the Scott Correctional Facility and the Western Wayne Correctional Facility. MCL 791.220e.

**D. DOMESTIC VIOLENCE.**

1. **CIVIL LAWSUITS.** 2002 PA 715. Effective March 31, 2003. Increases the civil statute of limitations for assaults and personal injury suits in cases where the parties had a dating relationship. MCL 600.5805.
2. **FATALITY REVIEW TEAMS.** 2002 PA 732. Effective March 31, 2003. Makes the following changes to the DV fatality review teams statute.
  - a. Exempts review team information from both civil and criminal discovery. MCL 400.1511(6).
  - b. Requires review team members to sign a confidentiality agreement. MCL 400.1511(6).
  - c. Requires that a confidentiality notice be given to individuals who provide information to the review team. MCL 400.1511(7).
  - d. Provides good faith immunity to review team members. MCL 400.1511(11).

- E. EXPUNGEMENT.** 2002 PA 472. Effective October 1, 2002. Increases the fee for processing an expungement petition from \$25 to \$50. MCL 780.621(6).
- F. FINGERPRINTING.** 2002 PA 463. Effective June 21, 2002. Increases the fee for employment related or license related fingerprinting from \$15 to \$30. MCL 28.273.
- G. MEDICAL EXAMINERS.** 2002 PA 22. Effective March 4, 2002. Eliminates the requirement that the ME be a resident of the county of his or her appointment. MCL 52.201.
- H. PAWNBROKERS.** 2002 PA 469. Effective June 21, 2002. Extends pawnbroker licensing law to pawnbrokers located in any unit of government. Provides previously unlicensed pawnbrokers 180 days to obtain a license. MCL 446.201 et.seq.
- I. SECURITY COMPANIES.** 2002 PA 473. Effective October 1, 2002. Increases the fees for private security licenses. MCL 338.1051 et. seq.