



MICHIGAN STATE POLICE LEGAL UPDATE

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CRIMINAL LAW AND PROCEDURE MANUAL

The fourth edition of *Michigan Criminal Law and Procedure: A Manual for Michigan Police Officers* is available for purchase in print and eBook formats.

The manual is published by Kendall Hunt Publishing Co. Copies may be [ordered online](#) or by calling Kendall Hunt Customer Service at (800) 228-0810.

STATUTES

Code of Criminal Procedure amended to prohibit issuance of appearance tickets to a person arrested for an "operating while intoxicated" offense.

[Legal Update No. 147](#) previously discussed [Public Act 393 of 2020](#) and amendments to [MCL 764.9c](#) of the Code of Criminal Procedure requiring persons arrested for certain misdemeanors and ordinance violations with a maximum penalty not exceeding 1-year in jail to be released from custody after being issued an appearance ticket.

[Public Act 39 of 2021](#) more recently amended [MCL 764.9c](#) to exclude "operating while intoxicated" offenses from the types of offenses where issuance of an appearance ticket and release from custody may be required. As a result, appearance tickets are not to be issued for a person arrested for an "operating while intoxicated offense" as defined below.

Definitions

"Operating while intoxicated offense" means any of the following as described in [MCL 764.9c\(9\)\(b\)](#):

- Operating while intoxicated. [MCL 257.625\(1\)](#).
- Allowing intoxicated person to operate. [MCL 257.625\(2\)](#).
- Operating while visibly impaired. [MCL 257.625\(3\)](#).
- Minor operating with any BAC. [MCL 257.625\(6\)](#).
- Child endangerment. [MCL 257.625\(7\)](#).
- Operating with the presence of a controlled substance. [MCL 257.625\(8\)](#).
- Operating commercial motor vehicle with unlawful BAC. [MCL 257.625m](#).
- A local ordinance, law of an Indian Tribe, law of another state, or law of the United States substantially corresponding to the above violations. [MCL 764.9c\(9\)\(b\)\(ii\)-\(v\)](#).

JUVENILE LAW

Individuals who are 17 years of age to be treated as juveniles in criminal proceedings rather than automatically being treated as adults.

Public Acts [97](#), [98](#), [99](#), [100](#), [101](#), [102](#), [103](#), [104](#), [105](#), [106](#), [107](#), [108](#), [109](#), [110](#), [111](#), [112](#), [113](#), and [114](#) of 2019, commonly known as the "Raise the Age" (RTA) legislation, will become **effective October 1, 2021**. Collectively, these acts may be [summarized](#) as amending various statutes necessary to ensure that individuals who are 17 years of age are treated as juveniles in criminal proceedings rather than automatically being treated as adults.

As a general matter, officers should know that whatever an officer was required to do (or not do) when contacting, detaining, or taking a 16-year-old juvenile into custody before October 1, 2021, the officer would similarly be required to do (or not do) the same when contacting, detaining, or taking a 17-year-old juvenile into custody beginning October 1, 2021. This includes the complete verbal, visual, and physical isolation from adult prisoners, release to a parent, guardian, or custodian if immediate detention is not required, and immediately bringing the juvenile before the family division of circuit court if immediate detention is required or release to a parent, guardian, or custodian is not possible.

DID YOU KNOW

The mere presence of an unidentified cocaine metabolite is insufficient to prove operation of a vehicle with the presence of "any amount" of cocaine in the body.

In [People v Stock](#), the Michigan Supreme Court found that the mere presence of an unidentified cocaine metabolite, but nothing more, was insufficient to prove the defendant had *any amount* of cocaine in her body at the time of the motor vehicle collision for prosecution under [MCL 257.625\(8\)](#).

Citing [People v Feezel](#), where the Court previously held the 11-carboxy-THC metabolite is not a Schedule 1 controlled substance for purposes of [MCL 257.625\(8\)](#), the court reversed Stock's sentences for operating while intoxicated (OWI) causing death and OWI causing serious impairment of a body function.