

Eliminate Mandatory Jail Minimums

A package that eliminates many mandatory minimum sentences to jail

What Problem Does This Package Solve?

The majority of misdemeanors in Michigan are punishable by up to 90 days, 93 days, 6 months, or 1 year in jail. Statute generally gives a judge discretion to sentence to any amount of jail time less than the maximum, or to no jail at all but an alternative sentence, such as probation, a fine, or community service. However, around 50 of Michigan's nearly 2,000 misdemeanors require a minimum jail sentence, anywhere from two days to six months. Most of these mandatory minimums do not correspond to the seriousness of the offense, but are relics from another time, tying judges' hands and wasting jail resources on offenses unrelated to public safety.


At least 50 misdemeanors have mandatory jail time, mostly unrelated to public safety.

The Michigan Joint Task Force on Jail and Pretrial Incarceration recommended eliminating these mandatory jail minimums as a way to give discretion back to judges and focus jail beds on the most serious offenses. This five-bill package would eliminate some of the most common mandatory jail minimums, including those in the motor vehicle code, natural resources and environmental protection act, public health code, school code, and railroad code.

Public Safety is Not Impacted

Many of the offenses for which this package eliminates the mandatory jail minimum, such as improper taking of turkeys or deer, have little impact on public safety. The required jail time ties the hands of judges who would rather impose a fine, community service, or another sanction instead. However, for those more serious offenses, such as operating while intoxicated, that carry a mandatory jail minimum, a judge would always retain the discretion to sentence to jail if necessary. Eliminating the mandatory minimum in these cases allows judges to consider the facts of the case and sentence to treatment when appropriate.

"Improper taking of a sturgeon" currently requires a 30-day minimum jail sentence.



Bill Specifics

- **HB 5854 by Sneller** eliminates seven mandatory jail minimums in the motor vehicle code, including for four operating while intoxicated misdemeanors and three other misdemeanors.
- **HB 5855 by Brann** eliminates five mandatory jail minimums in the revised school code, for truancy and unauthorized use of a professional occupational title.
- **HB 5856 by S. Johnson** eliminates 18 mandatory jail minimums in the natural resources and environmental protection act, including for various hunting offenses and for operating a boat, off-road vehicle, or snowmobile while intoxicated.
- **HB 5857 by O'Malley** eliminates two mandatory jail minimums in the railroad code, for throwing a projectile at a train and placing loose impediments on the railway itself.
- **HB 5844 by Bellino** eliminates two mandatory jail minimums in the public health code, for unauthorized use of a professional occupational title.

Recommended by the

Michigan Joint Task Force on Jail and Pretrial Incarceration

Mandatory Jail Minimums Eliminated

HB 5854 by Sneller eliminates seven mandatory jail minimums for misdemeanors in the motor vehicle code. It does not eliminate the mandatory jail sentence for felony OWI but allows for suspension of the sentence under MCL 257.625 (7)(a)(ii), (9)(d), and (11)(d) only upon successful completion of a specific specialty court program.

MCL Statute	Description	Minimum
257.625 (7)(a)(i)	Operating While Intoxicated/Impaired/With Controlled Substance – Occupant Less Than 16	5 days
257.625 (7)(b)(ii)	Minor Operating with Any BAC – Occupant Less Than 16 – 2 nd Offense	5 days
257.625 (9)(b)(i)	Operating While Intoxicated/With Controlled Substance – 2 nd Offense	5 days
257.625 (11)(b)(i)	Operating While Impaired – 2 nd Offense	5 days
257.904 (16)	Operating with Suspended/Revoked Commercial Vehicle Group Designation	3 days
257.904a	Operating Without Valid License in Previous Three Years – 2 nd Offense	2 days
257.905	Operating While Suspended for Failure to Prove Financial Responsibility	2 days

HB 5855 by Brann eliminates five mandatory jail minimums for misdemeanors in the revised school code.

MCL Statute	Description	Minimum
380.1599	Noncompliance of Parent with School Attendance Requirements	2 days
380.1809 (1)(b)	Invalid Use of Teaching Certificate – 2 nd Offense	93 days
380.1809 (2)(b)	Invalid Use of School Administrator Certificate – 2 nd Offense	93 days
380.1809 (3)(b)	Invalid Use of State School Board Approval – 2 nd Offense	93 days
380.1809 (4)(b)	Invalid Use of College Credentials – 2 nd Offense	93 days

HB 5856 by S. Johnson eliminates 18 mandatory jail minimums for misdemeanors in the natural resources and environmental protection act.

MCL Statute	Description	Minimum
324.40118 (3)	Wildlife Conservation – Taking Deer/Bear/Turkeys/Wolf	5 days
324.40118 (4)	Wildlife Conservation – Taking Elk	30 days
324.40118 (5)	Wildlife Conservation – Taking Moose	90 days
324.40118 (11)	Wildlife Conservation – Shining Artificial Light with Weapon Accessible	5 days
324.40118 (13)	Wildlife Conservation – Failure to Stop for Officer After Shining Light	5 days
324.40118 (18)	Wildlife Conservation – Rule Violation – 3 rd Offense	10 days
324.41105	Fish & Game – Rule Violation – 2 nd Offense	20 days
324.47327	Commercial Fishing – Rule Violation – 2 nd Offense	30 days
324.48738 (3)	Sports Fishing – Taking Sturgeon	30 days
324.80177 (1)(b)(ii)	Marine Safety – Operating While Intoxicated – 2 nd Offense	48 hours
324.80178b (1)(a)(ii)	Marine Safety – Operating While Intoxicated – Occupant Less Than 16	5 days

324.80178b (2)(b)(i)	Marine Safety – Minor with Any BAC – Occupant Less Than 16 – 2 nd Offense	5 days
324.81134 (8)(b)(i)	ORV – Operating While Intoxicated – 2 nd Offense	5 days
324.81134 (12)(a)(i)	ORV – Operating While Intoxicated – Occupant Less Than 16	5 days
324.81134 (12)(b)(ii)	ORV – Minor with Any BAC – Occupant Less Than 16 – 2 nd Offense	5 days
324.82128 (1)(b)(ii)	Snowmobiles – Operating While Intoxicated – 2 nd Offense	48 hours
324.82129b (1)(a)(i)	Snowmobiles – Operating While Intoxicated – Occupant Less Than 16	5 days
324.82129b (2)(b)(i)	Snowmobiles – Minor with Any BAC – Occupant Less Than 16 – 2 nd Offense	5 days

HB 5857 by O'Malley eliminates two mandatory jail minimums for misdemeanors in the railroad code.

MCL Statute	Description	Minimum
462.257 (2)	Throwing Projectile at a Train	10 days
462.267 (2)	Removing or Tampering with Railroad Switches or Derailing Devices	10 days

HB 5844 by Bellino eliminates two mandatory jail minimums for misdemeanors in the public health code.

MCL Statute	Description	Minimum
333.16296 (b)	Unauthorized Use of Health Profession Title – 2 nd Offense	60 days
333.16299 (1)(b)	Health Occupation Rule Violations – 2 nd Offense	90 days