



# Lansing State Journal

## Michael Reitz and Miriam Aukerman: Fixing Michigan's overgrown criminal code

By Michael Reitz and Miriam Aukerman

There is growing concern that we are facing a crisis of overcriminalization, and not because more people are committing more serious or violent crimes.

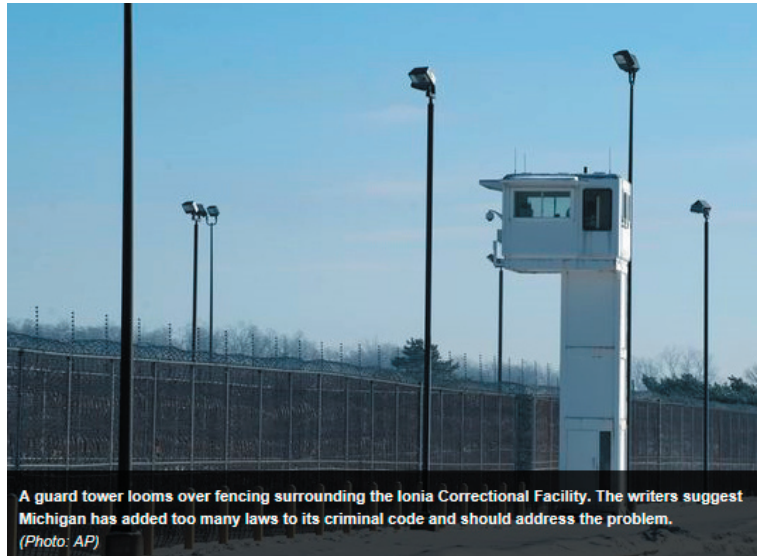
“Overcriminalization” refers to several problems in the criminal justice system. For one, the number of criminal laws on the books — and the rapid addition of new crimes every year — makes it nearly impossible for the typical Michigander to keep track of what is (or isn't) legal. Also, the punishments attached to crimes can far outweigh the significance of the crime, attaching severe consequences to minor offenses. Finally, in an overcriminalized environment, criminal laws increasingly prohibit and punish conduct that ordinary people just don't think is wrong.

It's easy to point to Congress as the culprit, but the state of Michigan suffers from the problem of overcriminalization as well. A study recently published by the [Mackinac Center for Public Policy](#) and the Manhattan Institute found that Michigan has more than 3,100 criminal laws and is adding an average of 45 new crimes to the books every year.

Adding to the problem, many of Michigan's laws fail to provide a criminal intent standard, which means that individuals can be prosecuted and convicted whether or not they meant to commit a crime. Given the abundance and scope of criminal prohibitions, a person could face fines and incarceration without ever making a choice to break the law.

Michigan has its share of perplexing laws, as Lisa Snyder of Middleville discovered in 2009. As a favor, Snyder agreed to watch several neighbor children before the school bus arrived each morning, allowing their parents to head to work early. She was shocked when the Department of Human Services accused her of running an illegal daycare, which can be punishable with jail time. In the eyes of the state the act of a good neighbor was not charitable, but criminal.

Local laws can be just as bad. For example, the City of Saugatuck arrested and jailed Gabe Novak, a 19-year-old music major, for playing guitar on the sidewalk without getting a public entertainment license, which requires proof of liability insurance, a corporate surety bond, sufficient toilet facilities and off-street parking. And in Grand Rapids, Tyrone Hightower was jailed for “trespassing” because, after dropping friends at club, he waited in his car in the parking lot to make sure they got in. The American Civil Liberties Union has chal-



A guard tower looms over fencing surrounding the Ionia Correctional Facility. The writers suggest Michigan has added too many laws to its criminal code and should address the problem. (Photo: AP)

lenged both arrests in separate lawsuits.

The state's overgrown criminal code creates an environment where decent people can be caught in the justice system for innocuous conduct that has no social or moral significance. Families can be devastated, and careers ruined, when an individual unknowingly breaks the law. And, overpopulated law books strain the resources of the justice system, thus hampering the state's ability to prosecute criminals who actually harm people or property.

The Michigan Legislature can take several steps to correct this troubling trend. First, the state should pass a law that clearly defines the intent necessary for the commission of a crime. Senate Bill 20, introduced by Sen. Mike Shirkey, R-Clarklake, could accomplish this. Next, the state should assess the crimes we have on the books and eliminate silly laws and laws that have outlived their purpose. Related, the Legislature should consider harmonizing the punishments associated with specific crimes — let the punishment fit the crime. Finally, the Legislature should establish a set of guiding principles for lawmakers when creating new criminal offenses for the purpose of carefully evaluating whether the regulated conduct should be criminalized.

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