

HOUSE BILL No. 5837

May 13, 1992, Introduced by Reps. Niederstadt, Bartnik, Profit, Baade, Weeks, Varga, Johnson, Bennett, Rocca and Hertel and referred to the Committee on Judiciary.

A bill to amend section 3 of chapter XI of Act No. 175 of the Public Acts of 1927, entitled as amended "The code of criminal procedure," as amended by Act No. 184 of the Public Acts of 1989, being section 771.3 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 3 of chapter XI of Act No. 175 of the
2 Public Acts of 1927, as amended by Act No. 184 of the Public Acts
3 of 1989, being section 771.3 of the Michigan Compiled Laws, is
4 amended to read as follows:

5 CHAPTER XI

6 Sec. 3. (1) The conditions of probation shall include ALL
7 OF the following:

1 (a) That the probationer shall not, during the term of his
2 or her probation, violate any criminal law of this state, or any
3 ordinance of any municipality in the state.

4 (b) That the probationer shall not, during the term of his
5 or her probation, leave the state without the consent of the
6 court granting his or her application for probation.

7 (c) That the probationer shall make a report to the proba-
8 tion officer, either in person or in writing, monthly, or as
9 often as the probation officer may require. This subdivision
10 does not apply to a juvenile placed on probation and committed
11 under section 1(3) or (4) of chapter IX to a state institution or
12 agency described in the youth rehabilitation services act, Act
13 No. 150 of the Public Acts of 1974, being sections 803.301 to
14 803.309 of the Michigan Compiled Laws.

15 (d) That the probationer, if convicted of a felony, pay a
16 probation oversight fee or perform community service as pre-
17 scribed in section 3c OF THIS CHAPTER.

18 (2) As a condition of probation, the court may require the
19 probationer to do 1 or more of the following:

20 (a) Be imprisoned in the county jail for not more than 12
21 months, at the time or intervals, which may be consecutive or
22 nonconsecutive, within the probation as the court may determine.
23 However, the period of confinement shall not exceed the maximum
24 period of imprisonment provided for the offense charged if the
25 maximum period is less than 12 months. This subdivision does not
26 apply to a juvenile placed on probation and committed under
27 section 1(3) or (4) of chapter IX to a state institution or

1 agency described in Act No. 150 of the Public Acts of 1974, being
2 sections 803.301 to 803.309 of the Michigan Compiled Laws.

3 (b) Pay immediately or within the period of his or her pro-
4 bation, a fine imposed at the time of being placed on probation.

5 (c) Pay costs pursuant to subsection (4).

6 (d) Pay restitution to the victim or the victim's estate.

7 (e) Engage in community service.

8 (F) PARTICIPATE IN AND SUCCESSFULLY COMPLETE 1 OR MORE
9 APPROPRIATE REHABILITATIVE PROGRAMS, INCLUDING ALCOHOL OR DRUG
10 EDUCATION OR TREATMENT PROGRAMS, WHICH MAY BE INPATIENT PROGRAMS.

11 (3) Subsection (2) ~~shall~~ DOES not apply to a person who is
12 placed on probation for life pursuant to sections 1(3) and 2(3)
13 of this chapter.

14 (4) The court may impose other lawful conditions of proba-
15 tion as the circumstances of the case may require or warrant, or
16 as in its judgment may be proper. If the court requires the pro-
17 bationer to pay costs, the costs shall be limited to expenses
18 specifically incurred in prosecuting the defendant or providing
19 legal assistance to the defendant and probationary oversight of
20 the probationer.

21 (5) If the court imposes restitution or costs as part of a
22 sentence of probation, the following ~~shall~~ apply:

23 (a) The court shall not require a probationer to pay resti-
24 tution or costs unless the probationer is or will be able to pay
25 them during the term of probation. In determining the amount and
26 method of payment of restitution and costs, the court shall take
27 into account the financial resources of the probationer and the

1 nature of the burden that payment of restitution or costs will
2 impose, with due regard to his or her other obligations.

3 (b) A probationer who is required to pay restitution or
4 costs and who is not in willful default of the payment of the
5 restitution or costs, at any time, may petition the sentencing
6 judge or his or her successor for a remission of the payment of
7 any unpaid portion of restitution, costs, or both. If it appears
8 to the satisfaction of the court that payment of the amount due
9 will impose a manifest hardship on the probationer or his or her
10 immediate family, the court may remit all or part of the amount
11 due in restitution or costs or modify the method of payment.

12 (6) If a probationer is required to pay restitution or costs
13 as part of a sentence of probation, the court may require payment
14 to be made immediately or the court may provide for payment to be
15 made within a specified period of time or in specified
16 installments.

17 (7) If a probationer is ordered to pay restitution or costs
18 as part of a sentence of probation, compliance with that order
19 ~~shall be~~ IS a condition of probation. The court may revoke
20 probation if the probationer fails to comply with the order and
21 if the probationer has not made a good faith effort to comply
22 with the order. In determining whether to revoke probation, the
23 court shall consider the probationer's employment status, earning
24 ability, AND financial resources, ~~and~~ the willfulness of the
25 probationer's failure to pay, and any other special circumstances
26 that may have a bearing on the probationer's ability to pay. The
27 proceedings provided for in this subsection ~~shall be~~ ARE in

1 addition to those provided in section 4 of this chapter. A
2 juvenile placed on probation and committed under section 1(3) or
3 (4) of chapter IX to a state institution or agency described in
4 Act No. 150 of the Public Acts of 1974, being sections 803.301 to
5 803.309 of the Michigan Compiled Laws, shall not be committed to
6 the department of corrections for failure to comply with a resti-
7 tution order.