

HOUSE BILL No. 5937

June 11, 1992, Introduced by Reps. Kilpatrick, Wallace, Profit, Saunders, Joe Young, Sr., Knight and Bennane and referred to the Committee on Appropriations.

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 the
7 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~~ UNLESS HE OR SHE IS a juvenile placed on pro-
11 bation and committed under section 1(3) or (4) of chapter IX to a
12 state institution or agency described in the youth rehabilitation
13 services act, Act No. 150 of the Public Acts of 1974, being sec-
14 tions 803.301 to 803.309 of the Michigan Compiled Laws, COMPLY
15 WITH 1 OF THE FOLLOWING LEVELS OF SUPERVISION:

16 (A) MOST RESTRICTIVE, IN WHICH THE PROBATIONER IS REQUIRED
17 TO HAVE 5 IN-PERSON CONTACTS WITH A PROBATION OFFICER EACH WEEK.

18 (B) LESS RESTRICTIVE, IN WHICH THE PROBATIONER IS REQUIRED
19 TO HAVE 2 IN-PERSON CONTACTS WITH A PROBATION OFFICER EACH WEEK.

20 (C) LEAST RESTRICTIVE, IN WHICH THE PROBATIONER IS REQUIRED
21 TO HAVE 1 IN-PERSON CONTACT WITH A PROBATION OFFICER EACH WEEK.

22 (d) That the probationer, if convicted of a felony, pay a
23 probation oversight fee or perform community service as pre-
24 scribed in section 3c.

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

1 (a) Be imprisoned in the county jail for not more than 12
2 months, at the time or intervals, which may be consecutive or
3 nonconsecutive, within the probation as the court may determine.
4 However, the period of confinement shall not exceed the maximum
5 period of imprisonment provided for the offense charged if the
6 maximum period is less than 12 months. This subdivision does not
7 apply to a juvenile placed on probation and committed under sec-
8 tion 1(3) or (4) of chapter IX to a state institution or agency
9 described in Act No. 150 of the Public Acts of 1974, being sec-
10 tions 803.301 to 803.309 of the Michigan Compiled Laws.

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

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

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

15 (e) Engage in community service.

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

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

26 (5) If the court imposes restitution or costs as part of a
27 sentence of probation, BOTH OF the following ~~shall~~ apply:

1 (a) The court shall not require a probationer to pay
2 restitution or costs unless the probationer is or will be able to
3 pay them during the term of probation. In determining the amount
4 and method of payment of restitution and costs, the court shall
5 take into account the financial resources of the probationer and
6 the nature of the burden that payment of restitution or costs
7 will impose, with due regard to his or her other obligations.

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

17 (6) If a probationer is required to pay restitution or costs
18 as part of a sentence of probation, the court may require payment
19 to be made immediately or the court may provide for payment to be
20 made within a specified period of time or in specified
21 installments.

22 (7) If a probationer is ordered to pay restitution or costs
23 as part of a sentence of probation, compliance with that order
24 shall be a condition of probation. The court may revoke proba-
25 tion if the probationer fails to comply with the order and if the
26 probationer has not made a good faith effort to comply with the
27 order. In determining whether to revoke probation, the court

1 shall consider the probationer's employment status, earning
2 ability, financial resources, and the willfulness of the
3 probationer's failure to pay, and any other special circumstances
4 that may have a bearing on the probationer's ability to pay. The
5 proceedings provided for in this subsection shall be in addition
6 to those provided in section 4 of this chapter. A juvenile
7 placed on probation and committed under section 1(3) or (4) of
8 chapter IX to a state institution or agency described in Act
9 No. 150 of the Public Acts of 1974, being sections 803.301 to
10 803.309 of the Michigan Compiled Laws, shall not be committed to
11 the department of corrections for failure to comply with a resti-
12 tution order.