

Act No. 286
Public Acts of 1994
Approved by the Governor
July 13, 1994
Filed with the Secretary of State
July 13, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senators Bouchard Welborn and Hoffman

ENROLLED SENATE BILL No. 193

AN ACT to amend sections 12 13 and 14 of chapter II and sections 2 and 3 of chapter XI of Act No 175 of the Public Acts of 1927 entitled as amended An act to revise consolidate and codify the laws relating to criminal procedure and to define the jurisdiction powers and duties of courts judges and other officers of the court under the provisions of this act to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations to provide for the examination of persons accused of criminal offenses to regulate the procedure relative to grand juries indictments informations and proceedings before trial to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases to provide a uniform system of probation throughout this state and the appointment of probation officers to prescribe the powers duties and compensation of probation officers to provide penalties for the violation of the duties of probation officers to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime to provide for fees of officers witnesses and others in criminal and ordinance violation cases to set forth miscellaneous provisions as to criminal procedure in certain cases to provide penalties for the violation of certain provisions of this act and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act sections 12 13 and 14 of chapter II as amended by Act No 293 of the Public Acts of 1993 section 2 of chapter XI as amended by Act No 185 of the Public Acts of 1993 and section 3 of chapter XI as amended by Act No 343 of the Public Acts of 1993 being sections 762 12 762 13 762 14 771 2 and 771 3 of the Michigan Compiled Laws and to add section 4a to chapter XI

The People of the State of Michigan enact

Section 1 Sections 12 13 and 14 of chapter II and sections 2 and 3 of chapter XI of Act No 175 of the Public Acts of 1927 sections 12 13 and 14 of chapter II as amended by Act No 293 of the Public Acts of 1993 section 2 of chapter XI as amended by Act No 185 of the Public Acts of 1993 and section 3 of chapter XI as amended by Act No 343 of the Public Acts of 1993 being sections 762 12 762 13 762 14 771 2 and 771 3 of the Michigan Compiled Laws are amended and section 4a is added to chapter XI to read as follows

CHAPTER II

Sec 12 The court of record having jurisdiction over the criminal offense referred to in section 11 of this chapter may at any time terminate its consideration of the individual as a youthful trainee or once having assigned the individual to the status of a youthful trainee may at its discretion revoke that status any time before the individual's final release If an individual who is required to be registered pursuant to the sex offenders registration act willfully

violates that act the court shall revoke the individual's status as a youthful trainee. Upon termination of consideration or revocation of status as a youthful trainee the court may enter an adjudication of guilt and proceed as provided by law. If the status of youthful trainee is revoked an adjudication of guilt is entered and a sentence is imposed the court in imposing sentence shall specifically grant credit against the sentence for time served as a youthful trainee in an institutional facility of the department of corrections or in a county jail.

Sec 13 (1) If an individual is assigned to the status of a youthful trainee and the underlying charge is an offense punishable by imprisonment for a term of more than 1 year the court shall do 1 of the following

(a) Commit the individual to the department of corrections for custodial supervision and training for not more than 3 years in an institutional facility designated by the department for that purpose

(b) Place the individual on probation for not more than 3 years subject to probation conditions as provided in section 3 of chapter XI

(c) Commit the individual to the county jail for not more than 1 year

(2) If an individual is assigned to the status of youthful trainee and the underlying charge is for an offense punishable by imprisonment for 1 year or less the court shall place the individual on probation for not more than 2 years subject to probation conditions as provided in section 3 of chapter XI

(3) An individual placed on probation pursuant to this section shall be under the supervision of a probation officer. Upon commitment to and receipt by the department of corrections a youthful trainee shall be subject to the direction of the department of corrections

(4) If an individual is committed to the county jail under subsection (1)(c) or as a probation condition the court may authorize work release or release for educational purposes

(5) The court shall include in each order of probation for an individual placed on probation under this section that the department of corrections shall collect a probation supervision fee of not more than \$30.00 multiplied by the number of months of probation ordered but not more than 36 months. The fee is payable when the probation order is entered but the fee may be paid in monthly installments if the court approves installment payments for that probationer. In determining the amount of the fee the court shall consider the probationer's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered

<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
\$ 0 249 99	\$ 0 00
\$ 250 00 499 99	\$ 10 00
\$ 500 00 749 99	\$ 20 00
\$ 750 00 or more	\$ 30 00

The court may order a higher amount than indicated by the table up to the maximum of \$30.00 multiplied by the number of months of probation ordered but not more than 36 months if the court determines that the probationer has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall be collected as provided in section 25a of Act No. 232 of the Public Acts of 1953 being section 791.225a of the Michigan Compiled Laws. A person shall not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee the court shall waive the fee having the shorter remaining duration.

(6) If the individual is assigned to youthful trainee status for a listed offense enumerated in section 2 of the sex offenders registration act the department of corrections, sheriff or his or her designee or the individual's probation officer shall register the individual or accept the individual's registration as provided under the sex offenders registration act.

Sec 14 (1) If consideration of an individual as a youthful trainee is not terminated and the status of youthful trainee is not revoked as provided in section 12 of this chapter upon final release of the individual from the status as youthful trainee the court shall discharge the individual and dismiss the proceedings.

(2) An assignment of an individual to the status of youthful trainee as provided in this chapter is not a conviction for a crime and except as provided in subsection (3) the individual assigned to the status of youthful trainee shall not suffer a civil disability or loss of right or privilege following his or her release from that status because of his or her assignment as a youthful trainee.

(3) An individual assigned to youthful trainee status for a listed offense enumerated in section 2 of the sex offenders registration act is required to comply with the requirements of that act.

(4) Unless the court enters a judgment of conviction against the individual for the criminal offense under section 12 of this chapter all proceedings regarding the disposition of the criminal charge and the individual's assignment as youthful trainee shall be closed to public inspection but shall be open to the courts of this state the department of

corrections the department of social services and law enforcement personnel for use only in the performance of their duties

CHAPTER XI

Sec 2 (1) Except as provided in section 2a of this chapter if the defendant is convicted for an offense that is not a felony the period of probation shall not exceed 2 years Except as provided in section 2a of this chapter if the defendant is convicted of a felony that is not a major controlled substance offense the period of probation shall not exceed 5 years

(2) The court shall by order to be filed or entered in the cause as the court may direct by general rule or in each case fix and determine the period and conditions of probation The order whether it is filed or entered is part of the record in the cause The court may amend the order in form or in substance at any time

(3) A defendant who is placed on probation pursuant to section 1(4) of this chapter shall be placed on probation for life That sentence shall be made subject to conditions of probation specified in section 3 of this chapter including the payment of a probation supervision fee as prescribed in section 3c of this chapter and to revocation for violation of those conditions but the period of probation shall not be reduced other than by a revocation that results in imprisonment

(4) If an individual is placed on probation for a listed offense enumerated in section 2 of the sex offenders registration act the individual's probation officer shall register the individual or accept the individual's registration pursuant to that act

(5) Subsections (1) and (3) do not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to a state institution or agency described in the youth rehabilitation services act Act No 150 of the Public Acts of 1974 being sections 803 301 to 803 309 of the Michigan Compiled Laws

Sec 3 (1) The sentence of probation shall include all of the following conditions

(a) The probationer shall not during the term of his or her probation violate any criminal law of this state or any ordinance of any municipality in the state

(b) The probationer shall not during the term of his or her probation leave the state without the consent of the court granting his or her application for probation

(c) The probationer shall report to the probation officer either in person or in writing monthly or as often as the probation officer requires This subdivision does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to a state institution or agency described in the youth rehabilitation services act Act No 150 of the Public Acts of 1974 being sections 803 301 to 803 309 of the Michigan Compiled Laws

(d) The probationer if convicted of a felony pay a probation supervision fee as prescribed in section 3c of this chapter

(e) The probationer shall pay restitution to the victim of the defendant's course of conduct giving rise to the conviction or to the victim's estate as provided in chapter IX An order for payment of restitution may be modified and shall be enforced as provided in chapter IX

(f) The probationer shall pay an assessment ordered under section 5 of Act No 196 of the Public Acts of 1989 being section 780 905 of the Michigan Compiled Laws

(g) If the probationer is required to be registered pursuant to the sex offenders registration act the probationer shall comply with that act

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

(a) Be imprisoned in the county jail for not more than 12 months at the time or intervals which may be consecutive or nonconsecutive within the probation as the court determines However the period of confinement shall not exceed the maximum period of imprisonment provided for the offense charged if the maximum period is less than 12 months This subdivision does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to a state institution or agency described in Act No 150 of the Public Acts of 1974

(b) Pay immediately or within the period of his or her probation a fine imposed when placed on probation

(c) Pay costs pursuant to subsection (4)

(d) Engage in community service

(e) Agree to pay any restitution assessment fine or cost imposed by the court by wage assignment

(3) Subsection (2) may be applied to a person who is placed on probation for life pursuant to sections 1(4) and 2(3) of this chapter for the first 5 years of that probation

(4) The court may impose other lawful conditions of probation as the circumstances of the case require or warrant or as in its judgment are proper If the court requires the probationer to pay costs the costs shall be limited to expenses specifically incurred in prosecuting the defendant or providing legal assistance to the defendant and supervision of the probationer

(5) If the court imposes costs as part of a sentence of probation all of the following apply

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

(b) A probationer who is required to pay costs and who is not in willful default of the payment of the costs at any time may petition the sentencing judge or his or her successor for a remission of the payment of any unpaid portion of those costs If the court determines that payment of the amount due will impose a manifest hardship on the probationer or his or her immediate family the court may remit all or part of the amount due in costs or modify the method of payment

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

(7) If a probationer is ordered to pay costs as part of a sentence of probation compliance with that order shall be a condition of probation The court may revoke probation if the probationer fails to comply with the order and if the probationer has not made a good faith effort to comply with the order In determining whether to revoke probation the court shall consider the probationer's employment status earning ability and financial resources and the willfulness of the probationer's failure to pay and any other special circumstances that may have a bearing on the probationer's ability to pay The proceedings provided for in this subsection are in addition to those provided in section 4 of this chapter

Sec 4a The court shall revoke probation pursuant to section 4 of this chapter if the individual willfully violates the sex offenders registration act

Section 2 This amendatory act shall take effect October 1 1995

Section 3 This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law

- (a) Senate Bill No 194
- (b) Senate Bill No 397
- (c) Senate Bill No 400
- (d) House Bill No 4601

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor