



HOUSE BILL No. 5490

April 21 1994 Introduced by Reps Rivers Freeman Curtis Clack Olshove Wallace Baade and Profit and referred to the Committee on Corrections

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 343 of the Public Acts of 1993, 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 343 of the Public Acts
3 of 1993, being section 771 3 of the Michigan Compiled Laws, is
4 amended to read as follows

5 CHAPTER XI

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

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

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

7 (c) The probationer, IF THE OFFENSE INVOLVED IS A
8 MISDEMEANOR, shall report to the probation officer, either in
9 person or in writing, monthly, or as often as the probation offi-
10 cer requires This subdivision ~~does~~ AND SUBDIVISION (D) DO not
11 apply to a juvenile placed on probation and committed under sec-
12 tion 1(3) or (4) of chapter IX to a state institution or agency
13 described in the youth rehabilitation services act, Act No 150
14 of the Public Acts of 1974, being sections 803 301 to 803 309 of
15 the Michigan Compiled Laws

16 (D) THAT THE PROBATIONER, IF THE OFFENSE INVOLVED IS A
17 FELONY, SHALL COMPLY WITH 1 OF THE FOLLOWING LEVELS OF
18 SUPERVISION

19 (i) MOST RESTRICTIVE, IN WHICH THE PROBATIONER IS REQUIRED
20 TO HAVE 5 IN-PERSON CONTACTS WITH A PROBATION OFFICER EACH WEEK

21 (ii) LESS RESTRICTIVE, IN WHICH THE PROBATIONER IS REQUIRED
22 TO HAVE 2 IN-PERSON CONTACTS WITH A PROBATION OFFICER EACH WEEK

23 (iii) LEAST RESTRICTIVE, IN WHICH THE PROBATIONER IS
24 REQUIRED TO HAVE 1 IN-PERSON CONTACT WITH A PROBATION OFFICER
25 EACH WEEK

1 (E) ~~-(d)-~~ The probationer, if convicted of a felony, pay a
2 probation supervision fee as prescribed in section 3c of this
3 chapter

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

9 (G) ~~-(f)-~~ The probationer shall pay an assessment ordered
10 under section 5 of Act No 196 of the Public Acts of 1989, being
11 section 780 905 of the Michigan Compiled Laws

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

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

23 (b) Pay immediately or within the period of his or her pro-
24 bation a fine imposed when placed on probation

25 (c) Pay costs pursuant to subsection (4)

26 (d) Engage in community service

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

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

6 (4) The court may impose other lawful conditions of proba-
7 tion as the circumstances of the case require or warrant, or as
8 in its judgment are proper If the court requires the proba-
9 tioner to pay costs, the costs shall be limited to expenses spe-
10 cifically incurred in prosecuting the defendant or providing
11 legal assistance to the defendant and supervision of the
12 probationer

13 (5) If the court imposes costs as part of a sentence of pro-
14 bation, all of the following apply

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

22 (b) A probationer who is required to pay costs and who is
23 not in willful default of the payment of the costs, at any time,
24 may petition the sentencing judge or his or her successor for a
25 remission of the payment of any unpaid portion of those costs
26 If the court determines that payment of the amount due will
27 impose a manifest hardship on the probationer or his or her

1 immediate family the court may remit all or part of the amount
2 due in costs or modify the method of payment

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

7 (7) If a probationer is ordered to pay costs as part of a
8 sentence of probation, compliance with that order shall be a con-
9 dition of probation The court may revoke probation if the pro-
10 bationer fails to comply with the order and if the probationer
11 has not made a good faith effort to comply with the order In
12 determining whether to revoke probation, the court shall consider
13 the probationer's employment status earning ability, and finan-
14 cial resources, and the willfulness of the probationer's failure
15 to pay, and any other special circumstances that may have a bear-
16 ing on the probationer s ability to pay The proceedings pro-
17 vided for in this subsection are in addition to those provided in
18 section 4 of this chapter