



HOUSE BILL No. 5130

September 26, 1995, Introduced by Reps. Perricone, Brackenridge, LaForge, Gilmer, Rhead, Brater, Hill, Jersevic, Walberg, Brewer, McBryde, Dolan, McNutt, Profit, Bullard, Pitoniak, Anthony, Ciaramitaro, Bush and Gnodtke and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 1 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. 185 of the Public Acts of 1993, being section 771.1 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 1 of chapter XI of Act No. 175 of the
2 Public Acts of 1927, as amended by Act No. 185 of the Public Acts
3 of 1993, being section 771.1 of the Michigan Compiled Laws, is
4 amended to read as follows:

5 CHAPTER XI

6 Sec. 1. (1) In all prosecutions for felonies or misdemean-
7 ors, except murder, treason, criminal sexual conduct in the first
8 or third degree, robbery while armed, and major controlled
9 substance offenses not described in subsection (4), if the

1 defendant has been found guilty upon verdict or plea ~~and~~ and if
2 it appears to the COURT'S satisfaction ~~of the court~~ that the
3 defendant is not likely again to engage in an offensive or crimi-
4 nal course of conduct and that the public good does not require
5 that the defendant suffer the penalty imposed by law, the court
6 may place the defendant on probation under the charge and super-
7 vision of a probation officer.

8 (2) Except as provided in subsection (4), in an action in
9 which the court may place the defendant on probation, the court
10 may delay ~~the~~ imposing ~~of~~ THE DEFENDANT'S sentence ~~of the~~
11 ~~defendant~~ for a period of not to exceed ~~1 year for the purpose~~
12 ~~of giving~~ 2 YEARS TO GIVE the defendant an opportunity to prove
13 to the court his or her eligibility for probation or other
14 leniency compatible with the ends of justice and the rehabilita-
15 tion of the defendant. When the sentencing is delayed, the court
16 shall ~~make~~ ENTER an order stating the reason for the delay. ~~→~~
17 ~~which order shall be entered upon the records of the court.~~ The
18 delay in passing sentence shall not deprive the court of jurisdic-
19 tion to sentence the defendant at any time during the period
20 of delay.

21 (3) If a defendant is before the circuit court and is made
22 subject to a delay in imposing sentence under subsection (2), the
23 court shall include in the delayed sentence order that the
24 department of corrections shall collect a supervision fee of not
25 more than \$30.00 multiplied by the number of months of delay
26 ordered, but not more than 12 months. The fee is payable when
27 the delayed sentence order is entered, but the fee may be paid in

1 monthly installments if the court approves installment payments
 2 for that defendant. In determining the amount of the fee, the
 3 court shall consider the defendant's projected income and finan-
 4 cial resources. The court shall use the following table of
 5 projected monthly income in determining the amount of the fee to
 6 be ordered:

7	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
8	\$ 0-249.99	\$ 0.00
9	\$ 250.00-499.99	\$10.00
10	\$ 500.00-749.99	\$20.00
11	\$ 750.00 or more	\$30.00

12 The court may order a higher amount than indicated by the table,
 13 up to the maximum of \$30.00 multiplied by the number of months of
 14 delay ordered but not more than 12 months, if the court deter-
 15 mines that the defendant has sufficient assets or other financial
 16 resources to warrant the higher amount. If the court orders a
 17 higher amount, the amount and the reasons for ordering that
 18 amount shall be stated in the court order. The fee shall be col-
 19 lected as provided in section 25a of Act No. 232 of the Public
 20 Acts of 1953, being section 791.225a of the Michigan Compiled
 21 Laws. A person shall not be subject to more than 1 supervision
 22 fee at the same time. If a supervision fee is ordered for a

1 person for any month or months during which that person already
2 is subject to a supervision fee, the court shall waive the fee
3 having the shorter remaining duration.

4 (4) The sentencing judge may place a defendant on life pro-
5 bation pursuant to subsection (1) if the defendant is convicted
6 for a violation of section 7401(2)(a)(iv) or 7403(2)(a)(iv) of
7 the public health code, Act No. 368 of the Public Acts of 1978,
8 being sections 333.7401 ~~or~~ AND 333.7403 of the Michigan
9 Compiled Laws, or conspiracy to commit either of those 2
10 offenses. Subsection (2) does not apply to this subsection.

11 (5) Beginning June 1, 1988, this section does not apply to a
12 juvenile placed on probation and committed under section 1(3) or
13 (4) of chapter IX to a state institution or agency described in
14 the youth rehabilitation services act, Act No. 150 of the Public
15 Acts of 1974, being sections 803.301 to 803.309 of the Michigan
16 Compiled Laws.