

HOUSE BILL No. 4364

February 20, 1997, Introduced by Reps. Walberg, McBryde, Brewer, Oxender, Gernaat, Horton, Tesanovich, DeHart, Bodem, Geiger, Cropsey, Goschka, Nye, Jellema, Voorhees, DeVuyst and Llewellyn and referred to the Committee on Corrections.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 3 of chapter XI (MCL 771.3), as amended by
1994 PA 445.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER XI

2

Sec. 3. (1) The sentence of probation shall include all of

3 the following conditions:

4

(a) ~~The probationer shall not, during~~ DURING the term of

5 his or her probation, THE PROBATIONER SHALL NOT violate any crim-

6 inal law of this state, the United States, or another state or

7 any ordinance of any municipality in this state or another

8 state.

9

(b) ~~The probationer shall not, during~~ DURING the term of

10 his or her probation, THE PROBATIONER SHALL NOT leave the state

1 without the consent of the court granting his or her application
2 for probation.

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

11 (d) ~~The probationer, if~~ IF convicted of a felony, THE
12 PROBATIONER shall pay a probation supervision fee as prescribed
13 in section 3c of this chapter.

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

19 (f) The probationer shall pay an assessment ordered under
20 section 5 of ~~Act No. 196 of the Public Acts of 1989, being sec-~~
21 ~~tion 780.905 of the Michigan Compiled Laws~~ 1989 PA 196, MCL
22 780.905.

23 (g) ~~Beginning October 1, 1995, if~~ IF the probationer is
24 required to be registered ~~pursuant to~~ UNDER the sex offenders
25 registration act, ~~Act No. 295 of the Public Acts of 1994, being~~
26 ~~sections 28.721 to 28.732 of the Michigan Compiled Laws~~ 1994 PA

1 295, MCL 28.721 TO 28.732, the probationer shall comply with that
2 act.

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

5 (a) Be imprisoned in the county jail for not more than 12
6 months, at the time or intervals, which may be consecutive or
7 nonconsecutive, within the probation as the court determines.
8 However, the period of confinement shall not exceed the maximum
9 period of imprisonment provided for the offense charged if the
10 maximum period is less than 12 months. The court may permit day
11 parole as authorized under ~~Act No. 60 of the Public Acts of~~
12 ~~1961, being sections 801.251 to 801.258 of the Michigan Compiled~~
13 ~~Laws~~ 1962 PA 60, MCL 801.251 TO 801.258. The court may permit a
14 work or school release from jail. This subdivision does not
15 apply to a juvenile placed on probation and committed under sec-
16 tion 1(3) or (4) of chapter IX to a state institution or agency
17 described in ~~Act No. 150 of the Public Acts of 1974~~ THE YOUTH
18 REHABILITATION SERVICES ACT, 1974 PA 150, MCL 803.301 TO
19 803.309.

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

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

23 (d) Pay any assessment ordered by the court other than an
24 assessment described in subsection (1)(f).

25 (e) Engage in community service.

- 1 (f) Agree to pay BY WAGE ASSIGNMENT any restitution,
2 assessment, fine, or cost imposed by the court. ~~by wage~~
3 ~~assignment.~~
- 4 (g) Participate in inpatient or outpatient drug treatment.
- 5 (h) Participate in mental health treatment.
- 6 (i) Participate in mental health or substance abuse
7 counseling.
- 8 (j) Participate in a community corrections program.
- 9 (k) Be under house arrest.
- 10 (l) Be subject to electronic monitoring.
- 11 (m) Participate in a residential probation program.
- 12 (n) Satisfactorily complete a program of incarceration in a
13 special alternative incarceration unit as provided in section 3b
14 of this chapter.
- 15 (O) BE SUBJECT TO CONDITIONS REASONABLY NECESSARY FOR THE
16 PROTECTION OF 1 OR MORE NAMED PERSONS.
- 17 (P) REIMBURSE THE COUNTY FOR EXPENSES INCURRED BY THE COUNTY
18 IN CONNECTION WITH THE CONVICTION FOR WHICH PROBATION WAS ORDERED
19 AS PROVIDED IN THE PRISONER REIMBURSEMENT TO THE COUNTY ACT, 1984
20 PA 118, MCL 801.81 TO 801.93.
- 21 (3) Subsection (2) may be applied to a person who is placed
22 on probation for life pursuant to sections 1(4) and 2(3) of this
23 chapter for the first 5 years of that probation.
- 24 (4) The court may impose other lawful conditions of proba-
25 tion as the circumstances of the case require or warrant ~~—~~ or
26 as in its judgment are proper.

1 (5) IF AN ORDER OR AMENDED ORDER OF PROBATION CONTAINS A
2 CONDITION FOR THE PROTECTION OF 1 OR MORE NAMED PERSONS AS
3 PROVIDED IN SUBSECTION (2)(O), THE COURT SHALL ORDER A LAW
4 ENFORCEMENT AGENCY WITHIN THE COURT'S JURISDICTION TO ENTER THE
5 ORDER OR AMENDED ORDER INTO THE LAW ENFORCEMENT INFORMATION
6 NETWORK. IF THE COURT RESCINDS THE ORDER OR AMENDED ORDER OR THE
7 CONDITION, THE COURT SHALL NOTIFY THAT LAW ENFORCEMENT AGENCY AND
8 THE LAW ENFORCEMENT AGENCY SHALL REMOVE THE ORDER OR AMENDED
9 ORDER OR THE CONDITION FROM THE LAW ENFORCEMENT INFORMATION
10 NETWORK.

11 (6) If the court requires the probationer to pay costs, the
12 costs shall be limited to expenses specifically incurred in pros-
13 ecuting the defendant or providing legal assistance to the
14 defendant and supervision of the probationer.

15 (7) ~~(5)~~ If the court imposes costs as part of a sentence
16 of probation, all of the following apply:

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

24 (b) A probationer who is required to pay costs and who is
25 not in willful default of the payment of the costs ~~, at any~~
26 ~~time,~~ may petition the sentencing judge or his or her successor
27 AT ANY TIME for a remission of the payment of any unpaid portion

1 of those costs. If the court determines that payment of the
2 amount due will impose a manifest hardship on the probationer or
3 his or her immediate family, the court may remit all or part of
4 the amount due in costs or modify the method of payment.

5 (8) ~~-(6)-~~ If a probationer is required to pay costs as part
6 of a sentence of probation, the court may require payment to be
7 made immediately or the court may provide for payment to be made
8 within a specified period of time or in specified installments.

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

21 Enacting section 1. This amendatory act does not take
22 effect unless Senate Bill No. _____ or House Bill No. _____
23 (request no. 00017'97 a) of the 89th Legislature is enacted into
24 law.