

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5279**

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 13 of chapter II, section 2a of chapter IV,
section 9a of chapter X, and sections 1 and 3c of chapter XI
(MCL 762.13, 764.2a, 770.9a, 771.1, and 771.3c), section 13 of
chapter II as amended by 1994 PA 286, section 9a of chapter X as
amended by 2001 PA 208, and sections 1 and 3c of chapter XI as
amended by 1998 PA 520.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER II

2 Sec. 13. (1) If an individual is assigned to the status of
3 a youthful trainee and the underlying charge is an offense pun-
4 ishable by imprisonment for a term of more than 1 year, the court
5 shall do 1 of the following:

HB 5279, As Passed Senate, June 5, 2002

House Bill No. 5279

2

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

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

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

10 (2) If an individual is assigned to the status of youthful
11 trainee and the underlying charge is for an offense punishable by
12 imprisonment for 1 year or less, the court shall place the indi-
13 vidual on probation for not more than 2 years, subject to proba-
14 tion conditions as provided in section 3 of chapter XI.

15 (3) An individual placed on probation pursuant to this sec-
16 tion shall be under the supervision of a probation officer. Upon
17 commitment to and receipt by the department of corrections, a
18 youthful trainee shall be subject to the direction of the depart-
19 ment of corrections.

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

23 (5) The court shall include in each order of probation for
24 an individual placed on probation under this section that the
25 department of corrections shall collect a probation supervision
26 fee of not more than ~~-\$30.00-~~ \$135.00 multiplied by the number of
27 months of probation ordered, but not more than 36 months. The

HB 5279, As Passed Senate, June 5, 2002

House Bill No. 5279

3

1 fee is payable when the probation order is entered, but the fee
2 may be paid in monthly installments if the court approves
3 installment payments for that probationer. In determining the
4 amount of the fee, the court shall consider the probationer's
5 projected income and financial resources. The court shall use
6 the following table of projected monthly income in determining
7 the amount of the fee to be ordered:

8	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
9	\$ 0-249.99	\$ 0.00
10	\$ 250.00-499.99	\$10.00
11	\$ 500.00-749.99	-\$20.00 \$25.00
12	\$ 750.00-999.99 or more	-\$30.00 \$40.00
13	\$1,000.00 OR MORE	5% OF PROJECTED
14		MONTHLY INCOME, BUT
15		NOT MORE THAN
16		\$135.00.
17	The court may order a higher amount than indicated by the table,	
18	up to the maximum of -\$30.00 \$135.00 multiplied by the number of	
19	months of probation ordered but not more than 36 months, if the	
20	court determines that the probationer has sufficient assets or	
21	other financial resources to warrant the higher amount. If the	

HB 5279, As Passed Senate, June 5, 2002

House Bill No. 5279

4

1 court orders a higher amount, the amount and the reasons for
2 ordering that amount shall be stated in the court order. The fee
3 shall be collected as provided in section 25a of ~~Act No. 232 of~~
4 ~~the Public Acts of 1953, being section 791.225a of the Michigan~~
5 ~~Compiled Laws~~ THE CORRECTIONS CODE OF 1953, 1953 PA 232,
6 MCL 791.225A. A person shall not be subject to more than 1
7 supervision fee at the same time. If a supervision fee is
8 ordered for a person for any month or months during which that
9 person already is subject to a supervision fee, the court shall
10 waive the fee having the shorter remaining duration.

11 (6) If the individual is assigned to youthful trainee status
12 for a listed offense enumerated in section 2 of the sex offenders
13 registration act, 1994 PA 295, MCL 28.722, the department of cor-
14 rections, sheriff or his or her designee, or the individual's
15 probation officer shall register the individual or accept the
16 individual's registration as provided under ~~the sex offenders~~
17 ~~registration~~ THAT act.

18 CHAPTER IV

19 Sec. 2a. (1) A peace officer of a county, city, village,
20 ~~or~~ township, OR UNIVERSITY of this state may exercise THE
21 authority and powers ~~outside his own county, city, village, or~~
22 ~~township, when he is enforcing the laws of this state in conjunc-~~
23 ~~tion with the Michigan state police, or in conjunction with a~~
24 ~~peace officer of the county, city, village, or township in which~~
25 ~~he may be, the same as if he were in his own county, city, vil-~~
26 ~~lage, or township.~~ OF A PEACE OFFICER OUTSIDE THE GEOGRAPHICAL

HB 5279, As Passed Senate, June 5, 2002

House Bill No. 5279

5

1 BOUNDARIES OF THE OFFICER'S COUNTY, CITY, VILLAGE, TOWNSHIP, OR
2 UNIVERSITY UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

3 (A) IF THE OFFICER IS ENFORCING THE LAWS OF THIS STATE IN
4 CONJUNCTION WITH THE MICHIGAN STATE POLICE.

5 (B) IF THE OFFICER IS ENFORCING THE LAWS OF THIS STATE IN
6 CONJUNCTION WITH A PEACE OFFICER OF ANY OTHER COUNTY, CITY, VIL-
7 LAGE, TOWNSHIP, OR UNIVERSITY IN WHICH THE OFFICER MAY BE.

8 (C) IF THE OFFICER HAS WITNESSED AN INDIVIDUAL VIOLATE ANY
9 OF THE FOLLOWING WITHIN THE GEOGRAPHICAL BOUNDARIES OF THE
10 OFFICER'S COUNTY, CITY, VILLAGE, TOWNSHIP, OR UNIVERSITY AND
11 IMMEDIATELY PURSUES THE INDIVIDUAL OUTSIDE OF THE GEOGRAPHICAL
12 BOUNDARIES OF THE OFFICER'S COUNTY, CITY, VILLAGE, TOWNSHIP, OR
13 UNIVERSITY:

14 (i) A STATE LAW OR ADMINISTRATIVE RULE.

15 (ii) A LOCAL ORDINANCE.

16 (iii) A STATE LAW, ADMINISTRATIVE RULE, OR LOCAL ORDINANCE,
17 THE VIOLATION OF WHICH IS A CIVIL INFRACTION, MUNICIPAL CIVIL
18 INFRACTION, OR STATE CIVIL INFRACTION.

19 (2) THE OFFICER PURSUING AN INDIVIDUAL UNDER
20 SUBSECTION (1)(C) MAY STOP AND DETAIN THE PERSON OUTSIDE THE GEO-
21 GRAPHICAL BOUNDARIES OF THE OFFICER'S COUNTY, CITY, VILLAGE,
22 TOWNSHIP, OR UNIVERSITY FOR THE PURPOSE OF ENFORCING THAT LAW,
23 ADMINISTRATIVE RULE, OR ORDINANCE OR ENFORCING ANY OTHER LAW,
24 ADMINISTRATIVE RULE, OR ORDINANCE BEFORE, DURING, OR IMMEDIATELY
25 AFTER THE DETAINING OF THE INDIVIDUAL. IF THE VIOLATION OR PUR-
26 SUIT INVOLVES A VESSEL MOVING ON THE WATERS OF THIS STATE, THE
27 OFFICER PURSUING THE INDIVIDUAL MAY DIRECT THE OPERATOR OF THE

HB 5279, As Passed Senate, June 5, 2002

House Bill No. 5279

6

1 VESSEL TO BRING THE VESSEL TO A STOP OR MANEUVER IT IN A MANNER
2 THAT PERMITS THE OFFICER TO COME BESIDE THE VESSEL.

3 CHAPTER X

4 Sec. 9a. (1) A defendant convicted of an assaultive crime
5 and awaiting sentence shall be detained and shall not be admitted
6 to bail unless the trial court finds by clear and convincing evi-
7 dence that the defendant is not likely to pose a danger to other
8 persons.

9 (2) A defendant convicted of an assaultive crime and sen-
10 tenced to a term of imprisonment who has filed an appeal or an
11 application for leave to appeal shall be detained and shall not
12 be admitted to bail unless the trial court or the court to which
13 the appeal is taken finds by clear and convincing evidence that
14 both of the following exist:

15 (a) The defendant is not likely to pose a danger to other
16 persons.

17 (b) The appeal or application raises a substantial question
18 of law or fact.

19 (3) As used in this section, "assaultive crime" means an
20 offense against a person described in section 81C(3), 82, 83, 84,
21 86, 87, 88, 89, 90A, 90B(A) OR (B), 91, 200 TO 212A, 316, 317,
22 321, 349, 349a, 350, 397, 411H(2)(B) OR (3), 411i, 520b, 520c,
23 520d, 520e, 520g, 529, 529a, ~~or~~ 530, OR 543A TO 543Z of the
24 Michigan penal code, 1931 PA 328, MCL 750.81C(3), 750.82, 750.83,
25 750.84, 750.86, 750.87, 750.88, 750.89, 750.90A, 750.90B, 750.91,
26 750.200 TO 750.212A, 750.316, 750.317, 750.321, 750.349,
27 750.349a, 750.350, 750.397, 750.411H, 750.411i, 750.520b,

HB 5279, As Passed Senate, June 5, 2002

House Bill No. 5279

7

1 750.520c, 750.520d, 750.520e, 750.520g, 750.529, 750.529a, ~~and~~
2 750.530, AND 750.543A TO 750.543Z.

3 (4) The appeal or application for leave to appeal filed by a
4 person denied bail under this section shall be expedited pursuant
5 to rules adopted for that purpose by the supreme court.

6 CHAPTER XI

7 Sec. 1. (1) In all prosecutions for felonies or misdemean-
8 ors other than murder, treason, criminal sexual conduct in the
9 first or third degree, armed robbery, and major controlled sub-
10 stance offenses not described in subsection (4), if the defendant
11 has been found guilty upon verdict or plea and the court deter-
12 mines that the defendant is not likely again to engage in an
13 offensive or criminal course of conduct and that the public good
14 does not require that the defendant suffer the penalty imposed by
15 law, the court may place the defendant on probation under the
16 charge and supervision of a probation officer.

17 (2) Except as provided in subsection (4), in an action in
18 which the court may place the defendant on probation, the court
19 may delay sentencing the defendant for not more than 1 year to
20 give the defendant an opportunity to prove to the court his or
21 her eligibility for probation or other leniency compatible with
22 the ends of justice and the defendant's rehabilitation. When
23 sentencing is delayed, the court shall enter an order stating the
24 reason for the delay upon the court's records. The delay in
25 passing sentence does not deprive the court of jurisdiction to
26 sentence the defendant at any time during the period of delay.

HB 5279, As Passed Senate, June 5, 2002

House Bill No. 5279

8

1 (3) If a defendant is before the circuit court and the court
2 delays imposing sentence under subsection (2), the court shall
3 include in the delayed sentence order that the department of cor-
4 rections shall collect a supervision fee of not more than
5 ~~-\$30.00-~~ \$135.00 multiplied by the number of months of delay
6 ordered, but not more than 12 months. The fee is payable when
7 the delayed sentence order is entered, but the fee may be paid in
8 monthly installments if the court approves installment payments
9 for that defendant. In determining the amount of the fee, the
10 court shall consider the defendant's projected income and finan-
11 cial resources. The court shall use the following table of
12 projected monthly income in determining the amount of the fee to
13 be ordered:

14	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
15	\$ 0-249.99	\$ 0.00
16	\$ 250.00-499.99	\$ 10.00
17	\$ 500.00-749.99	-\$20.00- \$25.00
18	\$ 750.00-999.99 or more	-\$30.00- \$40.00
19	\$1,000.00 OR MORE	5% OF PROJECTED
20		MONTHLY INCOME, BUT
21		NOT MORE THAN \$135.00
22	The court may order a higher amount than indicated by the table,	
23	up to the maximum of -\$30.00- \$135.00 multiplied by the number of	
24	months of delay ordered but not more than 12 months, if the court	
25	determines that the defendant has sufficient assets or other	
26	financial resources to warrant the higher amount. If the court	

HB 5279, As Passed Senate, June 5, 2002

House Bill No. 5279

9

1 orders a higher amount, the amount and the reasons for ordering
2 that amount shall be stated in the court order. The fee shall be
3 collected as provided in section 25a of THE CORRECTIONS CODE OF
4 1953, 1953 PA 232, MCL 791.225a. A person shall not be subject
5 to more than 1 supervision fee at the same time. If a supervi-
6 sion fee is ordered for a person for any month or months during
7 which that person already is subject to a supervision fee, the
8 court shall waive the fee having the shorter remaining duration.

9 (4) The sentencing judge may place a defendant on life pro-
10 bation pursuant to subsection (1) if the defendant is convicted
11 for a violation of section 7401(2)(a)(iv) or 7403(2)(a)(iv) of
12 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,
13 or conspiracy to commit either offense. Subsection (2) does not
14 apply to this subsection.

15 (5) This section does not apply to a juvenile placed on pro-
16 bation and committed under section 1(3) or (4) of chapter IX to
17 an institution or agency described in the youth rehabilitation
18 services act, 1974 PA 150, MCL 803.301 to 803.309.

19 Sec. 3c. (1) The circuit court shall include in each order
20 of probation for a defendant convicted of a ~~felony~~ CRIME that
21 the department of corrections shall collect a probation supervi-
22 sion fee of not more than ~~-\$30.00-~~ \$135.00 multiplied by the
23 number of months of probation ordered, but not more than 60
24 months. The fee is payable when the probation order is entered,
25 but the fee may be paid in monthly installments if the court
26 approves installment payments for that probationer. In
27 determining the amount of the fee, the court shall consider the

HB 5279, As Passed Senate, June 5, 2002

House Bill No. 5279

10

1 probationer's projected income and financial resources. The
2 court shall use the following table of projected monthly income
3 in determining the amount of the fee to be ordered:

4	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
5	\$ 0-249.99	\$ 0.00
6	\$ 250.00-499.99	\$ 10.00
7	\$ 500.00-749.99	-\$20.00 \$25.00
8	\$ 750.00-999.99 or more	-\$30.00 \$40.00
9	\$1,000.00 OR MORE	5% OF PROJECTED
10		MONTHLY INCOME, BUT
11		NOT MORE THAN \$135.00
12	The court may order a higher amount than indicated by the table,	
13	up to the maximum of -\$30.00 \$135.00 multiplied by the number of	
14	months of probation ordered, but not more than 60 months, if the	
15	court determines that the probationer has sufficient assets or	
16	other financial resources to warrant the higher amount. If the	
17	court orders a higher amount, the amount and the reasons for	
18	ordering that amount shall be stated in the court order. The fee	
19	shall be collected as provided in section 25a of THE CORRECTIONS	
20	CODE OF 1953, 1953 PA 232, MCL 791.225a. A person shall not be	
21	subject to more than 1 supervision fee at the same time. If a	
22	supervision fee is ordered for a person for any month or months	
23	during which that person already is subject to a supervision fee,	
24	the court shall waive the fee having the shorter remaining	
25	duration.	

HB 5279, As Passed Senate, June 5, 2002

House Bill No. 5279

11

1 ~~(2) A probation oversight fee ordered before October 1,~~
2 ~~1993 under this section as it existed before amendment by 1993~~
3 ~~PA 185 remains enforceable according to the terms of that proba-~~
4 ~~tion order notwithstanding the amendments made by 1993 PA 185 to~~
5 ~~this section.~~

6 (2) ~~(3)~~ If a person who is subject to a probation supervi-
7 sion fee is also subject to any combination of fines, costs, res-
8 titution orders, assessments, or payments arising out of the same
9 criminal proceeding, the allocation of money collected for those
10 obligations shall be as otherwise provided in ~~the code of crimi-~~
11 ~~nal procedure, 1927 PA 175, MCL 760.1 to 776.22~~ SECTION 22 OF
12 CHAPTER XV.

13 (3) ~~(4)~~ This section does not apply to a juvenile placed
14 on probation and committed under section 1(3) or (4) of chapter
15 IX to an institution or agency described in the youth rehabilita-
16 tion services act, 1974 PA 150, MCL 803.301 to 803.309.

17 Enacting section 1. This amendatory act takes effect
18 October 1, 2002.