

# SENATE BILL No. 1366

May 29, 2002, Introduced by Senators HOFFMAN and MC COTTER and referred to the Committee on Judiciary.

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  
1998 PA 520, and by adding section 4c to chapter IV.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER IV

SEC. 4C. (1) THE COURT SHALL ORDER EACH INDIVIDUAL CON-  
VICTED OF A CRIME WHO WAS ARRESTED AS DESCRIBED IN SECTION 4 OF  
THIS CHAPTER TO PAY AN ASSESSMENT OF \$100.00. THE COURT SHALL  
ORDER A DEFENDANT TO PAY ONLY 1 ASSESSMENT UNDER THIS SUBSECTION  
IN EACH CRIMINAL CASE. PAYMENT OF THE ASSESSMENT SHALL BE A CON-  
DITION OF A PROBATION ORDER ENTERED UNDER CHAPTER XI OF THIS ACT  
OR A PAROLE ORDER ENTERED UNDER SECTION 36 OF 1953 PA 232,  
MCL 791.236.

1       (2) THE COURT SHALL ORDER EACH JUVENILE FOR WHOM THE COURT  
2 ENTERS AN ORDER OF DISPOSITION OTHER THAN DISMISSAL FOR A  
3 JUVENILE OFFENSE THAT WOULD CONSTITUTE A CRIME IF COMMITTED BY AN  
4 ADULT AND WHO WAS ARRESTED AS DESCRIBED IN SECTION 4 OF THIS  
5 CHAPTER TO PAY AN ASSESSMENT OF \$100.00. THE COURT SHALL ORDER A  
6 JUVENILE TO PAY ONLY 1 ASSESSMENT UNDER THIS SUBSECTION IN EACH  
7 CASE.

8       (3) IF A DEFENDANT ORDERED TO PAY AN ASSESSMENT UNDER THIS  
9 SECTION POSTED A CASH BOND OR BAIL DEPOSIT IN CONNECTION WITH THE  
10 CASE, THE COURT SHALL ORDER THE ASSESSMENT COLLECTED OUT OF THAT  
11 BOND OR DEPOSIT AS PROVIDED IN SECTION 15 OF CHAPTER V AND SEC-  
12 TION 22 OF CHAPTER XV OF THIS ACT OR SECTION 6 OR 7 OF 1966  
13 PA 257, MCL 780.66 AND 780.67.

14       (4) IF A PERSON IS SUBJECT TO ANY COMBINATION OF FINES,  
15 COSTS, RESTITUTION, ASSESSMENTS, OR PAYMENTS ARISING OUT OF THE  
16 SAME CRIMINAL OR JUVENILE PROCEEDING, MONEY COLLECTED FROM THAT  
17 PERSON FOR THE PAYMENT OF FINES, COSTS, RESTITUTION, ASSESSMENTS,  
18 OR OTHER PAYMENTS SHALL BE ALLOCATED AS PROVIDED IN SECTION 22 OF  
19 CHAPTER XV OF THIS ACT OR SECTION 29 OF CHAPTER XIIA OF THE PRO-  
20 BATE CODE OF 1939, 1939 PA 288, MCL 712A.29.

21       (5) THE CLERK OF THE COURT SHALL DO BOTH OF THE FOLLOWING ON  
22 THE LAST DAY OF EACH MONTH:

23       (A) TRANSMIT 90% OF THE ASSESSMENTS RECEIVED UNDER THIS SEC-  
24 TION TO THE DEPARTMENT OF TREASURY WITH A WRITTEN REPORT OF THOSE  
25 ASSESSMENTS AS THE DEPARTMENT OF TREASURY PRESCRIBES. TO PROVIDE  
26 FUNDING FOR COSTS INCURRED UNDER THIS SECTION AND SECTIONS 4, 4A,  
27 AND 4B OF THIS CHAPTER, THE COURT MAY RETAIN 10% OF THE

1 ASSESSMENTS RECEIVED UNDER THIS SECTION AND TRANSMIT THAT AMOUNT  
2 TO THE COURT'S FUNDING UNIT.

3 (B) TRANSMIT A WRITTEN REPORT TO THE DEPARTMENT ON A FORM  
4 THE DEPARTMENT PRESCRIBES CONTAINING ALL OF THE FOLLOWING INFOR-  
5 MATION FOR THAT MONTH:

6 (i) THE NAME OF THE COURT.

7 (ii) THE TOTAL NUMBER OF CRIMINAL CONVICTIONS OR DISPOSI-  
8 TIONS FOR OFFENSES THAT IF COMMITTED BY AN ADULT WOULD BE CRIMI-  
9 NAL OBTAINED IN THAT COURT.

10 (iii) THE TOTAL NUMBER OF DEFENDANTS OR JUVENILES AGAINST  
11 WHOM AN ASSESSMENT WAS IMPOSED BY THAT COURT.

12 (iv) THE TOTAL AMOUNT OF ASSESSMENTS IMPOSED BY THAT COURT.

13 (v) THE TOTAL AMOUNT OF ASSESSMENTS COLLECTED BY THAT  
14 COURT.

15 (vi) OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

16 CHAPTER XI

17 Sec. 3. (1) The sentence of probation shall include all of  
18 the following conditions:

19 (a) During the term of his or her probation, the probationer  
20 shall not violate any criminal law of this state, the United  
21 States, or another state or any ordinance of any municipality in  
22 this state or another state.

23 (b) During the term of his or her probation, the probationer  
24 shall not leave the state without the consent of the court grant-  
25 ing his or her application for probation.

26 (c) The probationer shall report to the probation officer,  
27 either in person or in writing, monthly or as often as the

1 probation officer requires. This subdivision does not apply to a  
2 juvenile placed on probation and committed under section 1(3) or  
3 (4) of chapter IX to an institution or agency described in the  
4 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to  
5 803.309.

6 (d) If convicted of a felony, the probationer shall pay a  
7 probation supervision fee as prescribed in section 3c of this  
8 chapter.

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

14 (f) The probationer shall pay an assessment ordered under  
15 section 5 of 1989 PA 196, MCL 780.905.

16 (g) If the probationer is required to be registered under  
17 the sex offenders registration act, 1994 PA 295, MCL 28.721 to  
18 28.732, the probationer shall comply with that act.

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

21 (a) Be imprisoned in the county jail for not more than 12  
22 months, at the time or intervals, which may be consecutive or  
23 nonconsecutive, within the probation as the court determines.  
24 However, the period of confinement shall not exceed the maximum  
25 period of imprisonment provided for the offense charged if the  
26 maximum period is less than 12 months. The court may permit day  
27 parole as authorized under 1962 PA 60, MCL 801.251 to 801.258.

1 The court may permit a work or school release from jail. This  
2 subdivision does not apply to a juvenile placed on probation and  
3 committed under section 1(3) or (4) of chapter IX to an institu-  
4 tion or agency described in the youth rehabilitation services  
5 act, 1974 PA 150, MCL 803.301 to 803.309.

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

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

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

11 (e) Engage in community service.

12 (f) Agree to pay by wage assignment any restitution, assess-  
13 ment, fine, or cost imposed by the court.

14 (g) Participate in inpatient or outpatient drug treatment.

15 (h) Participate in mental health treatment.

16 (i) Participate in mental health or substance abuse  
17 counseling.

18 (j) Participate in a community corrections program.

19 (k) Be under house arrest.

20 (l) Be subject to electronic monitoring.

21 (m) Participate in a residential probation program.

22 (n) Satisfactorily complete a program of incarceration in a  
23 special alternative incarceration unit as provided in section 3b  
24 of this chapter.

25 (o) Be subject to conditions reasonably necessary for the  
26 protection of 1 or more named persons.

1 (p) Reimburse the county for expenses incurred by the county  
2 in connection with the conviction for which probation was ordered  
3 as provided in the prisoner reimbursement to the county act, 1984  
4 PA 118, MCL 801.81 to 801.93.

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

8 (4) The court may impose other lawful conditions of proba-  
9 tion as the circumstances of the case require or warrant or as in  
10 its judgment are proper.

11 (5) If an order or amended order of probation contains a  
12 condition for the protection of 1 or more named persons as pro-  
13 vided in subsection (2)(o), the court or a law enforcement agency  
14 within the court's jurisdiction shall enter the order or amended  
15 order into the law enforcement information network. If the court  
16 rescinds the order or amended order or the condition, the court  
17 shall remove the order or amended order or the condition from the  
18 law enforcement information network or notify that law enforce-  
19 ment agency and the law enforcement agency shall remove the order  
20 or amended order or the condition from the law enforcement infor-  
21 mation network.

22 (6) If the court requires the probationer to pay costs, the  
23 costs shall be limited to expenses specifically incurred in pros-  
24 ecuting the defendant or providing legal assistance to the  
25 defendant and supervision of the probationer.

26 (7) If the court imposes costs as part of a sentence of  
27 probation, all of the following apply:

1       (a) The court shall not require a probationer to pay costs  
2 unless the probationer is or will be able to pay them during the  
3 term of probation. In determining the amount and method of pay-  
4 ment of costs, the court shall take into account the  
5 probationer's financial resources and the nature of the burden  
6 that payment of costs will impose, with due regard to his or her  
7 other obligations.

8       (b) A probationer who is required to pay costs and who is  
9 not in willful default of the payment of the costs may petition  
10 the sentencing judge or his or her successor at any time for a  
11 remission of the payment of any unpaid portion of those costs.  
12 If the court determines that payment of the amount due will  
13 impose a manifest hardship on the probationer or his or her imme-  
14 diate family, the court may remit all or part of the amount due  
15 in costs or modify the method of payment.

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

20       (9) If a probationer is ordered to pay costs as part of a  
21 sentence of probation, compliance with that order shall be a con-  
22 dition of probation. The court may revoke probation if the pro-  
23 bationer fails to comply with the order and if the probationer  
24 has not made a good faith effort to comply with the order. In  
25 determining whether to revoke probation, the court shall consider  
26 the probationer's employment status, earning ability, and  
27 financial resources, the willfulness of the probationer's failure

1 to pay, and any other special circumstances that may have a  
2 bearing on the probationer's ability to pay. The proceedings  
3 provided for in this subsection are in addition to those provided  
4 in section 4 of this chapter.

5 (10) THE PROBATIONER SHALL PAY ANY ASSESSMENT THE PROBA-  
6 TIONER WAS ORDERED TO PAY PURSUANT TO SECTION 4C OF CHAPTER IV.

7 Enacting section 1. This amendatory act does not take  
8 effect unless all of the following bills of the 91st Legislature  
9 are enacted into law:

10 (a) Senate Bill No. 1363.

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12 (b) Senate Bill No. 1364.

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14 (c) Senate Bill No. 1365.

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16 (d) Senate Bill No. 1367.

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