

## **ALLOW H.S. EDUCATION OR GED AS CONDITION OF PROBATION**

**House Bill 4434 as introduced  
First Analysis (2-5-04)**

**Sponsor: Rep. Virgil Smith  
Committee: Criminal Justice**

### ***THE APPARENT PROBLEM:***

A person convicted of a misdemeanor or felony offense (except for murder, treason, armed robbery, criminal sexual conduct in the first and third degree, certain controlled substances offenses, or felonies involving the use of a firearm) may receive probation. Probation may be used in lieu of incarceration or may consist of a short period of confinement followed by a term of probation. Probation can be imposed for up to five years for a felony offense and two years for a misdemeanor offense. Michigan law requires judges to impose certain conditions for probation on offenders; for example, a probationer must avoid violating any criminal laws, cannot leave the state without permission, and must report as specified to a probation agent. Violation of a probation condition may result in the offender being incarcerated.

In addition to the statutorily required conditions, the Code of Criminal Procedure grants judges the discretion to impose one or more of 16 listed conditions such as participating in substance abuse treatment or community service. The code also allows judges to impose other lawful conditions of probations on a case by case basis as warranted. One of the conditions often imposed under this general provision is to require the offender to complete his or her high school education, either by earning a high school diploma or by obtaining a general education development (GED) certificate. However, it is reported that some judges feel constrained from imposing such a condition since it is not specifically stated. Legislation has therefore been introduced to add completion of a high school education or GED to the list of conditions that a judge may impose as a condition of probation.

### ***THE CONTENT OF THE BILL:***

The Code of Criminal Procedure specifies the conditions that must be included and conditions that may be included in a sentence of probation. The bill would amend the code to also allow, as a condition of

probation, that a person complete a high school education or obtain a general education development (GED) certificate.

MCL 771.3

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, since judges already may order a probationer to complete high school or get a GED, the bill would have no fiscal impact on the state or local units of government. (2-3-04)

### ***ARGUMENTS:***

#### ***For:***

While statistics gleaned from sound research studies on the relationship between education and recidivism rates of probationers are few and far between, it is commonly known that higher educational levels increase the likelihood of employment for any population group and increases a person's earning power. According to information reported in a 1992 article on prisoners, education, and recidivism rates, as many as 70 – 75 percent of prisoners nationwide are high school dropouts. The article went on to review a 1990 analysis that was done by the Correctional Education School Authority in Florida that found higher employment rates and lower recidivism rates among those offenders who completed either a GED or a vocational program. ("Writing & Recidivism", State Government News, pgs. 10-11, 11/1992.)

Moreover, according to an article in a publication of the American Probation and Parole Association, data from a mid-1990s evaluation of the Arizona probation population revealed that "earning a GED while on probation was significantly correlated with completing probation both at the state and county level in Arizona." The study also found that the GED graduates were less likely to commit a new felony

offense and for those who did reoffend, they had longer arrest-free periods. (“The Effect of Adult Education Programs on Probationers”, Perspectives, Pg. 42-44, Vol. 22, No. 2, Spring 1998.)

Giving judges discretion to order a probationer to complete high school or get a GED will not result in any costs to the state, but could result in significant savings to state and local governmental units if fewer probationers violate probation and thus avoid incarceration and if fewer individuals later reoffend by committing more serious crimes. Even though judges currently have the authority to order a probationer to complete high school or a GED under a general statutory provision, apparently, some are reticent to do so without it being specifically mentioned. The bill is therefore necessary so that all judges will be comfortable in requiring probationers to stay in or return to school.

***Response:***

Unfortunately, due to the recent economic problems, funding for adult education programs has been seriously cut. This has resulted in some programs being closed completely, while others can only serve a small percent of those trying to enroll. Therefore, some probationers may not be able to comply with this probation condition because GED and high school diploma programs are not available. It is reasonable to assume therefore that judges wouldn’t include a condition of probation that would be impossible for a probationer to fulfill, thus the bill may have little positive impact. In light of the positive impact on outcomes for probationers, and the positive impact for all residents that education brings, funding for adult education programs needs to be restored and protected.

***POSITIONS:***

There are no positions on the bill.

Analyst: S. Stutzky

---

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.