

SUBSTITUTE FOR
HOUSE BILL NO. 5240

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 11, 13, and 14 of chapter II (MCL 762.11,
762.13, and 762.14), section 11 as amended by 1993 PA 293,
section 13 as amended by 2002 PA 483, and section 14 as amended
by 1994 PA 286.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER II

2

Sec. 11. (1) ~~If~~ **Except as provided in subsection (2), if**

3

an individual pleads guilty to a ~~charge of a~~ criminal offense,

4

~~other than a felony for which the maximum punishment is life~~

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~~imprisonment, a major controlled substance offense, or a traffic~~

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~~offense,~~ committed on or after the individual's seventeenth

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birthday but before his or her twenty-first birthday, the court

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of record having jurisdiction of the criminal offense may,

House Bill No. 5240 (H-1) as amended November 12, 2003

1 without entering a judgment of conviction and with the consent of
 2 that individual, consider and assign that individual to the
 3 status of youthful trainee.

4 (2) Subsection (1) does not apply to any of the following:

5 (a) A felony for which the maximum penalty is imprisonment
 6 for life.

7 (b) A major controlled substance offense.

8 (c) A traffic offense.

9 (d) A violation, attempted violation, or conspiracy to
 10 violate section 520c or 520d of the Michigan penal code, 1931 PA
 11 328, MCL 750.520c and 750.520d, other than section 520c(1)(a) or
 12 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c
 13 and 750.520d.

14 (e) A violation, attempted violation, or conspiracy to
 15 violate section 520g of the Michigan penal code, 1931 PA 328, MCL
 16 750.520g, with the intent to commit a violation of section [520b, 520c,]
 17 or 520d of the Michigan penal code, 1931 PA 328, MCL [750.520b,
 18 750.520c,] and
 19 750.520d, other than section 520c(1)(a) or 520d(1)(a) of the
 20 Michigan penal code, 1931 PA 328, MCL 750.520c and 750.520d.

21 (3) As used in this section, "traffic offense" means a
 22 violation of the Michigan vehicle code, ~~Act No. 300 of the~~
 23 ~~Public Acts of 1949, being sections 257.1 to 257.923 of the~~
 24 ~~Michigan Compiled Laws 1949 PA 300, MCL 257.1 to 257.923,~~ or a
 25 violation of a local ordinance substantially corresponding to
 26 that act, that involves the operation of a vehicle and, at the
 27 time of the violation, is a felony or a misdemeanor.

Sec. 13. (1) If an individual is assigned to the status of

1 a youthful trainee and the underlying charge is an offense
2 punishable by imprisonment for a term of more than 1 year, the
3 court shall do 1 of the following:

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

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

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

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

18 (3) An individual placed on probation pursuant to this
19 section shall be under the supervision of a probation officer.
20 Upon commitment to and receipt by the department of corrections,
21 a youthful trainee shall be subject to the direction of the
22 department of corrections.

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

26 (5) The court shall include in each order of probation for an
27 individual placed on probation under this section that the

1 department of corrections shall collect a probation supervision
 2 fee of not more than \$135.00 multiplied by the number of months
 3 of probation ordered, but not more than 36 months. The fee is
 4 payable when the probation order is entered, but the fee may be
 5 paid in monthly installments if the court approves installment
 6 payments for that probationer. In determining the amount of the
 7 fee, the court shall consider the probationer's projected income
 8 and financial resources. The court shall use the following table
 9 of projected monthly income in determining the amount of the fee
 10 to be ordered:

11	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
12	\$ 0-249.99	\$ 0.00
13	\$ 250.00-499.99	\$10.00
14	\$ 500.00-749.99	\$25.00
15	\$ 750.00-999.99	\$40.00
16	\$1,000.00 or more	5% of projected
17		monthly income, but
18		not more than \$135.00

19 The court may order a higher amount than indicated by the table,
 20 up to the maximum of \$135.00 multiplied by the number of months
 21 of probation ordered but not more than 36 months, if the court
 22 determines that the probationer has sufficient assets or other

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

11 (6) If the individual is assigned to youthful trainee status
12 **before January 1, 2004** for a listed offense enumerated in section
13 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722,
14 the department of corrections, sheriff or his or her designee, or
15 the individual's probation officer shall register the individual
16 or accept the individual's registration as provided under that
17 act.

18 Sec. 14. (1) If consideration of an individual as a
19 youthful trainee is not terminated and the status of youthful
20 trainee is not revoked as provided in section 12 of this chapter,
21 upon final release of the individual from the status as youthful
22 trainee, the court shall discharge the individual and dismiss the
23 proceedings.

24 (2) An assignment of an individual to the status of youthful
25 trainee as provided in this chapter is not a conviction for a
26 crime and, except as provided in subsection (3), the individual
27 assigned to the status of youthful trainee shall not suffer a

1 civil disability or loss of right or privilege following his or
2 her release from that status because of his or her assignment as
3 a youthful trainee.

4 (3) An individual assigned to youthful trainee status **before**
5 **January 1, 2004** for a listed offense enumerated in section 2 of
6 the sex offenders registration act, **1994 PA 295, MCL 28.722**, is
7 required to comply with the requirements of that act.

8 (4) Unless the court enters a judgment of conviction against
9 the individual for the criminal offense under section 12 of this
10 chapter, all proceedings regarding the disposition of the
11 criminal charge and the individual's assignment as youthful
12 trainee shall be closed to public inspection, but shall be open
13 to the courts of this state, the department of corrections, the
14 department of social services, and law enforcement personnel for
15 use only in the performance of their duties.

16 Enacting section 1. This amendatory act takes effect
17 January 1, 2004.

18 Enacting section 2. This amendatory act does not take
19 effect unless House Bill No. 4920 of the 92nd Legislature is
20 enacted into law.