

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4742

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
2004 PA 219.

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) During the term of his or her probation, the probationer
5 shall not violate any criminal law of this state, the United
6 States, or another state or any ordinance of any municipality in
7 this state or another state.

8 (b) During the term of his or her probation, the probationer
9 shall not leave the state without the consent of the court
10 granting his or her application for probation.

1 (c) The probationer shall report to the probation officer,
2 either in person or in writing, monthly or as often as the
3 probation officer requires. This subdivision does not apply to a
4 juvenile placed on probation and committed under section 1(3) or
5 (4) of chapter IX to an institution or agency described in the
6 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to
7 803.309.

8 (d) If ~~convicted of a felony~~ **sentenced in circuit court**,
9 the probationer shall pay a probation supervision fee as
10 prescribed in section 3c of this chapter.

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

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

18 (g) **The probationer shall pay the minimum state cost**
19 **prescribed by section 1j of chapter IX.**

20 (h) ~~—(g)—~~ If the probationer is required to be registered
21 under the sex offenders registration act, 1994 PA 295, MCL 28.721
22 to 28.732, the probationer shall comply with that act.

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

25 (a) Be imprisoned in the county jail for not more than 12
26 months, at the time or intervals, which may be consecutive or
27 nonconsecutive, within the probation as the court determines.

1 However, the period of confinement shall not exceed the maximum
2 period of imprisonment provided for the offense charged if the
3 maximum period is less than 12 months. The court may permit day
4 parole as authorized under 1962 PA 60, MCL 801.251 to 801.258.
5 The court may permit a work or school release from jail. This
6 subdivision does not apply to a juvenile placed on probation and
7 committed under section 1(3) or (4) of chapter IX to an
8 institution or agency described in the youth rehabilitation
9 services act, 1974 PA 150, MCL 803.301 to 803.309.

10 (b) Pay immediately or within the period of his or her
11 probation a fine imposed when placed on probation.

12 (c) Pay costs pursuant to subsection ~~—(3)—~~ (5).

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

15 (e) Engage in community service.

16 (f) Agree to pay by wage assignment any restitution,
17 assessment, fine, or cost imposed by the court.

18 (g) Participate in inpatient or outpatient drug treatment or,
19 **beginning January 1, 2005,** participate in a drug treatment court
20 under chapter 10A of the revised judicature act of 1961, 1961 PA
21 236, MCL 600.1060 to 600.1082.

22 (h) Participate in mental health treatment.

23 (i) Participate in mental health or substance abuse
24 counseling.

25 (j) Participate in a community corrections program.

26 (k) Be under house arrest.

27 (l) Be subject to electronic monitoring.

1 (m) Participate in a residential probation program.

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

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

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

11 (q) Complete his or her high school education or obtain the
12 equivalency of a high school education in the form of a general
13 education development (GED) certificate.

14 (3) The court may impose other lawful conditions of probation
15 as the circumstances of the case require or warrant or as in its
16 judgment are proper.

17 (4) If an order or amended order of probation contains a
18 condition for the protection of 1 or more named persons as
19 provided in subsection (2)(o), the court or a law enforcement
20 agency within the court's jurisdiction shall enter the order or
21 amended order into the law enforcement information network. If
22 the court rescinds the order or amended order or the condition,
23 the court shall remove the order or amended order or the
24 condition from the law enforcement information network or notify
25 that law enforcement agency and the law enforcement agency shall
26 remove the order or amended order or the condition from the law
27 enforcement information network.

1 (5) If the court requires the probationer to pay costs **under**
2 **subsection (2)**, the costs shall be limited to expenses
3 specifically incurred in prosecuting the defendant or providing
4 legal assistance to the defendant and supervision of the
5 probationer.

6 (6) If the court imposes costs **under subsection (2)** as part
7 of a sentence of probation, all of the following apply:

8 (a) The court shall not require a probationer to pay costs
9 **under subsection (2)** unless the probationer is or will be able to
10 pay them during the term of probation. In determining the amount
11 and method of payment of costs **under subsection (2)**, the court
12 shall take into account the probationer's financial resources and
13 the nature of the burden that payment of costs will impose, with
14 due regard to his or her other obligations.

15 (b) A probationer who is required to pay costs **under**
16 **subsection (1)(g) or (2)(c)** and who is not in willful default of
17 the payment of the costs may petition the sentencing judge or his
18 or her successor at any time for a remission of the payment of
19 any unpaid portion of those costs. If the court determines that
20 payment of the amount due will impose a manifest hardship on the
21 probationer or his or her immediate family, the court may remit
22 all or part of the amount due in costs or modify the method of
23 payment.

24 (7) If a probationer is required to pay costs as part of a
25 sentence of probation, the court may require payment to be made
26 immediately or the court may provide for payment to be made
27 within a specified period of time or in specified installments.

1 (8) If a probationer is ordered to pay costs as part of a
2 sentence of probation, compliance with that order shall be a
3 condition of probation. The court may revoke probation if the
4 probationer fails to comply with the order and if the probationer
5 has not made a good faith effort to comply with the order. In
6 determining whether to revoke probation, the court shall consider
7 the probationer's employment status, earning ability, and
8 financial resources, the willfulness of the probationer's failure
9 to pay, and any other special circumstances that may have a
10 bearing on the probationer's ability to pay. The proceedings
11 provided for in this subsection are in addition to those provided
12 in section 4 of this chapter.

13 (9) If sentencing is deferred in the circuit court, the court
14 shall require the individual to pay a supervision fee in the same
15 manner as is prescribed for a delayed sentence under section 1(3)
16 of this chapter, shall require the individual to pay the minimum
17 state costs prescribed by section 1j of chapter IX, and may
18 impose, as applicable, the conditions of probation described in
19 subsections (1), (2), and (3).

20 (10) If sentencing is delayed or deferred in the district
21 court or in a municipal court, the court shall require the
22 individual to pay the minimum state costs prescribed by section
23 1j of chapter IX and may impose, as applicable, the conditions
24 of probation described in subsections (1), (2), and (3).