

SENATE 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 subsections (2) and**

3

**(3), if** an individual pleads guilty to a ~~charge of a~~ criminal

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offense, ~~other than a felony for which the maximum punishment is~~

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

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

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seventeenth birthday but before his or her twenty-first birthday,

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the court of record having jurisdiction of the criminal offense

1 may, without entering a judgment of conviction and with the  
2 consent of that individual, consider and assign that individual  
3 to the 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 520b, 520c, 520d, or 520e of the Michigan penal  
11 code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, and  
12 750.520e, other than section 520d(1) (a) or 520e(1) (a) of the  
13 Michigan penal code, 1931 PA 328, MCL 750.520d and 750.520e.

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,  
17 520c, 520d, or 520e of the Michigan penal code, 1931 PA 328, MCL  
18 750.520b, 750.520c, 750.520d, and 750.520e, other than section  
19 520d(1) (a) or 520e(1) (a) of the Michigan penal code, 1931 PA 328,  
20 MCL 750.520d and 750.520e.

21 (3) The court shall not assign an individual to the status of  
22 youthful trainee if any of the following apply:

23 (a) The individual was previously convicted of or adjudicated  
24 for a listed offense for which registration is required under the  
25 sex offenders registration act, 1994 PA 295, MCL 28.721 to  
26 28.732.

27 (b) If the individual is charged with a listed offense for

1 which registration is required under the sex offenders  
2 registration act, 1994 PA 295, MCL 28.721 to 28.732, the  
3 individual fails to carry the burden of proving by clear and  
4 convincing evidence that he or she is not likely to engage in  
5 further listed offenses.

6 (c) The court determines that the offense involved any of the  
7 following:

8 (i) A factor set forth in section 520b(1)(a) to (h) of the  
9 Michigan penal code, 1931 PA 328, MCL 750.520b.

10 (ii) A factor set forth in section 520c(1)(a) to (l) of the  
11 Michigan penal code, 1931 PA 328, MCL 750.520c.

12 (iii) A factor set forth in section 520d(1)(b) to (e) of the  
13 Michigan penal code, 1931 PA 328, MCL 750.520d.

14 (iv) A factor set forth in section 520e(1)(b) to (f) of the  
15 Michigan penal code, 1931 PA 328, MCL 750.520e.

16 (4) As used in this section: ~~-, "traffic offense"~~

17 (a) "Listed offense" means that term as defined in section 2  
18 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

19 (b) "Traffic offense" means a violation of the Michigan  
20 vehicle code, ~~Act No. 300 of the Public Acts of 1949, being~~  
21 ~~sections 257.1 to 257.923 of the Michigan Compiled Laws 1949 PA~~  
22 **300, MCL 257.1 to 257.923**, or a violation of a local ordinance  
23 substantially corresponding to that act, that involves the  
24 operation of a vehicle and, at the time of the violation, is a  
25 felony or a misdemeanor.

26 Sec. 13. (1) If an individual is assigned to the status of  
27 a youthful trainee and the underlying charge is an offense

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1 punishable by imprisonment for a term of more than 1 year, the  
2 court shall do 1 of the following:

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

7 (b) Place the individual on probation for not more than 3  
8 years subject to probation conditions as provided in section 3 of  
9 chapter XI. <<Beginning January 1, 2005, the terms and conditions of  
probation may include participation in a drug treatment court under  
chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL  
600.1060 to 600.1082.>>

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

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

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

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

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

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

10	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
11	\$ 0-249.99	\$ 0.00
12	\$ 250.00-499.99	\$10.00
13	\$ 500.00-749.99	\$25.00
14	\$ 750.00-999.99	\$40.00
15	\$1,000.00 or more	5% of projected
16		monthly income, but
17		not more than \$135.00
18	The court may order a higher amount than indicated by the table,	
19	up to the maximum of \$135.00 multiplied by the number of months	
20	of probation ordered but not more than 36 months, if the court	
21	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 October 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

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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 **October 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 family independence agency,~~ law  
enforcement personnel **<<and, beginning January 1, 2005, prosecuting**  
**attorneys>>** for  
15 use only in the performance of their duties.

16 Enacting section 1. This amendatory act takes effect  
17 October 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.