

# HOUSE BILL No. 6287

June 23, 2010, Introduced by Rep. LeBlanc 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 IX (MCL 771.3), as amended by 2006  
PA 655.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### 1 CHAPTER IX

2 Sec. 3. (1) The sentence of probation shall include all of the  
3 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

1 shall not leave the state without the consent of the court granting  
2 his or her application for probation.

3 (c) The probationer shall report to the probation officer,  
4 either in person or in writing, monthly or as often as the  
5 probation officer requires. This subdivision does not apply to a  
6 juvenile placed on probation and committed under section 1(3) or  
7 (4) of chapter IX to an institution or agency described in the  
8 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to  
9 803.309.

10 (d) If sentenced in circuit court, the probationer shall pay a  
11 probation supervision fee as prescribed in section 3c of this  
12 chapter.

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

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

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

22 (h) If the probationer is required to be registered under the  
23 sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736,  
24 the probationer shall comply with that act.

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

27 (a) Be imprisoned in the county jail for not more than 12

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

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

14 (c) Pay costs pursuant to subsection (5).

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

17 (e) Engage in community service.

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

20 (g) Participate in inpatient or outpatient drug treatment or,  
21 beginning January 1, 2005, participate in a drug treatment court  
22 under chapter 10A of the revised judicature act of 1961, 1961 PA  
23 236, MCL 600.1060 to 600.1082.

24 (h) Participate in mental health treatment.

25 (i) Participate in mental health or substance abuse  
26 counseling.

27 (j) Participate in a community corrections program.

1 (k) Be under house arrest.

2 (l) Be subject to electronic monitoring.

3 (m) Participate in a residential probation program.

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

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

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

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

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

19 ~~(4) If an order or amended order of probation contains a~~  
20 ~~condition for the protection of 1 or more named persons as provided~~  
21 ~~in subsection (2)(o), the~~ **THE** court or a law enforcement **CRIMINAL**  
22 **JUSTICE** agency ~~within the court's jurisdiction~~ **DESIGNATED BY THE**  
23 **COURT** shall **IMMEDIATELY** enter ~~the order or~~ **EACH PROBATION ORDER,**  
24 **INCLUDING ALL AVAILABLE INFORMATION PERTAINING TO THE PROBATION**  
25 **ORDER, AND EACH** amended **PROBATION** order into the law enforcement  
26 information network. If the court rescinds the order or amended  
27 order, ~~or the condition,~~ the court **OR DESIGNATED CRIMINAL JUSTICE**

1 **AGENCY** shall **IMMEDIATELY** remove the order or amended order ~~or the~~  
2 ~~condition from the law enforcement information network. or notify~~  
3 ~~that law enforcement agency and the law enforcement agency shall~~  
4 ~~remove the order or amended order or the condition from the law~~  
5 ~~enforcement information network.~~ **THE DEPARTMENT OF CORRECTIONS MAY**  
6 **COMPLY WITH THIS SUBSECTION BY ENTERING ALL PROBATION ORDERS IN**  
7 **ANOTHER COMPUTER SYSTEM AS LONG AS THAT COMPUTER SYSTEM PROVIDES**  
8 **ACCESS TO THE INFORMATION BY MEANS OF REAL-TIME QUERIES THROUGH THE**  
9 **LAW ENFORCEMENT INFORMATION NETWORK.**

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

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

16 (a) The court shall not require a probationer to pay costs  
17 under subsection (2) unless the probationer is or will be able to  
18 pay them during the term of probation. In determining the amount  
19 and method of payment of costs under subsection (2), the court  
20 shall take into account the probationer's financial resources and  
21 the nature of the burden that payment of costs will impose, with  
22 due regard to his or her other obligations.

23 (b) A probationer who is required to pay costs under  
24 subsection (1)(g) or (2)(c) and who is not in willful default of  
25 the payment of the costs may petition the sentencing judge or his  
26 or her successor at any time for a remission of the payment of any  
27 unpaid portion of those costs. If the court determines that payment

1 of the amount due will impose a manifest hardship on the  
2 probationer or his or her immediate family, the court may remit all  
3 or part of the amount due in costs or modify the method of payment.

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

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

20 (9) If entry of judgment is deferred in the circuit court, the  
21 court shall require the individual to pay a supervision fee in the  
22 same manner as is prescribed for a delayed sentence under section  
23 1(3) of this chapter, shall require the individual to pay the  
24 minimum state costs prescribed by section 1j of chapter IX, and may  
25 impose, as applicable, the conditions of probation described in  
26 subsections (1), (2), and (3).

27 (10) If sentencing is delayed or entry of judgment is deferred

1 in the district court or in a municipal court, the court shall  
2 require the individual to pay the minimum state costs prescribed by  
3 section 1j of chapter IX and may impose, as applicable, the  
4 conditions of probation described in subsections (1), (2), and (3).