

HOUSE BILL No. 5260

January 19, 2012, 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 XI (MCL 771.3), as amended by 2006
PA 655.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER XI

Sec. 3. (1) The sentence of probation shall include all of the
following conditions:

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

(b) During the term of his or her probation, the probationer
shall not leave the state without the consent of the court 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 sentenced in circuit court, the probationer shall pay a
9 probation supervision fee as prescribed in section 3c of this
10 chapter.

11 (e) The probationer shall pay restitution to the victim of the
12 defendant's course of conduct giving rise to the conviction or to
13 the victim's estate as provided in chapter IX. An order for payment
14 of restitution may be modified and shall be enforced as provided in
15 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) If the probationer is required to be registered under the
21 sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736,
22 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. The
5 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 institution
8 or agency described in the youth rehabilitation services act, 1974
9 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~~ **UNDER** subsection (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 of
4 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 provided~~
19 ~~in subsection (2)(o), the~~ **THE** court or a law enforcement **CRIMINAL**
20 **JUSTICE** agency within the court's jurisdiction **DESIGNATED BY THE**
21 **COURT** shall **IMMEDIATELY** enter the order or **EACH PROBATION ORDER,**
22 **INCLUDING ALL AVAILABLE INFORMATION PERTAINING TO THE PROBATION**
23 **ORDER, AND EACH** amended **PROBATION** order into the law enforcement
24 information network. If the court rescinds the order or amended
25 order, ~~or the condition,~~ the court **OR DESIGNATED CRIMINAL JUSTICE**
26 **AGENCY** shall **IMMEDIATELY** remove the order or amended order ~~or the~~
27 ~~condition~~ from the law enforcement information network. ~~or notify~~

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

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

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

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

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

1 or part of the amount due in costs or modify the method of payment.

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

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

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

25 (10) If sentencing is delayed or entry of judgment is deferred
26 in the district court or in a municipal court, the court shall
27 require the individual to pay the minimum state costs prescribed by

- 1 section 1j of chapter IX and may impose, as applicable, the
- 2 conditions of probation described in subsections (1), (2), and (3).