

Act No. 165
Public Acts of 2019
Approved by the Governor
December 20, 2019

Filed with the Secretary of State
December 20, 2019

EFFECTIVE DATE: March 19, 2020

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2019**

Introduced by Rep. Brann

ENROLLED HOUSE BILL No. 4031

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 13 of chapter II and sections 1 and 3c of chapter XI (MCL 762.13, 771.1, and 771.3c), section 13 of chapter II as amended by 2015 PA 33, section 1 of chapter XI as amended by 2006 PA 631, and section 3c of chapter XI as amended by 2002 PA 483.

The People of the State of Michigan enact:

CHAPTER II

Sec. 13. (1) If an individual is assigned to the status of a youthful trainee and the underlying charge is an offense punishable by imprisonment for a term of more than 1 year, the court shall do 1 of the following:

(a) Except as provided in subsection (2), commit the individual to the department of corrections for custodial supervision and training for not more than 2 years. If the individual is less than 21 years of age, he or she must be committed to an institutional facility designated by the department for that purpose.

(b) Place the individual on probation for not more than 3 years subject to probation conditions as provided in section 3 of chapter XI. 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 600.1088.

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

(d) Except as provided in subsection (2), commit the individual to the department of corrections under subdivision (a) or to the county jail under subdivision (c), and then place the individual on probation for not more than 1 year subject to probation conditions as provided in section 3 of chapter XI.

(2) An individual assigned to the status of youthful trainee must not be committed to the department of corrections for custodial supervision and training under subsection (1)(a) or (d) if the underlying charge is for a violation of any of the following:

(a) Article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545.

(b) Section 110, 110a(4), 157n to 157v, 157w(1)(c), 227, 356, 357, 413, 530, or 535(3) or (7) of the Michigan penal code, 1931 PA 328, MCL 750.110, 750.110a, 750.157n to 750.157v, 750.157w, 750.227, 750.356, 750.357, 750.413, 750.530, and 750.535.

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

(4) An individual placed on probation under this section must be under the supervision of a probation officer. Upon commitment to and receipt by the department of corrections, a youthful trainee is subject to the direction of the department of corrections. If an individual is placed on probation following a commitment to the department of corrections under subsection (1)(d), a youthful trainee must be reassigned to the supervision of a probation officer.

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

(6) Except as provided in subsection (7), the court shall include in each order of probation for an individual placed on probation under this section that the department of corrections collect a probation supervision fee of \$30.00 multiplied by the number of months of probation ordered, but not more than 36 months, if the individual is placed on probation supervision without an electronic monitoring device. If the individual is placed on probation supervision under this subsection with an electronic monitoring device, the court shall include in its order of probation that the department of corrections collect a probation supervision fee of \$60.00 multiplied by the number of months of probation ordered, but not more than 36 months. The fee is payable when the probation order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that probationer. The fee must be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person must not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(7) The court may waive the fee required to be collected under this section if the court determines the supervised individual is indigent.

(8) As used in this section, "electronic monitoring device" includes any electronic device or instrument that is used to track the location of an individual, enforce a curfew, or detect the presence of alcohol in an individual's body.

CHAPTER XI

Sec. 1. (1) In all prosecutions for felonies, misdemeanors, or ordinance violations other than murder, treason, criminal sexual conduct in the first or third degree, armed robbery, or major controlled substance offenses, if the defendant has been found guilty upon verdict or plea and the court determines that the defendant is not likely again to engage in an offensive or criminal course of conduct and that the public good does not require that the defendant suffer the penalty imposed by law, the court may place the defendant on probation under the charge and supervision of a probation officer.

(2) In an action in which the court may place the defendant on probation, the court may delay sentencing the defendant for not more than 1 year to give the defendant an opportunity to prove to the court his or her eligibility for probation or other leniency compatible with the ends of justice and the defendant's rehabilitation, such as

participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1088. When sentencing is delayed, the court shall enter an order stating the reason for the delay upon the court's records. The delay in passing sentence does not deprive the court of jurisdiction to sentence the defendant at any time during the period of delay.

(3) Except as provided in subsection (5), if a defendant is before the circuit court and the court delays imposing sentence under subsection (2), the court shall include in the delayed sentence order that the department of corrections collect a supervision fee of \$30.00 multiplied by the number of months of delay ordered, but not more than 12 months, if the individual is placed on supervision without electronic monitoring. If the individual is placed on supervision with an electronic monitoring device under this subsection, the court shall include in the delayed sentence order that the department of corrections collect a supervision fee of \$60.00 multiplied by the number of months of supervision ordered under the delay of sentence, but not more than 12 months. The fee is payable when the delayed sentence order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that defendant. The fee must be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person must not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(4) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(5) The court may waive the fee required to be collected under this section if the court determines the supervised individual is indigent.

(6) As used in this section, "electronic monitoring device" includes any electronic device or instrument that is used to track the location of an individual, enforce a curfew, or detect the presence of alcohol in an individual's body.

Sec. 3c. (1) Except as provided in subsection (2), the circuit court shall include in each order of probation for a defendant convicted of a crime that the department of corrections collect a probation supervision fee of \$30.00 multiplied by the number of months of probation ordered, but not more than 60 months, if a defendant is placed on probation supervision without an electronic monitoring device. If a defendant is placed on probation supervision with an electronic monitoring device under this subsection, the circuit court's order shall include in its order that the department of corrections collect a probation supervision fee of \$60.00 multiplied by the number of months of probation ordered, but not more than 60 months. The fee is payable when the probation order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that probationer. The fee must be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person must not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(2) The circuit court may waive the fee required to be collected under this section if the court determines that the supervised individual is indigent.

(3) If a person who is subject to a probation supervision fee is also subject to any combination of fines, costs, restitution orders, assessments, or payments arising out of the same criminal proceeding, the allocation of money collected for those obligations must be as otherwise provided in section 22 of chapter XV.

(4) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

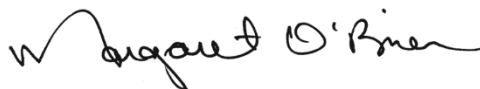
(5) As used in this section, "electronic monitoring device" includes any electronic device or instrument that is used to track the location of an individual, enforce a curfew, or detect the presence of alcohol in an individual's body.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4032 of the 100th Legislature is enacted into law.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor

Compiler's note: House Bill No. 4032, referred to in enacting section 2, was filed with the Secretary of State December 20, 2019, and became 2019 PA 164, Eff. Mar. 19, 2020.