

**SUBSTITUTE FOR
HOUSE BILL NO. 4031**

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
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:

1 CHAPTER II

2 Sec. 13. (1) If an individual is assigned to the status of a
3 youthful trainee and the underlying charge is an offense punishable
4 by imprisonment for a term of more than 1 year, the court shall do
5 1 of the following:



1 (a) Except as provided in subsection (2), commit the
2 individual to the department of corrections for custodial
3 supervision and training for not more than 2 years. If the
4 individual is less than 21 years of age, he or she ~~shall~~**must** be
5 committed to an institutional facility designated by the department
6 for 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. The terms and conditions of probation may include
10 participation in a drug treatment court under chapter 10A of the
11 revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to
12 ~~600.1084~~**600.1088**.

13 (c) Commit the individual to the county jail for not more than
14 1 year.

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

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

25 (a) Article 7 of the public health code, 1978 PA 368, MCL
26 333.7101 to 333.7545.

27 (b) Section 110, 110a(4), 157n to 157v, 157w(1)(c), 227, 356,
28 357, 413, 530, or 535(3) or (7) of the Michigan penal code, 1931 PA
29 328, MCL 750.110, 750.110a, 750.157n to 750.157v, 750.157w,



1 750.227, 750.356, 750.357, 750.413, 750.530, and 750.535.

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

7 (4) An individual placed on probation under this section ~~shall~~
8 **must** be under the supervision of a probation officer. Upon
9 commitment to and receipt by the department of corrections, a
10 youthful trainee ~~shall be~~ **is** subject to the direction of the
11 department of corrections. If an individual is placed on probation
12 following a commitment to the department of corrections under
13 subsection (1)(d), a youthful trainee ~~shall~~ **must** be reassigned to
14 the supervision of a probation officer.

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

18 (6) ~~The~~ **Except as provided in subsection (7), the** court shall
19 include in each order of probation for an individual placed on
20 probation under this section that the department of corrections
21 ~~shall collect a probation supervision fee of not more than \$135.00~~
22 **\$30.00** multiplied by the number of months of probation ordered, but
23 not more than 36 months, **if the individual is placed on probation**
24 **supervision without an electronic monitoring device. If the**
25 **individual is placed on probation supervision under this subsection**
26 **with an electronic monitoring device, the court shall include in**
27 **its order of probation that the department of corrections collect a**
28 **probation supervision fee of \$60.00 multiplied by the number of**
29 **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. ~~In determining the amount of the fee, the court shall consider the probationer's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:~~

<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
\$ 0-249.99	\$ 0.00
\$ 250.00-499.99	\$ 10.00
\$ 500.00-749.99	\$ 25.00
\$ 750.00-999.99	\$ 40.00
\$ 1,000.00 or more	5% of projected monthly income, but not more than \$135.00

~~The court may order a higher amount than indicated by the table, up to the maximum of \$135.00 multiplied by the number of months of probation ordered but not more than 36 months, if the court determines that the probationer has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall~~ **must** be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person ~~shall~~ **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.



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

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

8 CHAPTER XI

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

19 (2) In an action in which the court may place the defendant on
20 probation, the court may delay sentencing the defendant for not
21 more than 1 year to give the defendant an opportunity to prove to
22 the court his or her eligibility for probation or other leniency
23 compatible with the ends of justice and the defendant's
24 rehabilitation, such as participation in a drug treatment court
25 under chapter 10A of the revised judiciary act of 1961, 1961 PA
26 236, MCL 600.1060 to ~~600.1082~~—**600.1088**. When sentencing is
27 delayed, the court shall enter an order stating the reason for the
28 delay upon the court's records. The delay in passing sentence does
29 not deprive the court of jurisdiction to sentence the defendant at



any time during the period of delay.

(3) ~~If~~ **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 ~~shall~~ collect a supervision fee of ~~not more than \$135.00~~ **\$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. ~~In determining the amount of the fee, the court shall consider the defendant's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:~~

<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
\$ 0-249.99	\$ 0.00
\$ 250.00-499.99	\$10.00
\$ 500.00-749.99	\$25.00
\$ 750.00-999.99	\$40.00
\$1,000.00 or more	5% of projected monthly income, but not more than \$135.00

~~The court may order a higher amount than indicated by the~~



~~table, up to the maximum of \$135.00 multiplied by the number of months of delay ordered but not more than 12 months, if the court determines that the defendant has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall~~ **must** be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person ~~shall~~ **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) ~~The~~ **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 shall collect a probation supervision fee of not more than \$135.00 \$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. ~~In determining the amount of the fee, the court shall consider the probationer's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:~~

<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
\$ 0-249.99	\$ 0.00
\$ 250.00-499.99	\$10.00
\$ 500.00-749.99	\$25.00
\$ 750.00-999.99	\$40.00
\$1,000.00 or more	5% of projected monthly income, but not more than \$135.00

~~The court may order a higher amount than indicated by the table, up to the maximum of \$135.00 multiplied by the number of months of probation ordered, but not more than 60 months, if the court determines that the probationer has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall **must** be collected as provided in section 25a of the~~

1 corrections code of 1953, 1953 PA 232, MCL 791.225a. A person ~~shall~~
2 **must** not be subject to more than 1 supervision fee at the same
3 time. If a supervision fee is ordered for a person for any month or
4 months during which that person already is subject to a supervision
5 fee, the court shall waive the fee having the shorter remaining
6 duration.

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

10 **(3)** ~~(2)~~—If a person who is subject to a probation supervision
11 fee is also subject to any combination of fines, costs, restitution
12 orders, assessments, or payments arising out of the same criminal
13 proceeding, the allocation of money collected for those obligations
14 ~~shall~~**must** be as otherwise provided in section 22 of chapter XV.

15 **(4)** ~~(3)~~—This section does not apply to a juvenile placed on
16 probation and committed under section 1(3) or (4) of chapter IX to
17 an institution or agency described in the youth rehabilitation
18 services act, 1974 PA 150, MCL 803.301 to 803.309.

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

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

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

