

**SUBSTITUTE FOR
SENATE BILL NO. 1050**

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 2, 2a, 3, 4, and 4b of chapter XI (MCL 771.2,
771.2a, 771.3, 771.4, and 771.4b), section 2 of chapter XI as
amended by 2017 PA 10, section 2a of chapter XI as amended by 2006
PA 507, section 3 of chapter XI as amended by 2012 PA 612, section
4 of chapter XI as amended by 1998 PA 520, and section 4b of
chapter XI as added by 2017 PA 9.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XI

2 Sec. 2. (1) Except as provided in section 2a of this chapter
3 and section 36 of chapter VIII, if the defendant is convicted of an
4 offense that is not a felony, the probation period ~~shall~~**must** not



1 exceed 2 years. Except as provided in section 2a of this chapter
2 and section 36 of chapter VIII, if the defendant is convicted of a
3 felony, the probation period ~~shall~~**must** not exceed ~~5~~**3** years.

4 **However, the probation term for a felony under this subsection may**
5 **be extended not more than 2 times for not more than 1 additional**
6 **year for each extension if the court finds that there is a specific**
7 **rehabilitation goal that has not yet been achieved, or a specific,**
8 **articulable, and ongoing risk of harm to a victim that can be**
9 **mitigated only with continued probation supervision.**

10 (2) Except as provided in subsection ~~(4)~~, **(10)**, section 2a of
11 this chapter, and section 36 of chapter VIII, after the defendant
12 has completed 1/2 of the original felony **or misdemeanor** probation
13 period, ~~of his or her felony probation, the department or probation~~
14 ~~department may notify the sentencing court. If, after a hearing to~~
15 ~~review the case and the defendant's probationer's conduct while on~~
16 ~~probation, the court determines that the defendant's behavior~~
17 ~~warrants a reduction in the probationary term, the court may reduce~~
18 ~~that term by 100% or less. The victim must be notified of the date~~
19 ~~and time of the hearing and be given an opportunity to be heard.~~
20 ~~The court shall consider the impact on the victim and repayment of~~
21 ~~outstanding restitution caused by reducing the defendant's~~
22 ~~probationary term. Not less than 28 days before reducing or~~
23 ~~terminating a period of probation or conducting a review under this~~
24 ~~section, the court shall notify the prosecuting attorney, the~~
25 ~~defendant or, if the defendant has an attorney, the defendant's~~
26 ~~attorney. However, this subsection does not apply to a defendant~~
27 ~~who is subject to a mandatory probation term.~~**he or she may be**
28 **eligible for early discharge as provided in this section. The**
29 **defendant must be notified at sentencing of his or her eligibility**



1 and the requirements for early discharge from probation, and the
2 procedure provided under subsection (3) to notify the court of his
3 or her eligibility.

4 (3) If a probationer has completed all required programming,
5 the probation department may notify the sentencing court that the
6 probationer may be eligible for early discharge from probation. If
7 the probation department does not notify the sentencing court as
8 required under this subsection and the probationer has not violated
9 probation in the immediately preceding 3 months, the probationer
10 may notify the court that he or she may be eligible for early
11 discharge from probation on a form provided by the state court
12 administrative office. This subsection does not prohibit the court
13 from considering a probationer for early discharge from probation
14 at the court's discretion.

15 (4) A probationer must not be considered ineligible for early
16 discharge because of an inability to pay for the conditions of his
17 or her probation, or for outstanding court-ordered financial
18 obligations, including fines, fees, costs, or restitution, so long
19 as the probationer has made good-faith efforts to make payments.
20 However, nothing in this subsection relieves a probationer from his
21 or her court-ordered financial obligations, including restitution,
22 after discharge from probation.

23 (5) Upon notification as provided under subsection (3), the
24 sentencing court may review the case and the probationer's conduct
25 while on probation to determine whether the probationer's behavior
26 warrants an early discharge. Except as provided in subsection (6),
27 if the court determines that the probationer's behavior warrants a
28 reduction in the probationary term, the court may grant an early
29 discharge from probation without holding a hearing.



1 (6) If after reviewing the case under subsection (5), the
2 court determines that the probationer's behavior does not warrant
3 an early discharge, the court must conduct a hearing to allow the
4 probationer to present his or her case for an early discharge and
5 find on the record any specific rehabilitation goal that has not
6 yet been achieved or a specific, articulable, and ongoing risk of
7 harm to a victim that can only be mitigated with continued
8 probation supervision.

9 (7) Except as otherwise provided in subsection (10), the
10 sentencing court shall hold a hearing before granting early
11 discharge to a probationer serving a term of probation for a felony
12 offense involving a victim who has requested to receive notice
13 under section 18b, 19, 19a, 20, or 20a of the William Van
14 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.768b,
15 780.769, 780.769a, 780.770, and 780.770a, or for a misdemeanor
16 violation of section 81, 81a, or 136b of the Michigan penal code,
17 1931 PA 328, MCL 750.81, 750.81a, and 750.136b.

18 (8) If a hearing is to be held under subsection (7), the
19 prosecutor shall notify the victim of the date and time of the
20 hearing and the victim must be given an opportunity to be heard.

21 (9) ~~(3) The department of corrections shall report, no later~~
22 ~~than December 31 of each year, after the effective date of the~~
23 ~~amendatory act that added this subsection, to the committees of the~~
24 ~~senate and house of representatives concerning the judiciary or~~
25 ~~criminal justice the number of defendants referred to the court for~~
26 ~~a hearing under subsection (2). The state court administrative~~
27 ~~office shall report, no later than December 31 of each year after~~
28 ~~the effective date of the amendatory act that added this~~
29 ~~subsection, to the committees of the senate and house of~~



~~representatives concerning the judiciary the number of felony~~
~~probationers who were released early from probation under~~
~~subsection (2).this section and any available recidivism data.~~

(10) ~~(4)~~—A defendant who was convicted of 1 or more of the
 following crimes is not eligible for reduced probation under
~~subsection (2):this section:~~

(a) A **domestic violence related** violation of section ~~81(5)~~ **81**
or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 **and**
750.81a, or an offense involving domestic violence as that term is
defined in section 1 of 1978 PA 389, MCL 400.1501.

(b) A violation of section 84 of the Michigan penal code, 1931
 PA 328, MCL 750.84.

(c) A violation of section 411h of the Michigan penal code,
 1931 PA 328, MCL 750.411h.

(d) A violation of section 411i of the Michigan penal code,
 1931 PA 328, MCL 750.411i.

(e) ~~(e)~~—A violation of section 520c of the Michigan penal
 code, 1931 PA 328, MCL 750.520c.

(f) ~~(d)~~—A violation of section 520e of the Michigan penal
 code, 1931 PA 328, MCL 750.520e.

(11) ~~(5)~~—The court shall, by order to be entered in the case
 as the court directs by general rule or in each case, fix and
 determine the period, ~~and conditions,~~ **and rehabilitation goals** of
 probation. The order is part of the record in the case. The court
 may amend the order in form or substance at any time. If the court
 reduces a defendant's probationary term under ~~subsection (2), this~~
section, the period by which that term was reduced must be reported
 to the department of corrections.

(12) ~~(6)~~—A defendant who was placed on probation under section



1 1(4) of this chapter as it existed before March 1, 2003 for an
 2 offense committed before March 1, 2003 is subject to the conditions
 3 of probation specified in section 3 of this chapter, including
 4 payment of a probation supervision fee as prescribed in section 3c
 5 of this chapter, and to revocation for violation of these
 6 conditions, but the probation period must not be reduced other than
 7 by a revocation that results in imprisonment or as otherwise
 8 provided by law.

9 (13) ~~(7)~~—If an individual is placed on probation for a listed
 10 offense as that term is defined in section 2 of the sex offenders
 11 registration act, 1994 PA 295, MCL 28.722, the individual's
 12 probation officer shall register the individual or accept the
 13 individual's registration as provided in that act.

14 (14) ~~(8)~~—Subsection (1) does not apply to a juvenile placed on
 15 probation and committed under section 1(3) or (4) of chapter IX to
 16 an institution or agency described in the youth rehabilitation
 17 services act, 1974 PA 150, MCL 803.301 to 803.309.

18 Sec. 2a. (1) The court may place an individual convicted of
 19 violating section 411h of the Michigan penal code, 1931 PA 328, MCL
 20 750.411h, on probation for not more than ~~5~~3 years, **subject to the**
 21 **extensions in section 2(1) of this chapter.** The sentence is subject
 22 to the conditions of probation set forth in section 411h(3) of the
 23 Michigan penal code, 1931 PA 328, MCL 750.411h, and section 3 of
 24 this chapter. The probation is subject to revocation for any
 25 violation of a condition of that probation.

26 (2) The court may place an individual convicted of violating
 27 section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i,
 28 on probation for any term of years, but not less than 5 years. The
 29 sentence is subject to the conditions of probation set forth in



1 section 411i(4) of the Michigan penal code, 1931 PA 328, MCL
2 750.411i, and section 3 of this chapter. The probation is subject
3 to revocation for any violation of a condition of that probation.

4 (3) The court may place an individual convicted of a violation
5 of section 136b of the Michigan penal code, 1931 PA 328, MCL
6 750.136b, that is designated as a misdemeanor on probation for not
7 more than ~~5~~3 years, **subject to the extensions in section 2(1) of**
8 **this chapter.**

9 (4) The court shall by order, to be filed or entered in the
10 cause as the court directs by general rule or in each case, fix and
11 determine the period, ~~and~~ conditions, **and rehabilitation goals** of
12 probation. The order is part of the record in the cause. The court
13 may amend the order in form or substance at any time.

14 (5) Subsections (1), (2), (3), and (4) do not apply to a
15 juvenile placed on probation and committed under section 1(3) or
16 (4) of chapter IX to an institution or agency described in the
17 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to
18 803.309.

19 (6) Except as otherwise provided by law, the court may place
20 an individual convicted of a listed offense on probation subject to
21 the requirements of this subsection and subsections (7) through
22 (12) for any term of years but not less than 5 years.

23 (7) Except as otherwise provided in subsections (8) to (12),
24 if an individual is placed on probation under subsection (6), the
25 court shall order the individual not to do any of the following:

26 (a) Reside within a student safety zone.

27 (b) Work within a student safety zone.

28 (c) Loiter within a student safety zone.

29 (8) The court shall not impose a condition of probation



described in subsection (7) (a) if any of the following apply:

(a) The individual is not more than 19 years of age and attends secondary school or postsecondary school, and resides with his or her parent or guardian. However, an individual described in this subdivision ~~shall~~**must** be ordered not to initiate or maintain contact with a minor within that student safety zone. The individual ~~shall~~**must** be permitted to initiate or maintain contact with a minor with whom he or she attends secondary school or postsecondary school in conjunction with that school attendance.

(b) The individual is not more than 26 years of age, attends a special education program, and resides with his or her parent or guardian or in a group home or assisted living facility. However, an individual described in this subdivision ~~shall~~**must** be ordered not to initiate or maintain contact with a minor within that student safety zone. The individual ~~shall~~**must** be permitted to initiate or maintain contact with a minor with whom he or she attends a special education program in conjunction with that attendance.

(c) The individual was residing within that student safety zone ~~at the time the amendatory act that added this subdivision was enacted into law.~~**on January 1, 2006.** However, if the individual was residing within the student safety zone ~~at the time the amendatory act that added this subdivision was enacted into law,~~**on January 1, 2006,** the court shall order the individual not to initiate or maintain contact with any minors within that student safety zone. This subdivision does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(9) An order issued under subsection (7) (a) ~~shall~~**must** not



1 prohibit an individual from being a patient in a hospital or
2 hospice that is located within a student safety zone. However, this
3 exception does not apply to an individual who initiates or
4 maintains contact with a minor within that student safety zone.

5 (10) The court shall not impose a condition of probation
6 described in subsection (7)(b) if the individual was working within
7 the student safety zone ~~at the time the amendatory act that added~~
8 ~~this subsection was enacted into law. on January 1, 2006.~~ However,
9 if the individual was working within the student safety zone ~~at the~~
10 ~~time the amendatory act that added this subsection was enacted into~~
11 ~~law, on January 1, 2006,~~ the court shall order the individual not
12 to initiate or maintain contact with any minors in the course of
13 his or her employment within that student safety zone. This
14 subsection does not prohibit the court from allowing contact with
15 any minors named in the probation order for good cause shown and as
16 specified in the probation order.

17 (11) The court shall not impose a condition of probation
18 described in subsection (7)(b) if the individual only
19 intermittently or sporadically enters a student safety zone for
20 purposes of work. If the individual intermittently or sporadically
21 works within a student safety zone, the court shall order the
22 individual not to initiate or maintain contact with any minors in
23 the course of his or her employment within that safety zone. This
24 subsection does not prohibit the court from allowing contact with
25 any minors named in the probation order for good cause shown and as
26 specified in the probation order.

27 (12) The court may exempt an individual from probation under
28 subsection (6) if any of the following apply:

29 (a) The individual has successfully completed his or her



1 probationary period under sections 11 to 15 of chapter II for
2 committing a listed offense and has been discharged from youthful
3 trainee status.

4 (b) The individual was convicted of committing or attempting
5 to commit a violation solely described in section 520e(1)(a) of the
6 Michigan penal code, 1931 PA 328, MCL 750.520e, and at the time of
7 the violation was 17 years of age or older but less than 21 years
8 of age and is not more than 5 years older than the victim.

9 (13) As used in this section:

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

12 (b) "Loiter" means to remain for a period of time and under
13 circumstances that a reasonable person would determine is for the
14 primary purpose of observing or contacting minors.

15 (c) "Minor" means an individual less than 18 years of age.

16 (d) "School" means a public, private, denominational, or
17 parochial school offering developmental kindergarten, kindergarten,
18 or any grade from 1 through 12. School does not include a home
19 school.

20 (e) "School property" means a building, facility, structure,
21 or real property owned, leased, or otherwise controlled by a
22 school, other than a building, facility, structure, or real
23 property that is no longer in use on a permanent or continuous
24 basis, to which either of the following applies:

25 (i) It is used to impart educational instruction.

26 (ii) It is for use by students not more than 19 years of age
27 for sports or other recreational activities.

28 (f) "Student safety zone" means the area that lies 1,000 feet
29 or less from school property.



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

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

7 (b) During the term of his or her probation, the probationer
8 shall not leave the state without the consent of the court granting
9 his or her application for probation.

10 (c) The probationer shall report to the probation officer,
11 ~~either~~ in person, **virtually**, or in writing, monthly or as often as
12 the probation officer requires. This subdivision does not apply to
13 a juvenile placed on probation and committed under section 1(3) or
14 (4) of chapter IX to an institution or agency described in the
15 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to
16 803.309.

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

20 (e) The probationer shall pay restitution to the victim of the
21 defendant's course of conduct giving rise to the conviction or to
22 the victim's estate as provided in chapter IX. An order for payment
23 of restitution may be modified and ~~shall~~**must** be enforced as
24 provided in chapter IX.

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

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

29 (h) If the probationer is required to be registered under the



sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736,
the probationer shall comply with that act.

(2) ~~As Subject to subsection (11), as~~ a condition of
probation, the court may require the probationer to do 1 or more of
the following:

(a) Be imprisoned in the county jail for not more than 12
months at the time or intervals that may be consecutive or
nonconsecutive, within the probation as the court determines.
However, the period of confinement ~~shall~~**must** not exceed the
maximum period of imprisonment provided for the offense charged if
the maximum period is less than 12 months. The court may permit day
parole as authorized under 1962 PA 60, MCL 801.251 to 801.258. The
court may, subject to sections 3d and 3e of this chapter, permit
the individual to be released from jail to work at his or her
existing job or to attend a school in which he or she is enrolled
as a student. This subdivision 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.

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

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

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

(e) Engage in community service.

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

(g) Participate in inpatient or outpatient drug treatment, ~~or,~~
~~beginning January 1, 2005, participate in~~**or** a drug treatment court



1 under chapter 10A of the revised judicature act of 1961, 1961 PA
2 236, MCL 600.1060 to 600.1084.

3 (h) Participate in mental health treatment.

4 (i) Participate in mental health or substance abuse
5 counseling.

6 (j) Participate in a community corrections program.

7 (k) Be under house arrest.

8 (l) Be subject to electronic monitoring.

9 (m) Participate in a residential probation program.

10 (n) Satisfactorily complete a program of incarceration in a
11 special alternative incarceration unit as provided in section 3b of
12 this chapter.

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

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

19 (q) Complete his or her high school education or obtain the
20 equivalency of a high school education in the form of a general
21 education development (GED) certificate.

22 (3) ~~The~~ **Subject to subsection (11), the** court may impose other
23 lawful conditions of probation as the circumstances of the case
24 require or warrant or as in its judgment are proper.

25 (4) If an order or amended order of probation contains a
26 condition for the protection of 1 or more named persons as provided
27 in subsection (2)(o), the court or a law enforcement agency within
28 the court's jurisdiction shall enter the order or amended order
29 into the law enforcement information network. If the court rescinds



1 the order or amended order or the condition, the court shall remove
2 the order or amended order or the condition from the law
3 enforcement information network or notify that law enforcement
4 agency and the law enforcement agency shall remove the order or
5 amended order or the condition from the law enforcement information
6 network.

7 (5) If the court requires the probationer to pay costs under
8 subsection (2), the costs ~~shall~~**must** be limited to expenses
9 specifically incurred in prosecuting the defendant or providing
10 legal assistance to the defendant and supervision of the
11 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
28 or part of the amount due in costs or modify the method of payment.

29 (7) If a probationer is required to pay costs as part of a



1 sentence of probation, the court may require payment to be made
 2 immediately or the court may provide for payment to be made within
 3 a specified period of time or in specified installments.

4 (8) If a probationer is ordered to pay costs as part of a
 5 sentence of probation, compliance with that order ~~shall~~**must** be a
 6 condition of probation. ~~The Subject to the requirements of section~~
 7 **4b of this chapter, the** court may **only sanction a probationer to**
 8 **jail or** revoke ~~the~~ probation ~~if the~~**of a** probationer **who** fails to
 9 comply with the order ~~and~~ if the probationer has **the ability to pay**
 10 **and has** not made a ~~good faith~~**good-faith** effort to comply with the
 11 order. In determining whether to revoke probation, the court shall
 12 consider the probationer's employment status, earning ability, and
 13 financial resources, the willfulness of the probationer's failure
 14 to pay, and any other special circumstances that may have a bearing
 15 on the probationer's ability to pay. The proceedings provided for
 16 in this subsection are in addition to those provided in section 4
 17 of this 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~~**subsection (1), and subject to subsection (11), the**
 25 **conditions of probation described in subsections (2) 7—and (3).**

26 (10) If sentencing is delayed or entry of judgment is deferred
 27 in the district court or in a municipal court, the court shall
 28 require the individual to pay the minimum state costs prescribed by
 29 section 1j of chapter IX and may impose, as applicable, the



conditions of probation described in ~~subsections~~ **subsection (1),**
and subject to subsection (11), the conditions of probation
described in subsections (2) ~~and~~ (3).

(11) The conditions of probation imposed by the court under
subsections (2) and (3) must be individually tailored to the
probationer, must specifically address the assessed risks and needs
of the probationer, must be designed to reduce recidivism, must
consider the needs of the victim if applicable, and must be
adjusted if the court determines adjustments are appropriate.

Sec. 4. **(1) It is the intent of the legislature that the**
granting of probation is a matter of grace ~~conferring no vested~~
~~right to its continuance. If during the probation period the~~
~~sentencing court determines that the probationer is likely again to~~
~~engage in an offensive or criminal course of conduct or that the~~
~~public good requires revocation of probation, the court may revoke~~
~~probation, requiring the agreement of the probationer to its~~
granting and continuance.

(2) All probation orders are revocable ~~in any manner the court~~
~~that imposed probation considers applicable either for a violation~~
~~or attempted violation of a probation condition or for any other~~
~~type of antisocial conduct or action on the probationer's part for~~
~~which the court determines that revocation is proper in the public~~
~~interest. subject to the requirements of section 4b of this~~
chapter, but revocation of probation, and subsequent incarceration,
should be imposed only for repeated technical violations, for new
criminal behavior, as otherwise allowed in section 4b of this
chapter, or upon request of the probationer. Hearings on the
revocation ~~shall~~ **must be summary and informal and not subject to**
the rules of evidence or of pleadings applicable in criminal



1 trials.

2 (3) In its probation order or by general rule, the court may
3 provide for the apprehension, detention, and confinement of a
4 probationer accused of violating a probation condition. ~~or conduct~~
5 ~~inconsistent with the public good.~~

6 (4) The method of hearing and presentation of charges are
7 within the court's discretion, except that the probationer is
8 entitled to a written copy of the charges constituting the claim
9 that he or she violated probation and to a probation revocation
10 hearing. ~~The~~

11 (5) **Subject to the requirements of section 4b of this chapter,**
12 **the** court may investigate and enter a disposition of the
13 probationer as the court determines best serves the public
14 interest. If a probation order is revoked, the court may sentence
15 the probationer in the same manner and to the same penalty as the
16 court might have done if the probation order had never been made.

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

21 Sec. 4b. (1) Except as otherwise provided in this section,
22 ~~beginning on January 1, 2018,~~ a probationer who commits a technical
23 probation violation and is sentenced to temporary incarceration ~~in~~
24 ~~a state or local correctional or detention facility~~ may be
25 incarcerated ~~for a maximum of 30 days~~ for each technical violation
26 ~~. A probationer must not be given credit for any time served on a~~
27 ~~previous technical violation. After a probationer serves the period~~
28 ~~of temporary incarceration under this section, he or she may be~~
29 ~~returned to probation under the terms of his or her original~~



~~probation order or under a new probation order at the discretion of the court.~~

~~(2) The limit on temporary incarceration under subsection (1) does not apply to a probationer who has committed 3 or more technical probation violations during the course of his or her probation.~~

~~(3) The court may extend the period of temporary incarceration under subsection (1) to not more than 90 days if a probationer has been ordered to attend a treatment program as part of his or her probation but for which a treatment bed is not currently available; however, the period of temporary incarceration imposed under subsection (1) must not extend beyond 90 days.~~

~~(4) This section does not prohibit the court from revoking a probationer's probation and sentencing the probationer under section 4 for a probation violation, including, but not limited to, a technical probation violation at any time during the course of probation.~~ as follows:

(a) For a technical violation committed by an individual who is on probation because he or she was convicted of or pleaded guilty to a misdemeanor:

(i) For a first violation, jail incarceration for not more than 5 days.

(ii) For a second violation, jail incarceration for not more than 10 days.

(iii) For a third violation, jail incarceration for not more than 15 days.

(iv) For a fourth or subsequent violation, jail incarceration for any number of days, but not exceeding the total of the remaining eligible jail sentence.



1 (b) For a technical violation committed by an individual who
2 is on probation because he or she was convicted of or pleaded
3 guilty to a felony:

4 (i) For a first violation, jail incarceration for not more than
5 15 days.

6 (ii) For a second violation, jail incarceration for not more
7 than 30 days.

8 (iii) For a third violation, jail incarceration for not more
9 than 45 days.

10 (iv) For a fourth or subsequent violation, jail or prison
11 incarceration for any number of days, but not exceeding the total
12 of the remaining eligible jail or prison sentence.

13 (2) A probationer may acknowledge a technical probation
14 violation in writing without a hearing before the court being
15 required.

16 (3) A jail sanction under subsection (1)(a) or (b) may be
17 extended to not more than 45 days if the probationer is awaiting
18 placement in a treatment facility and does not have a safe
19 alternative location to await treatment.

20 (4) Subject to the exception in subsection (6), the court
21 shall not revoke probation on the basis of a technical probation
22 violation unless a probationer has already been sanctioned for 3 or
23 more technical probation violations and commits a new technical
24 probation violation.

25 (5) If more than 1 technical probation violation arises out of
26 the same transaction, the court shall treat the technical probation
27 violations as a single technical probation violation for purposes
28 of this section.

29 (6) Subsection (1) does not apply to a probationer who is on



1 probation for a domestic violence violation of section 81 or 81a,
 2 an offense involving domestic violence as that term is defined in
 3 section 1 of 1978 PA 389, MCL 400.1501, or a violation of section
 4 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.81,
 5 750.81a, 750.411h, and 750.411i.

6 (7) Except as otherwise provided in this subsection, there is
 7 a rebuttable presumption that the court shall not issue a warrant
 8 for arrest for a technical probation violation and shall issue a
 9 summons or order to show cause to the probationer instead. The
 10 court may overcome the presumption and issue a warrant if it states
 11 on the record a specific reason to suspect that 1 or more of the
 12 following apply:

13 (a) The probationer presents an immediate danger to himself or
 14 herself, another person, or the public.

15 (b) The probationer has left court-ordered inpatient treatment
 16 without the court's or the treatment facility's permission.

17 (c) A summons or order to show cause has already been issued
 18 for the technical probation violation and the probationer failed to
 19 appear as ordered.

20 (8) A probationer who is arrested and detained for a technical
 21 probation violation must be brought to a hearing on the technical
 22 probation violation as soon as is possible. If the hearing is not
 23 held within the applicable and permissible jail sanction, as
 24 determined under subsection (1)(a) or (b), the probationer must be
 25 returned to community supervision.

26 (9) ~~(7)~~As used in this section: ~~"technical~~

27 (a) "Absconding" means the intentional failure of a
 28 probationer to report to his or her supervising agent or to advise
 29 his or her supervising agent of his or her whereabouts for a



1 continuous period of not less than 60 days.

2 (b) "Technical probation violation" means a violation of the
3 terms of a probationer's probation order that is not listed below,
4 including missing or failing a drug test, subparagraph (ii)
5 notwithstanding. Technical probation violations do not include the
6 following:

7 (i) ~~A violation of the terms of a probationer's probation an~~
8 ~~order that is not a violation of an order of the court requiring~~
9 ~~that the probationer have no contact with a named individual. or~~
10 ~~that is not a~~

11 (ii) A violation of a law of this state, a political
12 subdivision of this state, another state, or the United States or
13 of tribal law, ~~and does not include the whether or not a new~~
14 **criminal offense is charged.**

15 (iii) **The** consumption of alcohol by a probationer who is on
16 probation for a felony violation of section 625 of the Michigan
17 vehicle code, 1949 PA 300, MCL 257.625.

18 (iv) **Absconding.**

