

# HOUSE BILL NO. 4031

January 10, 2019, Introduced by Rep. Brann and referred to the Committee on Judiciary.

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



1 youthful trainee and the underlying charge is an offense punishable  
2 by imprisonment for a term of more than 1 year, the court shall do  
3 1 of the following:

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

10 (b) Place the individual on probation for not more than 3  
11 years subject to probation conditions as provided in section 3 of  
12 chapter XI. The terms and conditions of probation may include  
13 participation in a drug treatment court under chapter 10A of the  
14 revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to  
15 ~~600.1084~~**600.1088**.

16 (c) Commit the individual to the county jail for not more than  
17 1 year.

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

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

28 (a) Article 7 of the public health code, 1978 PA 368, MCL  
29 333.7101 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 ~~shall~~ **must** be under the supervision of a probation officer. Upon commitment to and receipt by the department of corrections, a youthful trainee ~~shall be~~ **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 ~~shall~~ **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) ~~The~~ **Except as provided in subsection (7) and subject to subsection (8), the** court shall include in each order of probation for an individual placed on probation under this section 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 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. ~~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	<del>\$ 0.00</del>
\$ 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



1 months during which that person already is subject to a supervision  
2 fee, the court shall waive the fee having the shorter remaining  
3 duration.

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

7 (8) Beginning on October 1, 2019, and each October 1  
8 thereafter, the state court administrative office shall determine  
9 the fee amount for the fees that must be collected under this  
10 section to ensure that the total funds collected by the department  
11 of corrections under this section are not less than those collected  
12 under this section in the fiscal year that immediately preceded the  
13 year that the amendatory act that added this subsection becomes  
14 effective.

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

#### 19 CHAPTER XI

20 Sec. 1. (1) In all prosecutions for felonies, misdemeanors, or  
21 ordinance violations other than murder, treason, criminal sexual  
22 conduct in the first or third degree, armed robbery, or major  
23 controlled substance offenses, if the defendant has been found  
24 guilty upon verdict or plea and the court determines that the  
25 defendant is not likely again to engage in an offensive or criminal  
26 course of conduct and that the public good does not require that  
27 the defendant suffer the penalty imposed by law, the court may  
28 place the defendant on probation under the charge and supervision  
29 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 ~~600.1082~~. **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) ~~If~~ **Except as provided in subsection (6) and subject to 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>
\$ <del>0-249.99</del>	\$ <del>0.00</del>
\$ <del>250.00-499.99</del>	\$ <del>10.00</del>
\$ <del>500.00-749.99</del>	\$ <del>25.00</del>
\$ <del>750.00-999.99</del>	\$ <del>40.00</del>
\$ <del>1,000.00 or more</del>	<del>5% of projected monthly income, but not more than \$135.00</del>

~~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) Beginning on October 1, 2019, and each October 1**



1 thereafter, the state court administrative office shall determine  
2 the fee amount for the fees that must be collected under this  
3 section to ensure that the total funds collected by the department  
4 of corrections under this section are not less than those collected  
5 under this section in the fiscal year that immediately preceded the  
6 year that the amendatory act that added this subsection becomes  
7 effective.

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

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

15 Sec. 3c. (1) ~~The~~ Except as provided in subsection (2) and  
16 subject to subsection (5), the circuit court shall include in each  
17 order of probation for a defendant convicted of a crime that the  
18 department of corrections ~~shall~~ collect a probation supervision fee  
19 of ~~not more than \$135.00~~ **\$30.00** multiplied by the number of months  
20 of probation ordered, but not more than 60 months, **if a defendant**  
21 **is placed on probation supervision without an electronic monitoring**  
22 **device. If a defendant is placed on probation supervision with an**  
23 **electronic monitoring device under this subsection, the circuit**  
24 **court's order shall include in its order that the department of**  
25 **corrections collect a probation supervision fee of \$60.00**  
26 **multiplied by the number of months of probation ordered, but not**  
27 **more than 60 months.** The fee is payable when the probation order is  
28 entered, but the fee may be paid in monthly installments if the  
29 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 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.

(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.



1       (3) ~~(2)~~—If a person who is subject to a probation supervision  
2 fee is also subject to any combination of fines, costs, restitution  
3 orders, assessments, or payments arising out of the same criminal  
4 proceeding, the allocation of money collected for those obligations  
5 ~~shall~~**must** be as otherwise provided in section 22 of chapter XV.

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

10       (5) **Beginning on October 1, 2019, and each October 1**  
11 **thereafter, the state court administrative office shall determine**  
12 **the fee amount for the fees required to be collected under this**  
13 **section to ensure that the total funds collected by the department**  
14 **of corrections under this section are not less than those collected**  
15 **under this section in the fiscal year that immediately preceded the**  
16 **year that the amendatory act that added this subsection becomes**  
17 **effective.**

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

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

24       Enacting section 2. This amendatory act does not take effect  
25 unless Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
26 00161'19 a) of the 100th Legislature is enacted into law.

