

HOUSE BILL NO. 5299

December 11, 2019, Introduced by Reps. LaGrand, Shannon, Pohutsky, Koleszar, Hood, Ellison, Brixie, Haadsma, Hope, Wittenberg, Garza, Hammoud, Camilleri, Tate, Rabhi and Coleman and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 1 of chapter XI (MCL 771.1), as amended by 2006
PA 631.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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~~



1 ~~controlled substance offenses, a violation of section 7401(2) (a) (i)~~
2 ~~to (iii) , 7401(2) (g) , or 7401(2) (h) (i) to (iii) of the public health~~
3 ~~code, 1978 PA 368, MCL 333.7401,~~ if the defendant has been found
4 guilty upon verdict or plea and the court determines that the
5 defendant is not likely again to engage in an offensive or criminal
6 course of conduct and that the public good does not require that
7 the defendant suffer the penalty imposed by law, the court may
8 place the defendant on probation under the charge and supervision
9 of a probation officer.

10 (2) In an action in which the court may place the defendant on
11 probation, the court may delay sentencing the defendant for not
12 more than 1 year to give the defendant an opportunity to prove to
13 the court his or her eligibility for probation or other leniency
14 compatible with the ends of justice and the defendant's
15 rehabilitation, such as participation in a drug treatment court
16 under chapter 10A of the revised judicature act of 1961, 1961 PA
17 236, MCL 600.1060 to ~~600.1082.~~ **600.1088.** When sentencing is
18 delayed, the court shall enter an order stating the reason for the
19 delay upon the court's records. The delay in passing sentence does
20 not deprive the court of jurisdiction to sentence the defendant at
21 any time during the period of delay.

22 (3) If a defendant is before the circuit court and the court
23 delays imposing sentence under subsection (2), the court shall
24 include in the delayed sentence order that the department of
25 corrections shall collect a supervision fee of not more than
26 \$135.00 multiplied by the number of months of delay ordered, but
27 not more than 12 months. The fee is payable when the delayed
28 sentence order is entered, but the fee may be paid in monthly
29 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.



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

3 Enacting section 2. This amendatory act does not take effect
4 unless House Bill No. 5137 of the 100th Legislature is enacted into
5 law.

