

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

771.3 Probation; conditions; entry of order into LEIN; costs as part of sentence of probation; compliance as condition of probation; revocation of probation; fees in delayed or deferred entry of judgment or sentencing; individually tailored probation conditions.

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

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

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

(c) The probationer shall report to the probation officer, in person, virtually, or in writing, monthly or as often as the probation officer requires. 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.

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

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

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

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

(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) 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 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 a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1084.

(h) Participate in mental health treatment.

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

(j) Participate in a community corrections program.

(k) Be under house arrest.

(l) Be subject to electronic monitoring.

(m) Participate in a residential probation program.

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

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

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

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

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

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

(5) If the court requires the probationer to pay costs under subsection (2), the costs must be limited to expenses specifically incurred in prosecuting the defendant or providing legal assistance to the defendant and supervision of the probationer.

(6) If the court imposes costs under subsection (2) as part of a sentence of probation, all of the following apply:

(a) The court shall not require a probationer to pay costs under subsection (2) unless the probationer is or will be able to pay them during the term of probation. In determining the amount and method of payment of costs under subsection (2), the court shall take into account the probationer's financial resources and the nature of the burden that payment of costs will impose, with due regard to his or her other obligations.

(b) A probationer who is required to pay costs under subsection (1)(g) or (2)(c) and who is not in willful default of the payment of the costs may petition the sentencing judge or his or her successor at any time for a remission of the payment of any unpaid portion of those costs. If the court determines that payment of the amount due will impose a manifest hardship on the probationer or his or her immediate family, the court may remit all or part of the amount due in costs or modify the method of payment.

(7) If a probationer is required to pay costs as part of a sentence of probation, the court may require payment to be made immediately or the court may provide for payment to be made within a specified period of time or in specified installments.

(8) If a probationer is ordered to pay costs as part of a sentence of probation, compliance with that order must be a condition of probation. Subject to the requirements of section 4b of this chapter, the court may only sanction a probationer to jail or revoke the probation of a probationer who fails to comply with the order if the probationer has the ability to pay and has not made a good-faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the probationer's employment status, earning ability, and financial resources, the willfulness of the probationer's failure to pay, and any other special circumstances that may have a bearing on the probationer's ability to pay. The proceedings provided for in this subsection are in addition to those provided in section 4 of this chapter.

(9) If entry of judgment is deferred in the circuit court, the court shall require the individual to pay a supervision fee in the same manner as is prescribed for a delayed sentence under section 1(3) of this chapter, shall require the individual to pay the minimum state costs prescribed by section 1j of chapter IX, and may impose, as applicable, the conditions of probation described in subsection (1), and subject to subsection (11), the conditions of probation described in subsections (2) and (3).

(10) If sentencing is delayed or entry of judgment is deferred in the district court or in a municipal court, the court shall require the individual to pay the minimum state costs prescribed by section 1j of chapter IX and may impose, as applicable, the conditions of probation described in 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, and must be adjusted if the court determines adjustments are appropriate. The court shall also consider the input of the victim and shall specifically address the harm caused to the victim, as well as the victim's safety needs and other concerns, including, but not limited to, any request for protective conditions or restitution.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17373;—Am. 1931, Act 308, Eff. Sept. 18, 1931;—CL 1948, 771.3;—Am. 1957, Act 72, Eff. Sept. 27, 1957;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1980, Act 514, Eff. Mar. 31, 1981;—Am. 1982, Act 137, Imd. Eff. Apr. 27, 1982;—Am. 1985, Act 89, Imd. Eff. July 10, 1985;—Am. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1989, Act 184, Eff. Oct. 1, 1989;—Am. 1993, Act 185, Eff. Oct. 1, 1993;—Am. 1993, Act 343, Eff. May 1, 1994;—Am. 1994, Act 286, Eff. Oct. 1, 1995;—Am. 1994, Act 445, Eff. Feb. 1, 1995;—Am. 1998, Act 449, Eff. Aug. 1, 1999;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999;—Am. 2003, Act 101, Eff. Oct. 1, 2003;—Am. 2004, Act 116, Imd. Eff. May 26, 2004;—Am. 2004, Act 219, Eff. Jan. 1, 2005;—Am. 2004, Act 330, Imd. Eff. Sept. 23, 2004;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007;—Am. 2012, Act 612, Eff. Mar. 1, 2013;—Am. 2020, Act 397, Eff. Apr. 1, 2021.

Compiler's note: Section 3 of Act 78 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 181 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

Former law: See section 3 of Act 105 of 1913, being CL 1915, § 2031; and Act 203 of 1925.