

HOUSE BILL No. 4541

April 21, 1999, Introduced by Reps. Bovin, DeRossett, Bradstreet, Sanborn, Koetje, Vear, Hart, Kukuk, Howell, Kuipers, Voorhees, Woronchak, DeWeese, Ehardt, Patterson, Rick Johnson, Gosselin, LaSata, Birkholz, Richardville, Rocca, Woodward, Schauer, Mans, Mortimer, Mead, Faunce, Julian, Pappageorge, Cameron Brown, Bishop, Kowall, Allen, Jelinek, Schermesser, Middaugh, Jansen, Stamas, Vander Roest, Neumann, Pestka, Green, Garcia, Sheltroun, Basham, Frank, DeHart, Shulman, Pumford, Jellema, Scranton, Cassis, Raczkowski and Tabor and referred to the Committee on Constitutional Law and Ethics.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 3 of chapter XI (MCL 771.3), as amended by
1998 PA 520.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XI

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

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

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

1 (c) The probationer shall report to the probation officer,
2 either in person or in writing, monthly or as often as the proba-
3 tion officer requires. This subdivision does not apply to a
4 juvenile placed on probation and committed under section 1(3) or
5 (4) of chapter IX to an institution or agency described in the
6 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to
7 803.309.

8 (d) If convicted of a felony, the probationer shall pay a
9 probation supervision fee as prescribed in section 3c of this
10 chapter.

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

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

18 (g) If the probationer is required to be registered under
19 the sex offenders registration act, 1994 PA 295, MCL 28.721 to
20 28.732, the probationer shall comply with that act.

21 (2) As a condition of probation, the court may require the
22 probationer to do 1 or more of the following:

23 (a) Be imprisoned in the county jail for not more than 12
24 months, at the time or intervals, which may be consecutive or
25 nonconsecutive, within the probation as the court determines.
26 However, the period of confinement shall not exceed the maximum
27 period of imprisonment provided for the offense charged if the

1 maximum period is less than 12 months. The court may permit day
2 parole as authorized under 1962 PA 60, MCL 801.251 to 801.258.
3 The court may permit a work or school release from jail. This
4 subdivision does not apply to a juvenile placed on probation and
5 committed under section 1(3) or (4) of chapter IX to an institu-
6 tion or agency described in the youth rehabilitation services
7 act, 1974 PA 150, MCL 803.301 to 803.309.

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

10 (c) Pay costs pursuant to subsection ~~-(4)-~~ (6).

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

13 (e) Engage in community service.

14 (f) Agree to pay by wage assignment any restitution, assess-
15 ment, fine, or cost imposed by the court.

16 (g) Participate in inpatient or outpatient drug treatment.

17 (h) Participate in mental health treatment.

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

20 (j) Participate in a community corrections program.

21 (k) Be under house arrest.

22 (l) Be subject to electronic monitoring.

23 (m) Participate in a residential probation program.

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

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

3 (P) NOT PURCHASE OR POSSESS A FIREARM.

4 (Q) ~~(P)~~ Reimburse the county for expenses incurred by the
5 county in connection with the conviction for which probation was
6 ordered as provided in the prisoner reimbursement to the county
7 act, 1984 PA 118, MCL 801.81 to 801.93.

8 (3) Subsection (2) may be applied to a person who is placed
9 on probation for life pursuant to sections 1(4) and 2(3) of this
10 chapter for the first 5 years of that probation.

11 (4) The court may impose other lawful conditions of proba-
12 tion as the circumstances of the case require or warrant or as in
13 its judgment are proper.

14 (5) If an order or amended order of probation contains a
15 condition for the protection of 1 or more named persons as pro-
16 vided in subsection (2)(o), the court or a law enforcement agency
17 within the court's jurisdiction shall enter the order or amended
18 order into the law enforcement information network. If the court
19 rescinds the order or amended order or the condition, OR THE PRO-
20 BATION TERM EXPIRES, the court shall remove the order or amended
21 order or the condition from the law enforcement information net-
22 work or notify that law enforcement agency and the law enforce-
23 ment agency shall remove the order or amended order or the condi-
24 tion from the law enforcement information network.

25 (6) If the court requires the probationer to pay costs, the
26 costs shall be limited to expenses specifically incurred in

1 prosecuting the defendant or providing legal assistance to the
2 defendant and supervision of the probationer.

3 (7) If the court imposes costs as part of a sentence of pro-
4 bation, all of the following apply:

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

12 (b) A probationer who is required to pay costs and who is
13 not in willful default of the payment of the costs may petition
14 the sentencing judge or his or her successor at any time for a
15 remission of the payment of any unpaid portion of those costs.
16 If the court determines that payment of the amount due will
17 impose a manifest hardship on the probationer or his or her imme-
18 diate family, the court may remit all or part of the amount due
19 in costs or modify the method of payment.

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

24 (9) If a probationer is ordered to pay costs as part of a
25 sentence of probation, compliance with that order shall be a con-
26 dition of probation. The court may revoke probation if the
27 probationer fails to comply with the order and if the probationer

1 has not made a good faith effort to comply with the order. In
2 determining whether to revoke probation, the court shall consider
3 the probationer's employment status, earning ability, and finan-
4 cial resources, the willfulness of the probationer's failure to
5 pay, and any other special circumstances that may have a bearing
6 on the probationer's ability to pay. The proceedings provided
7 for in this subsection are in addition to those provided in sec-
8 tion 4 of this chapter.

9 Enacting section 1. This amendatory act takes effect
10 September 30, 1999.

11 Enacting section 2. This amendatory act does not take
12 effect unless Senate Bill No. _____ or House Bill No. _____
13 (request no. 00486'99 ***) of the 90th Legislature is enacted
14 into law.