

HOUSE BILL No. 5464

December 1, 2005, Introduced by Rep. Accavitti 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
2004 PA 219.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XI

2 Sec. 1. (1) In all prosecutions for felonies or misdemeanors
3 other than murder, treason, criminal sexual conduct in the first
4 or third degree, armed robbery, or major controlled substance
5 offenses, if the defendant has been found guilty upon verdict or
6 plea and the court determines that the defendant is not likely
7 again to engage in an offensive or criminal course of conduct and
8 that the public good does not require that the defendant suffer

1 the penalty imposed by law, the court may place the defendant on
2 probation under the charge and supervision of a probation
3 officer. **AS USED IN THIS SUBSECTION, "MISDEMEANORS" INCLUDES**
4 **ORDINANCE VIOLATIONS.**

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

17 (3) If a defendant is before the circuit court and the court
18 delays imposing sentence under subsection (2), the court shall
19 include in the delayed sentence order that the department of
20 corrections shall collect a supervision fee of not more than
21 \$135.00 multiplied by the number of months of delay ordered, but
22 not more than 12 months. The fee is payable when the delayed
23 sentence order is entered, but the fee may be paid in monthly
24 installments if the court approves installment payments for that
25 defendant. In determining the amount of the fee, the court shall
26 consider the defendant's projected income and financial
27 resources. The court shall use the following table of projected

1 monthly income in determining the amount of the fee to be
 2 ordered:

3	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
4	\$ 0-249.99	\$ 0.00
5	\$ 250.00-499.99	\$ 10.00
6	\$ 500.00-749.99	\$ 25.00
7	\$ 750.00-999.99	\$ 40.00
8	\$ 1,000.00 or more	5% of projected monthly
9		income, but not more than
10		\$135.00

11 The court may order a higher amount than indicated by the
 12 table, up to the maximum of \$135.00 multiplied by the number of
 13 months of delay ordered but not more than 12 months, if the court
 14 determines that the defendant has sufficient assets or other
 15 financial resources to warrant the higher amount. If the court
 16 orders a higher amount, the amount and the reasons for ordering
 17 that amount shall be stated in the court order. The fee shall be
 18 collected as provided in section 25a of the corrections code of
 19 1953, 1953 PA 232, MCL 791.225a. A person shall not be subject to
 20 more than 1 supervision fee at the same time. If a supervision
 21 fee is ordered for a person for any month or months during which
 22 that person already is subject to a supervision fee, the court
 23 shall waive the fee having the shorter remaining duration.

24 (4) This section does not apply to a juvenile placed on
 25 probation and committed under section 1(3) or (4) of chapter IX
 26 to an institution or agency described in the youth rehabilitation

1 services act, 1974 PA 150, MCL 803.301 to 803.309.