

# HOUSE BILL No. 5638

May 15, 2012, Introduced by Reps. Shaughnessy, Hughes, Muxlow, Graves, Jacobsen and Horn and referred to the Committee on Judiciary.

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 2006 PA 655, and by adding section 3d to chapter XI.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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CHAPTER XI

Sec. 3. (1) The sentence of probation shall 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

1 his or her application for probation.

2 (c) The probationer shall report to the probation officer,  
3 either in person or in writing, monthly or as often as the  
4 probation officer requires. This subdivision does not apply to a  
5 juvenile placed on probation and committed under section 1(3) or  
6 (4) of chapter IX to an institution or agency described in the  
7 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to  
8 803.309.

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

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

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

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

21 (h) If the probationer is required to be registered under the  
22 sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736,  
23 the probationer shall comply with that act.

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

26 (a) Be imprisoned in the county jail for not more than 12  
27 months, at the time or intervals, which may be consecutive or

1 nonconsecutive, within the probation as the court determines.  
2 However, the period of confinement shall not exceed the maximum  
3 period of imprisonment provided for the offense charged if the  
4 maximum period is less than 12 months. The court may permit day  
5 parole as authorized under 1962 PA 60, MCL 801.251 to 801.258. The  
6 court may, **SUBJECT TO SECTIONS 3D AND 3E OF THIS CHAPTER**, permit a  
7 ~~work or school release~~ **THE INDIVIDUAL TO BE RELEASED** from jail **TO**  
8 **WORK AT HIS OR HER EXISTING JOB OR TO ATTEND A SCHOOL IN WHICH HE**  
9 **OR SHE IS ENROLLED AS A STUDENT**. This subdivision does not apply to  
10 a juvenile placed on probation and committed under section 1(3) or  
11 (4) of chapter IX to an institution or agency described in the  
12 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to  
13 803.309.

14 (b) Pay immediately or within the period of his or her  
15 probation a fine imposed when placed on probation.

16 (c) Pay costs pursuant to subsection (5).

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

19 (e) Engage in community service.

20 (f) Agree to pay by wage assignment any restitution,  
21 assessment, fine, or cost imposed by the court.

22 (g) Participate in inpatient or outpatient drug treatment or,  
23 beginning January 1, 2005, participate in a drug treatment court  
24 under chapter 10A of the revised judicature act of 1961, 1961 PA  
25 236, MCL 600.1060 to 600.1082.

26 (h) Participate in mental health treatment.

27 (i) Participate in mental health or substance abuse

1 counseling.

2 (j) Participate in a community corrections program.

3 (k) Be under house arrest.

4 (l) Be subject to electronic monitoring.

5 (m) Participate in a residential probation program.

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

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

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

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

18 (3) The court may impose other lawful conditions of probation  
19 as the circumstances of the case require or warrant or as in its  
20 judgment are proper.

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

1 enforcement information network or notify that law enforcement  
2 agency and the law enforcement agency shall remove the order or  
3 amended order or the condition from the law enforcement information  
4 network.

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

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

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

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

26 (7) If a probationer is required to pay costs as part of a  
27 sentence of probation, the court may require payment to be made

1 immediately or the court may provide for payment to be made within  
2 a specified period of time or in specified installments.

3 (8) If a probationer is ordered to pay costs as part of a  
4 sentence of probation, compliance with that order shall be a  
5 condition of probation. The court may revoke probation if the  
6 probationer fails to comply with the order and if the probationer  
7 has not made a good faith effort to comply with the order. In  
8 determining whether to revoke probation, the court shall consider  
9 the probationer's employment status, earning ability, and financial  
10 resources, the willfulness of the probationer's failure to pay, and  
11 any other special circumstances that may have a bearing on the  
12 probationer's ability to pay. The proceedings provided for in this  
13 subsection are in addition to those provided in section 4 of this  
14 chapter.

15 (9) If entry of judgment is deferred in the circuit court, the  
16 court shall require the individual to pay a supervision fee in the  
17 same manner as is prescribed for a delayed sentence under section  
18 1(3) of this chapter, shall require the individual to pay the  
19 minimum state costs prescribed by section 1j of chapter IX, and may  
20 impose, as applicable, the conditions of probation described in  
21 subsections (1), (2), and (3).

22 (10) If sentencing is delayed or entry of judgment is deferred  
23 in the district court or in a municipal court, the court shall  
24 require the individual to pay the minimum state costs prescribed by  
25 section 1j of chapter IX and may impose, as applicable, the  
26 conditions of probation described in subsections (1), (2), and (3).

27 **SEC. 3D. (1) BEFORE PERMITTING AN INDIVIDUAL CONVICTED OF A**

1 FELONY TO BE RELEASED FROM JAIL UNDER SECTION 3 OF THIS CHAPTER TO  
2 ATTEND WORK OR SCHOOL, THE COURT SHALL VERIFY THAT THE INDIVIDUAL  
3 IS EMPLOYED OR IS ENROLLED IN SCHOOL, AS APPLICABLE. THE DEPARTMENT  
4 OF CORRECTIONS BUREAU OF PROBATION SHALL VERIFY TO THE COURT WITHIN  
5 7 DAYS AFTER THE INDIVIDUAL IS GRANTED RELEASE TO ATTEND WORK OR  
6 SCHOOL, AND WEEKLY THEREAFTER, THAT THE INDIVIDUAL IS ATTENDING  
7 WORK OR SCHOOL AS REQUIRED BY THE COURT.

8 (2) AS USED IN THIS SECTION, "SCHOOL" MEANS ANY OF THE  
9 FOLLOWING:

10 (A) A SCHOOL OF SECONDARY EDUCATION.

11 (B) A COMMUNITY COLLEGE, COLLEGE, OR UNIVERSITY.

12 (C) A STATE-LICENSED TECHNICAL OR VOCATIONAL SCHOOL OR  
13 PROGRAM.

14 (D) A PROGRAM THAT PREPARES THE PERSON FOR THE GENERAL  
15 EDUCATION DEVELOPMENT (GED) TEST.

16 Enacting section 1. This amendatory act does not take effect  
17 unless Senate Bill No. \_\_\_\_ or House Bill No. 5639 (request no.  
18 04369'11) of the 96th Legislature is enacted into law.