

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

***** 771.1 THIS AMENDED SECTION IS EFFECTIVE MARCH 19, 2020 *****

771.1.amended Requirements for probation; delayed sentence; fee; applicability of section to certain juveniles; waiver of fee; "electronic monitoring device" defined.

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 controlled substance offenses, if the defendant has been found guilty upon verdict or plea and the court determines that the defendant is not likely again to engage in an offensive or criminal course of conduct and that the public good does not require that the defendant suffer the penalty imposed by law, the court may place the defendant on probation under the charge and supervision of a probation officer.

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

(3) Except as provided in subsection (5), if a defendant is before the circuit court and the court delays imposing sentence under subsection (2), the court shall include in the delayed sentence order that the department of corrections collect a supervision fee of \$30.00 multiplied by the number of months of delay ordered, but not more than 12 months, if the individual is placed on supervision without electronic monitoring. If the individual is placed on supervision with an electronic monitoring device under this subsection, the court shall include in the delayed sentence order that the department of corrections collect a supervision fee of \$60.00 multiplied by the number of months of supervision ordered under the delay of sentence, but not more than 12 months. The fee is payable when the delayed sentence order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that defendant. The fee must be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person 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.

(5) The court may waive the fee required to be collected under this section if the court determines the supervised individual is indigent.

(6) As used in this section, "electronic monitoring device" includes any electronic device or instrument that is used to track the location of an individual, enforce a curfew, or detect the presence of alcohol in an individual's body.

History: 1927, Act 175, Eff. Sept. 5, 1927;—CL 1929, 17371;—Am. 1931, Act 308, Eff. Sept. 18, 1931;—Am. 1945, Act 5, Eff. Sept. 6, 1945;—CL 1948, 771.1;—Am. 1961, Act 185, Eff. Sept. 8, 1961;—Am. 1978, Act 77, Eff. Sept. 1, 1978;—Am. 1982, Act 470, Eff. Mar. 30, 1983;—Am. 1988, Act 78, Eff. Oct. 1, 1988;—Am. 1988, Act 90, Imd. Eff. Mar. 30, 1988;—Am. 1993, Act 185, Eff. Oct. 1, 1993;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999;—Am. 2002, Act 483, Eff. Oct. 1, 2002;—Am. 2002, Act 666, Eff. Mar. 1, 2003;—Am. 2004, Act 219, Eff. Jan. 1, 2005;—Am. 2006, Act 631, Imd. Eff. Jan. 3, 2007;—Am. 2019, Act 165, Eff. Mar. 19, 2020.

Former law: See section 1 of Act 105 of 1913, being CL 1915, § 2029.