



HOUSE BILL No. 4651

March 21, 1995, Introduced by Reps. Gire, Hanley, Martinez, DeHart, Freeman, McNutt, Baird, Pitoniak, Weeks, Brewer, Vaughn, Scott, LaForge, Wetters, Curtis, Harder, Brater, Pitoniak and Willard and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 3 of chapter XI of Act No. 175 of the Public Acts of 1927, entitled as amended "The code of criminal procedure," as amended by Act No. 445 of the Public Acts of 1994, being section 771.3 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Section 1. Section 3 of chapter XI of Act No. 175 of the Public Acts of 1927, as amended by Act No. 445 of the Public Acts of 1994, being section 771.3 of the Michigan Compiled Laws, is amended to read as follows:

CHAPTER XI

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

(a) The probationer shall not, during the term of his or her probation, violate any criminal law of this state, the United

1 States, or another state or any ordinance of any municipality in
2 this state or another state.

3 (b) The probationer shall not, during the term of his or her
4 probation, leave the state without the consent of the court
5 granting his or her application for probation.

6 (c) The probationer shall report to the probation officer,
7 either in person or in writing, monthly or as often as the proba-
8 tion officer requires. This subdivision does not apply to a
9 juvenile placed on probation and committed under section 1(3) or
10 (4) of chapter IX to a state institution or agency described in
11 the youth rehabilitation services act, Act No. 150 of the Public
12 Acts of 1974, being sections 803.301 to 803.309 of the Michigan
13 Compiled Laws.

14 (d) The probationer, if convicted of a felony, shall pay a
15 probation supervision fee as prescribed in section 3c of this
16 chapter.

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

22 (f) The probationer shall pay an assessment ordered under
23 section 5 of Act No. 196 of the Public Acts of 1989, being sec-
24 tion 780.905 of the Michigan Compiled Laws.

25 (g) Beginning October 1, 1995, if the probationer is
26 required to be registered pursuant to the sex offenders
27 registration act, Act No. 295 of the Public Acts of 1994, being

1 sections 28.721 to 28.732 of the Michigan Compiled Laws, the
2 probationer shall comply with that act.

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

5 (a) Be imprisoned in the county jail for not more than 12
6 months, at the time or intervals, which may be consecutive or
7 nonconsecutive, within the probation as the court determines.
8 However, the period of confinement shall not exceed the maximum
9 period of imprisonment provided for the offense charged if the
10 maximum period is less than 12 months. The court may permit day
11 parole as authorized under Act No. 60 of the Public Acts of 1961,
12 being sections 801.251 to 801.258 of the Michigan Compiled Laws.
13 The court may permit a work or school release from jail. This
14 subdivision does not apply to a juvenile placed on probation and
15 committed under section 1(3) or (4) of chapter IX to a state
16 institution or agency described in Act No. 150 of the Public Acts
17 of 1974.

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

20 (c) Pay costs pursuant to subsection (4).

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

23 (e) Engage in community service.

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

26 (g) Participate in AND SUCCESSFULLY COMPLETE 1 OR MORE
27 APPROPRIATE inpatient or outpatient REHABILITATIVE PROGRAMS,

1 INCLUDING BUT NOT LIMITED TO ALCOHOL OR drug treatment OR
2 EDUCATION PROGRAMS.

3 (h) Participate in mental health treatment.

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

6 (j) Participate in a community corrections program.

7 (k) Be under house arrest.

8 (l) Be subject to electronic monitoring.

9 (m) Participate in a residential probation program.

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

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

16 (4) The court may impose other lawful conditions of proba-
17 tion as the circumstances of the case require or warrant, or as
18 in its judgment are proper. If the court requires the proba-
19 tioner to pay costs, the costs shall be limited to expenses spe-
20 cifically incurred in prosecuting the defendant or providing
21 legal assistance to the defendant and supervision of the
22 probationer.

23 (5) If the court imposes costs as part of a sentence of pro-
24 bation, all of the following apply:

25 (a) The court shall not require a probationer to pay costs
26 unless the probationer is or will be able to pay them during the
27 term of probation. In determining the amount and method of

1 payment of costs, the court shall take into account the financial
2 resources of the probationer and the nature of the burden that
3 payment of costs will impose, with due regard to his or her other
4 obligations.

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

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

17 (7) If a probationer is ordered to pay costs as part of a
18 sentence of probation, compliance with that order shall be a con-
19 dition of probation. The court may revoke probation if the pro-
20 bationer fails to comply with the order and if the probationer
21 has not made a good faith effort to comply with the order. In
22 determining whether to revoke probation, the court shall consider
23 the probationer's employment status, earning ability, and finan-
24 cial resources, the willfulness of the probationer's failure to
25 pay, and any other special circumstances that may have a bearing
26 on the probationer's ability to pay. The proceedings provided

1 for in this subsection are in addition to those provided in
2 section 4 of this chapter.