

# HOUSE BILL No. 5533

May 6, 2014, Introduced by Rep. Schmidt and referred to the Committee on Military and Veterans Affairs.

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 2012  
PA 612.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### 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 **(I) IF THE PROBATIONER IS A VETERAN OF THE UNITED STATES ARMY,**  
25 **NAVY, AIR FORCE, MARINE CORPS, OR COAST GUARD, INCLUDING THEIR**  
26 **RESERVE COMPONENTS, OR THE NATIONAL GUARD OR AIR NATIONAL GUARD OF**  
27 **THIS STATE OR OF ANOTHER STATE, THE PROBATIONER SHALL MEET WITH A**

1 MEMBER OF A VETERAN SERVICE ORGANIZATION OR A COUNTY VETERAN  
2 COUNSELOR REGARDING AVAILABLE VETERANS BENEFIT PROGRAMS FOR WHICH  
3 THE PROBATIONER MAY QUALIFY.

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

6 (a) Be imprisoned in the county jail for not more than 12  
7 months at the time or intervals that may be consecutive or  
8 nonconsecutive, within the probation as the court determines.  
9 However, the period of confinement shall not exceed the maximum  
10 period of imprisonment provided for the offense charged if the  
11 maximum period is less than 12 months. The court may permit day  
12 parole as authorized under 1962 PA 60, MCL 801.251 to 801.258. The  
13 court may, subject to sections 3d and 3e of this chapter, permit  
14 the individual to be released from jail to work at his or her  
15 existing job or to attend a school in which he or she is enrolled  
16 as a student. This subdivision does not apply to a juvenile placed  
17 on probation and committed under section 1(3) or (4) of chapter IX  
18 to an institution or agency described in the youth rehabilitation  
19 services act, 1974 PA 150, MCL 803.301 to 803.309.

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

22 (c) Pay costs ~~pursuant to~~ **UNDER** subsection (5).

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

25 (e) Engage in community service.

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

1 (g) Participate in inpatient or outpatient drug treatment or,  
2 beginning January 1, 2005, participate in a drug treatment court  
3 under chapter 10A of the revised judicature act of 1961, 1961 PA  
4 236, MCL 600.1060 to 600.1084.

5 (h) Participate in mental health treatment.

6 (i) Participate in mental health or substance abuse  
7 counseling.

8 (j) Participate in a community corrections program.

9 (k) Be under house arrest.

10 (l) Be subject to electronic monitoring.

11 (m) Participate in a residential probation program.

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

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

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

21 (q) Complete his or her high school education or obtain the  
22 equivalency of a high school education in the form of a general  
23 education development (GED) certificate.

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

27 (4) If an order or amended order of probation contains a

1 condition for the protection of 1 or more named persons as provided  
2 in subsection (2)(o), the court or a law enforcement agency within  
3 the court's jurisdiction shall enter the order or amended order  
4 into the law enforcement information network. If the court rescinds  
5 the order or amended order or the condition, the court shall remove  
6 the order or amended order or the condition from the law  
7 enforcement information network or notify that law enforcement  
8 agency and the law enforcement agency shall remove the order or  
9 amended order or the condition from the law enforcement information  
10 network.

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

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

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

24 (b) A probationer who is required to pay costs under  
25 subsection (1)(g) or (2)(c) and who is not in willful default of  
26 the payment of the costs may petition the sentencing judge or his  
27 or her successor at any time for a remission of the payment of any

1 unpaid portion of those costs. If the court determines that payment  
2 of the amount due will impose a manifest hardship on the  
3 probationer or his or her immediate family, the court may remit all  
4 or part of the amount due in costs or modify the method of payment.

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

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

21 (9) If entry of judgment is deferred in the circuit court, the  
22 court shall require the individual to pay a supervision fee in the  
23 same manner as is prescribed for a delayed sentence under section  
24 1(3) of this chapter, shall require the individual to pay the  
25 minimum state costs prescribed by section 1j of chapter IX, and may  
26 impose, as applicable, the conditions of probation described in  
27 subsections (1), (2), and (3).

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