

SENATE BILL No. 948

May 3, 2016, Introduced by Senators PROOS, GREGORY, WARREN, BRANDENBURG, GREEN, BOOHER, NOFS, KNOLLENBERG and SCHMIDT and referred to the Committee on Michigan Competitiveness.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending the chapter heading and sections 3, 4, 5, and 6 of chapter XIA (MCL 771A.3, 771A.4, 771A.5, and 771A.6), as added by 2012 PA 616.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIA

PROBATION SWIFT AND SURE SANCTIONS ACT

Sec. 3. It is the intent of the legislature to create a voluntary state program to fund swift and sure probation supervision ~~at the local level based upon~~ **ON** the immediate detection of probation violations and **THE** prompt ~~the~~ imposition of sanctions and remedies to address those violations. In furtherance of this intent, the state swift and sure sanctions program ~~is~~ **SHALL BE IMPLEMENTED AND** created ~~with the following objectives~~.

1 **MAINTAINED AS PROVIDED IN THIS CHAPTER AS FOLLOWS:**

2 (a) Probationers are to be sentenced with prescribed terms of
3 probation meeting the objectives of this chapter. Probationers are
4 to be aware of their probation terms as well as the consequences
5 for violating the terms of their probation.

6 (b) Probationers are to be closely monitored and every
7 detected violation is to be promptly addressed by the court.

8 (c) Probationers are to be arrested as soon as a violation has
9 been detected and are to be promptly taken before a judge for a
10 hearing on the violation.

11 (d) Continued violations are to be addressed by increasing
12 sanctions and remedies as necessary to achieve results.

13 (e) To the extent possible and considering local resources,
14 probationers subject to swift and sure probation under this chapter
15 shall be treated uniformly throughout ~~the~~**THIS** state.

16 Sec. 4. (1) ~~Beginning January 1, 2013, the~~ **THE SWIFT AND SURE**
17 **PROBATION SUPERVISION FUND IS CREATED WITHIN THE STATE TREASURY.**
18 **THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM ANY**
19 **SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL DIRECT**
20 **THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT TO THE**
21 **FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS. MONEY IN THE FUND**
22 **AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL**
23 **NOT LAPSE TO THE GENERAL FUND.**

24 (2) **THE STATE TREASURER SHALL ALLOCATE SUFFICIENT FUNDS TO**
25 **ALLOW THE** state court administrative office ~~shall,~~**TO,** under the
26 supervision of the supreme court, **EXPEND FUNDS FROM THE SWIFT AND**
27 **SURE PROBATION SUPERVISION FUND TO ADMINISTER THIS CHAPTER AND TO**

1 provide grants under this chapter to fund programs of swift and
2 sure probation supervision in the circuit court that meet the
3 objectives set forth in section 3 **OF THIS CHAPTER** and the
4 requirements of section 5 **OF THIS CHAPTER**.

5 (3) ~~(2)~~—A court may apply for a grant to fund a program of
6 swift and sure probation supervision under this chapter by filing a
7 written application with the state court administrative office in
8 the manner required by that office. The funding of all grants under
9 this chapter is subject to appropriation.

10 (4) A COURT THAT HAS RECEIVED A GRANT UNDER THIS CHAPTER TO
11 FUND PROGRAMS OF SWIFT AND SURE PROBATION SUPERVISION MAY ACCEPT
12 PARTICIPANTS FROM ANY OTHER JURISDICTION IN THIS STATE BASED UPON
13 EITHER THE RESIDENCE OF THE PARTICIPANT IN THE RECEIVING
14 JURISDICTION OR THE UNAVAILABILITY OF A SWIFT AND SURE PROBATION
15 SUPERVISION PROGRAM IN THE JURISDICTION WHERE THE PARTICIPANT IS
16 CHARGED. THE TRANSFER CAN OCCUR AT ANY TIME DURING THE PROCEEDINGS,
17 INCLUDING, BUT NOT LIMITED TO, PRIOR TO ADJUDICATION. THE RECEIVING
18 COURT SHALL HAVE JURISDICTION TO IMPOSE SENTENCE, INCLUDING, BUT
19 NOT LIMITED TO, SANCTIONS, INCENTIVES, INCARCERATION, AND PHASE
20 CHANGES. A TRANSFER UNDER THIS SUBSECTION IS NOT VALID UNLESS IT IS
21 AGREED TO BY ALL OF THE FOLLOWING:

22 (A) THE DEFENDANT OR RESPONDENT IN WRITING.

23 (B) THE ATTORNEY REPRESENTING THE DEFENDANT OR RESPONDENT.

24 (C) THE JUDGE OF THE TRANSFERRING COURT AND THE PROSECUTOR OF
25 THE CASE.

26 (D) THE JUDGE OF THE RECEIVING COURT AND THE PROSECUTOR OF THE
27 RECEIVING COURT FUNDING UNIT.

1 Sec. 5. (1) A ~~program of swift and sure probation supervision~~
2 ~~funded under section 4~~ **JUDGE** shall do all of the following **IF SWIFT**
3 **AND SURE PROBATION APPLIES TO A PROBATIONER:**

4 (a) ~~Require the court to inform~~ **INFORM** the probationer in
5 person of the requirements of his or her probation and the
6 sanctions and remedies that may apply to probation violations.

7 **(B) ADHERE TO AND NOT DEPART FROM THE PRESCRIBED LIST OF**
8 **SANCTIONS AND REMEDIES IMPOSED ON THE PROBATIONER.**

9 (c) ~~(b)~~ Require the probationer to initially meet in person
10 with a probation agent or probation officer and as otherwise
11 required by the court.

12 (d) ~~(e)~~ Provide for an appearance before the judge **OR ANOTHER**
13 **JUDGE** for any probation violation as soon as possible but within 72
14 hours after the violation is reported to the court unless **THE**
15 **PROBATIONER WAIVES A HEARING OR** a departure from the 72-hour
16 requirement is authorized for good cause as determined by criteria
17 established by the state court administrative office.

18 (e) ~~(d)~~ Provide for the immediate imposition of sanctions and
19 remedies approved by the state court administrative office to
20 effectively address probation violations. The sanctions and
21 remedies approved under this subdivision may include, but need not
22 be limited to, 1 or more of the following:

23 (i) Temporary incarceration in a jail or other facility
24 authorized by law to hold probation violators.

25 (ii) Extension of the period of supervision within the period
26 provided by law.

27 (iii) Additional reporting and compliance requirements.

1 (iv) Testing for the use of drugs and alcohol.

2 (v) Counseling and treatment for emotional or other mental
3 health problems, including for substance abuse.

4 (vi) Probation revocation.

5 (2) The state court administrative office may, under the
6 supervision of the supreme court, do any of the following regarding
7 programs funded under this chapter:

8 (a) Establish general eligibility requirements for offender
9 participation.

10 (b) Require courts and offenders to enter into written
11 participation agreements.

12 (c) Create recommended and mandatory sanctions and remedies
13 for use by participating courts.

14 (d) Establish criteria for deviating from recommended and
15 mandatory sanctions and remedies ~~when~~**IF** necessary to address
16 special circumstances.

17 (e) Establish a system for determining sanctions and remedies
18 that should or may be imposed under subdivision (c) and for
19 alternative sanctions and remedies under subdivision (d).

20 Sec. 6. (1) The state court administrative office may, under
21 the supervision of the supreme court, consult with the department
22 of corrections when establishing ~~initial programming and~~
23 ~~eligibility requirements~~ under this chapter.

24 (2) **AN INDIVIDUAL IS ELIGIBLE FOR THE SWIFT AND SURE PROBATION**
25 **SUPERVISION PROGRAM IF EITHER OF THE FOLLOWING APPLIES:**

26 (A) **HE OR SHE RECEIVES A RISK SCORE OF HIGH ON A VALIDATED**
27 **RISK ASSESSMENT.**

1 (B) HE OR SHE RECEIVES A RISK SCORE OTHER THAN HIGH OR LOW ON
2 THE VALIDATED RISK ASSESSMENT AND THE JUDGE, PROSECUTOR, AND
3 DEFENDANT AGREE TO THE DEFENDANT'S PLACEMENT IN THE PROGRAM.

4 (3) A DEFENDANT WHO IS CHARGED WITH A CRIME UNDER 1 OR MORE OF
5 THE FOLLOWING IS NOT ELIGIBLE UNDER THIS CHAPTER:

6 (A) SECTIONS 316, 317, 520B, 520D, OR 544 OF THE MICHIGAN
7 PENAL CODE, 1931 PA 328, MCL 750.316, 750.317, 750.520B, 750.520D,
8 AND 750.544.

9 (B) A MAJOR CONTROLLED SUBSTANCE OFFENSE AS THAT TERM IS
10 DEFINED IN SECTION 2 OF CHAPTER I OF THE CODE OF CRIMINAL
11 PROCEDURE, 1927 PA 175, MCL 761.2.

12 Enacting section 1. This amendatory act takes effect 90 days
13 after the date it is enacted into law.