

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

***** 771.2a.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2021 *****

771.2a.amended Probation for not more than 5 years; probation for term of years; order fixing period and conditions of probation; applicability of section to certain juveniles; probation for not less than 5 years; conditions; residing or working within school safety zone; exemption; definitions.

Sec. 2a. (1) The court may place an individual convicted of violating section 411h of the Michigan penal code, 1931 PA 328, MCL 750.411h, on probation for not more than 5 years. The sentence is subject to the conditions of probation set forth in section 411h(3) of the Michigan penal code, 1931 PA 328, MCL 750.411h, and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(2) The court may place an individual convicted of violating section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i, on probation for any term of years, but not less than 5 years. The sentence is subject to the conditions of probation set forth in section 411i(4) of the Michigan penal code, 1931 PA 328, MCL 750.411i, and section 3 of this chapter. The probation is subject to revocation for any violation of a condition of that probation.

(3) The court may place an individual convicted of a violation of section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, that is designated as a misdemeanor on probation for not more than 5 years.

(4) Except as provided in subsections (2) and (6), the court may place an individual convicted of a violent felony on probation for not more than 5 years.

(5) The court shall by order, to be filed or entered in the cause as the court directs by general rule or in each case, fix and determine the period, conditions, and rehabilitation goals of probation. The order is part of the record in the cause. The court may amend the order in form or substance at any time.

(6) Subsections (1), (2), (3), (4), and (5) do 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.

(7) Except as otherwise provided by law, the court may place an individual convicted of a listed offense on probation subject to the requirements of this subsection and subsections (8) through (13) for any term of years but not less than 5 years.

(8) Except as otherwise provided in subsections (9) to (13), if an individual is placed on probation under subsection (7), the court shall order the individual not to do any of the following:

- (a) Reside within a student safety zone.
- (b) Work within a student safety zone.
- (c) Loiter within a student safety zone.

(9) The court shall not impose a condition of probation described in subsection (8)(a) if any of the following apply:

(a) The individual is not more than 19 years of age and attends secondary school or postsecondary school, and resides with his or her parent or guardian. However, an individual described in this subdivision must be ordered not to initiate or maintain contact with a minor within that student safety zone. The individual must be permitted to initiate or maintain contact with a minor with whom he or she attends secondary school or postsecondary school in conjunction with that school attendance.

(b) The individual is not more than 26 years of age, attends a special education program, and resides with his or her parent or guardian or in a group home or assisted living facility. However, an individual described in this subdivision must be ordered not to initiate or maintain contact with a minor within that student safety zone. The individual must be permitted to initiate or maintain contact with a minor with whom he or she attends a special education program in conjunction with that attendance.

(c) The individual was residing within that student safety zone on January 1, 2006. However, if the individual was residing within the student safety zone on January 1, 2006, the court shall order the individual not to initiate or maintain contact with any minors within that student safety zone. This subdivision does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(10) An order issued under subsection (8)(a) must not prohibit an individual from being a patient in a hospital or hospice that is located within a student safety zone. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(11) The court shall not impose a condition of probation described in subsection (8)(b) if the individual

was working within the student safety zone on January 1, 2006. However, if the individual was working within the student safety zone on January 1, 2006, the court shall order the individual not to initiate or maintain contact with any minors in the course of his or her employment within that student safety zone. This subsection does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(12) The court shall not impose a condition of probation described in subsection (8)(b) if the individual only intermittently or sporadically enters a student safety zone for purposes of work. If the individual intermittently or sporadically works within a student safety zone, the court shall order the individual not to initiate or maintain contact with any minors in the course of his or her employment within that safety zone. This subsection does not prohibit the court from allowing contact with any minors named in the probation order for good cause shown and as specified in the probation order.

(13) The court may exempt an individual from probation under subsection (7) if any of the following apply:

(a) The individual has successfully completed his or her probationary period under sections 11 to 15 of chapter II for committing a listed offense and has been discharged from youthful trainee status.

(b) The individual was convicted of committing or attempting to commit a violation solely described in section 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520e, and at the time of the violation was 17 years of age or older but less than 21 years of age and is not more than 5 years older than the victim.

(14) As used in this section:

(a) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) "Loiter" means to remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors.

(c) "Minor" means an individual less than 18 years of age.

(d) "School" means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12. School does not include a home school.

(e) "School property" means a building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

(i) It is used to impart educational instruction.

(ii) It is for use by students not more than 19 years of age for sports or other recreational activities.

(f) "Student safety zone" means the area that lies 1,000 feet or less from school property.

(g) "Violent felony" means that term as defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

History: Add. 1992, Act 251, Eff. Jan. 1, 1993;—Am. 1998, Act 520, Imd. Eff. Jan. 12, 1999;—Am. 2005, Act 126, Eff. Jan. 1, 2006 ;—Am. 2006, Act 507, Imd. Eff. Dec. 29, 2006;—Am. 2020, Act 397, Eff. Apr. 1, 2021.