

HOUSE BILL No. 4883

June 1, 1989, Introduced by Reps. Rocca, DeMars, Clack, Porreca, Hart, Niederstadt, Jaye, Runco, Barns, Hoffman, Van Regenmorter, Walberg, O'Connor, Munsell, Weeks, DeBeaussaert, Maynard, Leland, Gire, Ciaramitaro and Willis Bullard and referred to the Committee on Corrections.

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. 78 of the Public Acts of 1988, being section 771.3 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 3 of chapter XI of Act No. 175 of the
2 Public Acts of 1927, as amended by Act No. 78 of the Public Acts
3 of 1988, being section 771.3 of the Michigan Compiled Laws, is
4 amended to read as follows:

CHAPTER XI

5
6 Sec. 3. (1) The conditions of probation shall include the
7 following:

1 (a) That the probationer shall not, during the term of his
2 or her probation, violate any criminal law of this state, or any
3 ordinance of any municipality in the state.

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

7 (c) That the probationer shall make a report to the proba-
8 tion officer, either in person or in writing, monthly, or as
9 often as the probation officer may require. This subdivision
10 does not apply to a juvenile placed on probation and committed
11 under section 1(3) or (4) of chapter IX to a state institution or
12 agency described in the youth rehabilitation services act, Act
13 No. 150 of the Public Acts of 1974, being sections 803.301 to
14 803.309 of the Michigan Compiled Laws.

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

17 (a) Be imprisoned in the county jail for not more than 12
18 months, at ~~the time~~ TIMES or intervals ~~, which may be consecu-~~
19 ~~tive or nonconsecutive,~~ within the probation as the court may
20 determine. THE TIMES OR INTERVALS MAY BE CONSECUTIVE OR NONCON-
21 SECUTIVE, EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3).

22 However, the period of confinement shall not exceed the maximum
23 period of imprisonment provided for the offense charged if the
24 maximum period is less than 12 months. This subdivision does not
25 apply to a juvenile placed on probation and committed under sec-
26 tion 1(3) or (4) of chapter IX to a state institution or agency

1 described in Act No. 150 of the Public Acts of 1974, being
2 sections 803.301 to 803.309 of the Michigan Compiled Laws.

3 (b) Pay immediately or within the period of his or her pro-
4 bation, a fine imposed at the time of being placed on probation.

5 (c) Pay costs pursuant to subsection ~~(4)~~ (5).

6 (d) Pay restitution to the victim or the victim's estate.

7 (e) Engage in community service.

8 (3) AN ORDER OF PROBATION REQUIRING THAT A PERSON BE IMPRIS-
9 ONED IN THE COUNTY JAIL AS PROVIDED IN SUBSECTION (2)(A) SHALL
10 REQUIRE THAT THE TERM OF IMPRISONMENT BE SERVED IN 1 CONSECUTIVE
11 PERIOD RATHER THAN IN NONCONSECUTIVE INTERVALS IF THE OFFENSE OF
12 WHICH THE PERSON WAS CONVICTED IS ANY OF THE FOLLOWING:

13 (A) A VIOLATION OF SECTIONS 82 TO 89, 316, 317, 321, 349 TO
14 350, 397, 529, OR 530 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931,
15 BEING SECTIONS 750.82 TO 750.89, 750.316, 750.317, 750.321,
16 750.349 TO 750.350, 750.397, 750.529, AND 750.530 OF THE MICHIGAN
17 COMPILED LAWS.

18 (B) A VIOLATION OF SECTION 7401(2) OR 7403(2)(A)(i), (ii),
19 OR (iii) OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC
20 ACTS OF 1978, BEING SECTIONS 333.7401 AND 333.7403 OF THE
21 MICHIGAN COMPILED LAWS.

22 (4) ~~(3)~~ Subsection (2) shall not apply to a person who is
23 placed on probation for life pursuant to sections 1(3) and 2(3)
24 of this chapter.

25 (5) ~~(4)~~ The court may impose other lawful conditions of
26 probation as the circumstances of the case may require or
27 warrant, or as in its judgment may be proper. If the court

1 requires the probationer to pay costs, the costs shall be limited
2 to expenses specifically incurred in prosecuting the defendant or
3 providing legal assistance to the defendant and probationary
4 oversight of the probationer.

5 (6) ~~-(5)-~~ If the court imposes restitution or costs as part
6 of a sentence of probation, the following shall apply:

7 (a) The court shall not require a probationer to pay resti-
8 tution or costs unless the probationer is or will be able to pay
9 them during the term of probation. In determining the amount and
10 method of payment of restitution and costs, the court shall take
11 into account the financial resources of the probationer and the
12 nature of the burden that payment of restitution or costs will
13 impose, with due regard to his or her other obligations.

14 (b) A probationer who is required to pay restitution or
15 costs and who is not in willful default of the payment of the
16 restitution or costs, at any time, may petition the sentencing
17 judge or his or her successor for a remission of the payment of
18 any unpaid portion of restitution, costs, or both. If it appears
19 to the satisfaction of the court that payment of the amount due
20 will impose a manifest hardship on the probationer or his or her
21 immediate family, the court may remit all or part of the amount
22 due in restitution or costs or modify the method of payment.

23 (7) ~~-(6)-~~ If a probationer is required to pay restitution or
24 costs as part of a sentence of probation, the court may require
25 payment to be made immediately or the court may provide for pay-
26 ment to be made within a specified period of time or in specified
27 installments.

1 (8) ~~-(7)-~~ If a probationer is ordered to pay restitution or
2 costs as part of a sentence of probation, compliance with that
3 order shall be a condition of probation. The court may revoke
4 probation if the probationer fails to comply with the order and
5 if the probationer has not made a good faith effort to comply
6 with the order. In determining whether to revoke probation, the
7 court shall consider the probationer's employment status, earning
8 ability, financial resources, and the willfulness of the
9 probationer's failure to pay, and any other special circumstances
10 that may have a bearing on the probationer's ability to pay. The
11 proceedings provided for in this subsection shall be in addition
12 to those provided in section 4 of this chapter. A juvenile
13 placed on probation and committed under section 1(3) or (4) of
14 chapter IX to a state institution or agency described in Act
15 No. 150 of the Public Acts of 1974, being sections 803.301 to
16 803.309 of the Michigan Compiled Laws, shall not be committed to
17 the department of corrections for failure to comply with a resti-
18 tution order.