

SENATE BILL No. 546

September 27, 1989, Introduced by Senator N. SMITH and referred to the Committee on Criminal Justice and Urban Affairs.

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 ALL
7 OF the 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 (D) THAT THE PROBATIONER SHALL PAY THE ADMINISTRATIVE AND
16 OTHER COSTS OF HIS OR HER PROBATION, EXCEPT AS OTHERWISE PROVIDED
17 IN SUBSECTION (5).

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

20 (a) Be imprisoned in the county jail for not more than 12
21 months, at the time or intervals, which may be consecutive or
22 nonconsecutive, within the TERM OF probation as the court may
23 determine. However, the period of confinement shall not exceed
24 the maximum period of imprisonment provided for the offense
25 charged if the maximum period is less than 12 months. This sub-
26 division does not apply to a juvenile placed on probation and
27 committed under section 1(3) or (4) of chapter IX to a state

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

4 (b) Pay immediately or within the ~~period~~ TERM of his or
5 her probation, a fine imposed at the time of being placed on
6 probation.

7 (c) Pay costs ~~pursuant to subsection (4)~~ OTHER THAN THE
8 COSTS REQUIRED TO BE PAID UNDER SUBSECTION (1)(D). THESE COSTS
9 SHALL BE LIMITED TO EXPENSES SPECIFICALLY INCURRED IN PROSECUTING
10 THE DEFENDANT OR PROVIDING LEGAL ASSISTANCE TO THE DEFENDANT.

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

12 (e) Engage in community service.

13 (3) Subsection (2) shall not apply to a person who is placed
14 on probation for life pursuant to sections 1(3) and 2(3) of this
15 chapter.

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

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

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

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

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

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

19 (7) If a probationer is ordered to pay restitution or costs
20 as part of a sentence of probation, compliance with that order
21 shall be a condition of probation. The court may revoke proba-
22 tion if the probationer fails to comply with the order and if the
23 probationer has not made a good faith effort to comply with the
24 order. In determining whether to revoke probation, the court
25 shall consider the probationer's employment status, earning abil-
26 ity, financial resources, and the willfulness of the
27 probationer's failure to pay, and any other special circumstances

1 that may have a bearing on the probationer's ability to pay. The
2 proceedings provided for in this subsection shall be in addition
3 to those provided in section 4 of this chapter. A juvenile
4 placed on probation and committed under section 1(3) or (4) of
5 chapter IX to a state institution or agency described in Act
6 No. 150 of the Public Acts of 1974, being sections 803.301 to
7 803.309 of the Michigan Compiled Laws, shall not be committed to
8 the department of corrections for failure to comply with a resti-
9 tution order.