

# HOUSE BILL No. 5667

March 11, 1998, Introduced by Reps. Schauer, Scranton, Baird, Nye, Richner, Dobb, Rocca, Cropsey, Curtis, McBryde, Gilmer, Frank, Jansen, Law, Horton, Godchaux, Wetters, Dalman, Murphy, Scott, Johnson, Geiger, Bobier, Galloway, Middleton, Bodem, Llewellyn, Oxender, Walberg, Cassis, Birkholz, Crissman, Jellema and Voorhees and referred to the Committee on Judiciary.

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  
1994 PA 445.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### 1 CHAPTER XI

2 Sec. 3. (1) The sentence of probation shall include all of  
3 the following conditions:

4 (a) The probationer shall not, during the term of his or her  
5 probation, violate any criminal law of this state, the United  
6 States, or another state or any ordinance of any municipality in  
7 this state or another state.

8 (b) The probationer shall not, during the term of his or her  
9 probation, leave the state without the consent of the court  
10 granting his or her application for probation.

1 (c) The probationer shall report to the probation officer,  
2 either in person or in writing, monthly or as often as the proba-  
3 tion officer requires. This subdivision does not apply to a  
4 juvenile placed on probation and committed under section 1(3) or  
5 (4) of chapter IX to a state institution or agency described in  
6 the youth rehabilitation services act, ~~Act No. 150 of the Public~~  
7 ~~Acts of 1974, being sections 803.301 to 803.309 of the Michigan~~  
8 ~~Compiled Laws~~ 1974 PA 150, MCL 803.301 TO 803.309.

9 (d) The probationer, if convicted of a felony, 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  
13 the defendant's course of conduct giving rise to the conviction  
14 or to the victim's estate as provided in chapter IX. An order  
15 for payment of restitution may be modified and shall be enforced  
16 as provided in chapter IX.

17 (f) The probationer shall pay an assessment ordered under  
18 section 5 of ~~Act No. 196 of the Public Acts of 1989, being sec-~~  
19 ~~tion 780.905 of the Michigan Compiled Laws~~ 1989 PA 196, MCL  
20 780.905.

21 (g) ~~Beginning October 1, 1995, if~~ IF the probationer is  
22 required to be registered ~~pursuant to~~ UNDER the sex offenders  
23 registration act, ~~Act No. 295 of the Public Acts of 1994, being~~  
24 ~~sections 28.721 to 28.732 of the Michigan Compiled Laws~~ 1994 PA  
25 295, MCL 28.721 TO 28.732, the probationer shall comply with that  
26 act.

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

3 (a) Be imprisoned in the county jail for not more than 12  
4 months, at the time or intervals, which may be consecutive or  
5 nonconsecutive, within the probation as the court determines.  
6 However, the period of confinement shall not exceed the maximum  
7 period of imprisonment provided for the offense charged if the  
8 maximum period is less than 12 months. The court may permit day  
9 parole as authorized under ~~Act No. 60 of the Public Acts of~~  
10 ~~1961, being sections 801.251 to 801.258 of the Michigan Compiled~~  
11 ~~Laws~~ 1962 PA 60, MCL 801.251 TO 801.258. The court may permit a  
12 work or school release from jail. This subdivision does not  
13 apply to a juvenile placed on probation and committed under sec-  
14 tion 1(3) or (4) of chapter IX to a state institution or agency  
15 described in ~~Act No. 150 of the Public Acts of 1974~~ THE YOUTH  
16 REHABILITATION SERVICES ACT, 1974 PA 150, MCL 803.301 TO  
17 803.309.

18 (b) Pay immediately or within the period of his or her pro-  
19 bation a fine imposed when placed on probation.

20 (c) Pay costs pursuant to subsection (4).

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

23 (e) Engage in community service.

24 (f) Agree to pay BY WAGE ASSIGNMENT any restitution, assess-  
25 ment, fine, or cost imposed by the court. ~~by wage assignment.~~

26 (g) Participate in inpatient or outpatient drug treatment.

- 1 (h) Participate in mental health treatment.
- 2 (i) Participate in mental health or substance abuse  
3 counseling.
- 4 (j) Participate in a community corrections program.
- 5 (k) Be under house arrest.
- 6 (l) Be subject to electronic monitoring.
- 7 (m) Participate in a residential probation program.
- 8 (n) Satisfactorily complete a program of incarceration in a  
9 special alternative incarceration unit as provided in section 3b  
10 of this chapter.
- 11 (O) NOT PURCHASE OR POSSESS A FIREARM.
- 12 (P) BE SUBJECT TO CONDITIONS REASONABLY NECESSARY TO PROTECT  
13 1 OR MORE NAMED PERSONS.
- 14 (3) Subsection (2) may be applied to a person who is placed  
15 on probation for life pursuant to sections 1(4) and 2(3) of this  
16 chapter for the first 5 years of that probation.
- 17 (4) The court may impose other lawful conditions of proba-  
18 tion as the circumstances of the case require or warrant ~~—~~ or  
19 as in its judgment are proper.
- 20 (5) IF A PROBATION ORDER CONTAINS A CONDITION TO PROTECT 1  
21 OR MORE NAMED PERSONS AS PROVIDED IN SUBSECTION (2)(P), THE COURT  
22 SHALL IMMEDIATELY DIRECT A LAW ENFORCEMENT AGENCY WITHIN THE  
23 COURT'S JURISDICTION TO ENTER THE ORDER INTO THE LAW ENFORCEMENT  
24 INFORMATION NETWORK AND THAT LAW ENFORCEMENT AGENCY SHALL IMMEDI-  
25 ATELY ENTER THE ORDER INTO THE LAW ENFORCEMENT INFORMATION  
26 NETWORK. IF THE COURT RESCINDS OR AMENDS THE ORDER OR MODIFIES  
27 THE CONDITION, THE COURT SHALL IMMEDIATELY ORDER THAT LAW

1 ENFORCEMENT AGENCY TO REMOVE THE ORDER OR TO ENTER THE AMENDED  
2 ORDER OR MODIFIED CONDITION. THE LAW ENFORCEMENT AGENCY SHALL  
3 REMOVE THE ORDER FROM OR ENTER THE AMENDED ORDER OR MODIFIED CON-  
4 DITION INTO THE LAW ENFORCEMENT INFORMATION NETWORK AS THE COURT  
5 DIRECTS OR UPON EXPIRATION OF THE TERM OF PROBATION.

6 (6) If the court requires the probationer to pay costs, the  
7 costs shall be limited to expenses specifically incurred in pros-  
8 ecuting the defendant or providing legal assistance to the  
9 defendant and supervision of the probationer.

10 (7) ~~(5)~~ If the court imposes costs as part of a sentence  
11 of probation, all of the following apply:

12 (a) The court shall not require a probationer to pay costs  
13 unless the probationer is or will be able to pay them during the  
14 term of probation. In determining the amount and method of pay-  
15 ment of costs, the court shall take into account the financial  
16 resources of the probationer and the nature of the burden that  
17 payment of costs will impose, with due regard to his or her other  
18 obligations.

19 (b) A probationer who is required to pay costs and who is  
20 not in willful default of the payment of the costs ~~—, at any~~  
21 ~~time,~~ may petition the sentencing judge or his or her successor  
22 AT ANY TIME for a remission of the payment of any unpaid portion  
23 of those costs. If the court determines that payment of the  
24 amount due will impose a manifest hardship on the probationer or  
25 his or her immediate family, the court may remit all or part of  
26 the amount due in costs or modify the method of payment.

1           (8) ~~-(6)-~~ If a probationer is required to pay costs as part  
2 of a sentence of probation, the court may require payment to be  
3 made immediately or the court may provide for payment to be made  
4 within a specified period of time or in specified installments.

5           (9) ~~-(7)-~~ If a probationer is ordered to pay costs as part  
6 of a sentence of probation, compliance with that order shall be a  
7 condition of probation. The court may revoke probation if the  
8 probationer fails to comply with the order and if the probationer  
9 has not made a good faith effort to comply with the order. In  
10 determining whether to revoke probation, the court shall consider  
11 the probationer's employment status, earning ability, and finan-  
12 cial resources, the willfulness of the probationer's failure to  
13 pay, and any other special circumstances that may have a bearing  
14 on the probationer's ability to pay. The proceedings provided  
15 for in this subsection are in addition to those provided in sec-  
16 tion 4 of this chapter.

17           Enacting section 1. This amendatory act takes effect  
18 September 1, 1998.