

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 129

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
by amending section 2a of chapter XI (MCL 771.2a), as amended by  
1998 PA 520.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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CHAPTER XI

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 750.400h, and section  
3 of this chapter. The probation is subject to revocation for any  
violation of a condition of that probation.

1 (2) The court may place an individual convicted of violating  
2 section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i,  
3 on probation for any term of years, but not less than 5 years. The  
4 sentence is subject to the conditions of probation set forth in  
5 section 411i(4) of the Michigan penal code, 1931 PA 328, MCL  
6 750.411i, and section 3 of this chapter. The probation is subject  
7 to revocation for any violation of a condition of that probation.

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

13 (4) ~~This section does~~ **SUBSECTIONS (1), (2), AND (3) DO** not  
14 apply to a juvenile placed on probation and committed under section  
15 1(3) or (4) of chapter IX to an institution or agency described in  
16 the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to  
17 803.309.

18 (5) **EXCEPT AS OTHERWISE PROVIDED BY LAW, THE COURT MAY PLACE**  
19 **AN INDIVIDUAL CONVICTED OF A LISTED OFFENSE ON PROBATION SUBJECT TO**  
20 **THE REQUIREMENTS OF THIS SUBSECTION AND SUBSECTIONS (6) THROUGH**  
21 **(11) FOR ANY TERM OF YEARS BUT NOT LESS THAN 5 YEARS.**

22 (6) **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (7) TO (11),**  
23 **IF AN INDIVIDUAL IS PLACED ON PROBATION UNDER SUBSECTION (5), THE**  
24 **COURT SHALL ORDER THE INDIVIDUAL NOT TO DO ANY OF THE FOLLOWING:**

25 (A) **RESIDE WITHIN A STUDENT SAFETY ZONE.**

26 (B) **WORK WITHIN A STUDENT SAFETY ZONE.**

27 (C) **LOITER WITHIN A STUDENT SAFETY ZONE.**

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1 (7) THE COURT SHALL NOT IMPOSE A CONDITION OF PROBATION  
2 DESCRIBED IN SUBSECTION (6) (A) IF ANY OF THE FOLLOWING APPLY:

3 (A) THE INDIVIDUAL IS NOT MORE THAN 19 YEARS OF AGE AND  
4 ATTENDS SECONDARY SCHOOL OR POSTSECONDARY SCHOOL, AND RESIDES WITH  
5 HIS OR HER PARENT OR GUARDIAN. HOWEVER, AN INDIVIDUAL DESCRIBED IN  
6 THIS SUBDIVISION SHALL BE ORDERED NOT TO INITIATE OR MAINTAIN  
7 CONTACT WITH A MINOR WITHIN THAT STUDENT SAFETY ZONE. THE  
8 INDIVIDUAL SHALL BE PERMITTED TO INITIATE OR MAINTAIN CONTACT WITH  
9 A MINOR WITH WHOM HE OR SHE ATTENDS SECONDARY SCHOOL OR  
10 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 SHALL BE ORDERED NOT TO INITIATE OR  
MAINTAIN CONTACT WITH A MINOR WITHIN THAT STUDENT SAFETY ZONE. THE  
INDIVIDUAL SHALL 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.

11 (C) THE INDIVIDUAL WAS RESIDING WITHIN THAT STUDENT SAFETY  
12 ZONE AT THE TIME THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION WAS  
13 ENACTED INTO LAW. HOWEVER, IF THE INDIVIDUAL WAS RESIDING WITHIN  
14 THE STUDENT SAFETY ZONE AT THE TIME THE AMENDATORY ACT THAT ADDED  
15 THIS SUBDIVISION WAS ENACTED INTO LAW, THE COURT SHALL ORDER THE  
16 INDIVIDUAL NOT TO INITIATE OR MAINTAIN CONTACT WITH ANY MINORS  
17 WITHIN THAT STUDENT SAFETY ZONE. THIS SUBDIVISION DOES NOT PROHIBIT  
18 THE COURT FROM ALLOWING CONTACT WITH ANY MINORS NAMED IN THE  
19 PROBATION ORDER FOR GOOD CAUSE SHOWN AND AS SPECIFIED IN THE  
20 PROBATION ORDER.

21 (8) AN ORDER ISSUED UNDER SUBSECTION (6) (A) SHALL NOT PROHIBIT  
22 AN INDIVIDUAL FROM BEING A PATIENT IN A HOSPITAL OR HOSPICE THAT IS  
23 LOCATED WITHIN A STUDENT SAFETY ZONE. HOWEVER, THIS EXCEPTION DOES  
24 NOT APPLY TO AN INDIVIDUAL WHO INITIATES OR MAINTAINS CONTACT WITH  
25 A MINOR WITHIN THAT STUDENT SAFETY ZONE.

26 (9) THE COURT SHALL NOT IMPOSE A CONDITION OF PROBATION  
27 DESCRIBED IN SUBSECTION (6) (B) IF THE INDIVIDUAL WAS WORKING WITHIN

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1 THE STUDENT SAFETY ZONE AT THE TIME THE AMENDATORY ACT THAT ADDED  
2 THIS SUBSECTION WAS ENACTED INTO LAW. HOWEVER, IF THE INDIVIDUAL  
3 WAS WORKING WITHIN THE STUDENT SAFETY ZONE AT THE TIME THE  
4 AMENDATORY ACT THAT ADDED THIS SUBSECTION WAS ENACTED INTO LAW, THE  
5 COURT SHALL ORDER THE INDIVIDUAL NOT TO INITIATE OR MAINTAIN  
6 CONTACT WITH ANY MINORS IN THE COURSE OF HIS OR HER EMPLOYMENT  
7 WITHIN THAT STUDENT SAFETY ZONE. THIS SUBSECTION DOES NOT PROHIBIT  
8 THE COURT FROM ALLOWING CONTACT WITH ANY MINORS NAMED IN THE  
9 PROBATION ORDER FOR GOOD CAUSE SHOWN AND AS SPECIFIED IN THE  
10 PROBATION ORDER.

11 (10) THE COURT SHALL NOT IMPOSE A CONDITION OF PROBATION  
12 DESCRIBED IN SUBSECTION (6) (B) IF THE INDIVIDUAL ONLY  
13 INTERMITTENTLY OR SPORADICALLY ENTERS A STUDENT SAFETY ZONE FOR  
14 PURPOSES OF WORK. IF THE INDIVIDUAL INTERMITTENTLY OR SPORADICALLY  
15 WORKS WITHIN A STUDENT SAFETY ZONE, THE COURT SHALL ORDER THE  
16 INDIVIDUAL NOT TO INITIATE OR MAINTAIN CONTACT WITH ANY MINORS IN  
17 THE COURSE OF HIS OR HER EMPLOYMENT WITHIN THAT SAFETY ZONE. THIS  
18 SUBSECTION DOES NOT PROHIBIT THE COURT FROM ALLOWING CONTACT WITH  
19 ANY MINORS NAMED IN THE PROBATION ORDER FOR GOOD CAUSE SHOWN AND AS  
20 SPECIFIED IN THE PROBATION ORDER.

21 (11) THE COURT MAY EXEMPT AN INDIVIDUAL FROM PROBATION UNDER  
22 SUBSECTION (5) IF ANY OF THE FOLLOWING APPLY:

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(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.

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1        [(B)] THE INDIVIDUAL WAS CONVICTED OF COMMITTING OR ATTEMPTING  
2 TO COMMIT A VIOLATION SOLELY DESCRIBED IN SECTION 520E(1) (A) OF THE  
3 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520E, AND AT THE TIME OF  
4 THE VIOLATION WAS 17 YEARS OF AGE OR OLDER BUT LESS THAN 21 YEARS  
5 OF AGE AND IS NOT MORE THAN 5 YEARS OLDER THAN THE VICTIM.

6            (12) AS USED IN THIS SECTION:

7            (A) "LISTED OFFENSE" MEANS THAT TERM AS DEFINED IN SECTION 2  
8 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.722.

9            (B) "LOITER" MEANS TO REMAIN FOR A PERIOD OF TIME AND UNDER  
10 CIRCUMSTANCES THAT A REASONABLE PERSON WOULD DETERMINE IS FOR THE  
11 PRIMARY PURPOSE OF OBSERVING OR CONTACTING MINORS.

12           (C) "MINOR" MEANS AN INDIVIDUAL LESS THAN 18 YEARS OF AGE.

13           (D) "SCHOOL" MEANS A PUBLIC, PRIVATE, DENOMINATIONAL, OR  
14 PAROCHIAL SCHOOL OFFERING DEVELOPMENTAL KINDERGARTEN, KINDERGARTEN,  
15 OR ANY GRADE FROM 1 THROUGH 12. SCHOOL DOES NOT INCLUDE A HOME  
16 SCHOOL.

17           (E) "SCHOOL PROPERTY" MEANS A BUILDING, FACILITY, STRUCTURE,  
18 OR REAL PROPERTY OWNED, LEASED, OR OTHERWISE CONTROLLED BY A  
19 SCHOOL, OTHER THAN A BUILDING, FACILITY, STRUCTURE, OR REAL  
20 PROPERTY THAT IS NO LONGER IN USE ON A PERMANENT OR CONTINUOUS  
21 BASIS, TO WHICH EITHER OF THE FOLLOWING APPLIES:

22            (i) IT IS USED TO IMPART EDUCATIONAL INSTRUCTION.

23            (ii) IT IS FOR USE BY STUDENTS NOT MORE THAN 19 YEARS OF AGE  
24 FOR SPORTS OR OTHER RECREATIONAL ACTIVITIES.

25           (F) "STUDENT SAFETY ZONE" MEANS THE AREA THAT LIES 1,000 FEET  
26 OR LESS FROM SCHOOL PROPERTY.

27           Enacting section 1. This amendatory act takes effect January

1 1, 2006.