

**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

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1 violation of a condition of that probation.

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

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

14 (4) ~~This section does~~ **SUBSECTIONS (1), (2), AND (3) DO** not  
15 apply to a juvenile placed on probation and committed under section  
16 1(3) or (4) of chapter IX to an institution or agency described in  
17 the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to  
18 803.309.

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

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

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

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

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1 (C) LOITER WITHIN A STUDENT SAFETY ZONE.

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

4 (A) THE INDIVIDUAL IS <<NOT MORE THAN 19 YEARS OF AGE>>  
5 >> AND ATTENDS SECONDARY SCHOOL OR POSTSECONDARY  
6 SCHOOL, AND RESIDES WITH HIS OR HER PARENT OR GUARDIAN.

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

17 (8) AN ORDER ISSUED UNDER SUBSECTION (6) (A) SHALL NOT PROHIBIT  
18 AN INDIVIDUAL FROM BEING A PATIENT IN A HOSPITAL OR HOSPICE THAT IS  
19 LOCATED WITHIN A STUDENT SAFETY ZONE.

20 (9) THE COURT SHALL NOT IMPOSE A CONDITION OF PROBATION  
21 DESCRIBED IN SUBSECTION (6) (B) IF THE INDIVIDUAL WAS WORKING WITHIN  
22 THE STUDENT SAFETY ZONE AT THE TIME THE AMENDATORY ACT THAT ADDED  
23 THIS SUBSECTION WAS ENACTED INTO LAW. HOWEVER, IF THE INDIVIDUAL  
24 WAS WORKING WITHIN THE STUDENT SAFETY ZONE AT THE TIME THE  
25 AMENDATORY ACT THAT ADDED THIS SUBSECTION WAS ENACTED INTO LAW, THE  
26 COURT SHALL ORDER THE INDIVIDUAL NOT TO INITIATE OR MAINTAIN  
27 CONTACT WITH ANY MINORS IN THE COURSE OF HIS OR HER EMPLOYMENT

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1           WITHIN THAT STUDENT SAFETY ZONE. THIS SUBSECTION DOES NOT PROHIBIT  
2 THE COURT FROM ALLOWING CONTACT WITH ANY MINORS NAMED IN THE  
3 PROBATION ORDER FOR GOOD CAUSE SHOWN AND AS SPECIFIED IN THE  
4 PROBATION ORDER.

5           (10) THE COURT SHALL NOT IMPOSE A CONDITION OF PROBATION  
6 DESCRIBED IN SUBSECTION (6) (B) IF THE INDIVIDUAL ONLY  
7 INTERMITTENTLY OR SPORADICALLY ENTERS A STUDENT SAFETY ZONE FOR  
8 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.>>

9           (11) SUBSECTION (5) DOES NOT APPLY TO ANY OF THE FOLLOWING:

10           (A) AN INDIVIDUAL WHO IS CONVICTED AS A JUVENILE UNDER SECTION  
11 520B, 520C, OR 520D OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL  
12 750.520B, 750.520C, AND 750.520D, OF COMMITTING, ATTEMPTING TO  
13 COMMIT, OR CONSPIRING TO COMMIT A VIOLATION SOLELY DESCRIBED IN  
14 SECTION 520B(1) (A), 520C(1) (A), OR 520D(1) (A) OF THE MICHIGAN PENAL  
15 CODE, 1931 PA 328, MCL 750.520B, 750.520C, AND 750.520D, IF EITHER  
16 OF THE FOLLOWING APPLIES:

17           (i) THE INDIVIDUAL WAS UNDER 13 YEARS OF AGE WHEN HE OR SHE  
18 COMMITTED THE OFFENSE AND IS NOT MORE THAN 5 YEARS OLDER THAN THE  
19 VICTIM.

20           (ii) THE INDIVIDUAL WAS 13 YEARS OF AGE OR OLDER BUT LESS THAN  
21 17 YEARS OF AGE WHEN HE OR SHE COMMITTED THE OFFENSE AND IS NOT  
22 MORE THAN 3 YEARS OLDER THAN THE VICTIM.

23           (B) AN INDIVIDUAL WHO WAS CHARGED UNDER SECTION 520B, 520C, OR  
24 520D OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B,  
25 750.520C, AND 750.520D, WITH COMMITTING, ATTEMPTING TO COMMIT, OR  
26 CONSPIRING TO COMMIT A VIOLATION SOLELY DESCRIBED IN SECTION  
27 520B(1) (A), 520C(1) (A), OR 520D(1) (A) OF THE MICHIGAN PENAL CODE,

1 1931 PA 328, MCL 750.520B, 750.520C, AND 750.520D, AND IS CONVICTED  
2 AS A JUVENILE OF VIOLATING, ATTEMPTING TO VIOLATE, OR CONSPIRING TO  
3 VIOLATE SECTION 520E OR 520G OF THE MICHIGAN PENAL CODE, 1931 PA  
4 328, MCL 750.520E AND 750.520G, IF EITHER OF THE FOLLOWING APPLIES:

5 (i) THE INDIVIDUAL WAS UNDER 13 YEARS OF AGE WHEN HE OR SHE  
6 COMMITTED THE OFFENSE AND IS NOT MORE THAN 5 YEARS OLDER THAN THE  
7 VICTIM.

8 (ii) THE INDIVIDUAL WAS 13 YEARS OF AGE OR OLDER BUT LESS THAN  
9 17 YEARS OF AGE WHEN HE OR SHE COMMITTED THE OFFENSE AND IS NOT  
10 MORE THAN 3 YEARS OLDER THAN THE VICTIM.

11 (C) AN INDIVIDUAL WHO HAS SUCCESSFULLY COMPLETED HIS OR HER  
12 PROBATIONARY PERIOD UNDER SECTIONS 11 TO 15 OF CHAPTER II FOR  
13 COMMITTING A LISTED OFFENSE AND HAS BEEN DISCHARGED FROM YOUTHFUL  
14 TRAINEE STATUS.

15 (D) AN INDIVIDUAL CONVICTED OF COMMITTING OR ATTEMPTING TO  
16 COMMIT A VIOLATION SOLELY DESCRIBED IN SECTION 520E(1)(A) OF THE  
17 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520E, WHO AT THE TIME OF  
18 THE VIOLATION WAS 17 YEARS OF AGE OR OLDER BUT LESS THAN 21 YEARS  
19 OF AGE AND WHO IS NOT MORE THAN 5 YEARS OLDER THAN THE VICTIM.

20 (12) AS USED IN THIS SECTION:

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

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

26 (C) "MINOR" MEANS AN INDIVIDUAL LESS THAN 16 YEARS OF AGE.

27 (D) "SCHOOL" MEANS A PUBLIC, PRIVATE, DENOMINATIONAL, OR

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1 PAROCHIAL SCHOOL OFFERING DEVELOPMENTAL KINDERGARTEN, KINDERGARTEN,  
2 OR ANY GRADE FROM 1 THROUGH 12. SCHOOL DOES NOT INCLUDE A HOME  
3 SCHOOL.

4 (E) "SCHOOL PROPERTY" MEANS A BUILDING, FACILITY, STRUCTURE,  
5 OR REAL PROPERTY OWNED, LEASED, OR OTHERWISE CONTROLLED BY A SCHOOL  
6 TO WHICH EITHER OF THE FOLLOWING APPLIES:

7 (i) THE BUILDING, FACILITY, STRUCTURE, OR REAL PROPERTY IS USED  
8 TO IMPART EDUCATIONAL INSTRUCTION.<< >>

9 (ii) THE BUILDING, FACILITY, STRUCTURE, OR REAL PROPERTY IS FOR  
10 USE BY <<STUDENTS NOT MORE THAN 19 YEARS OF AGE>> FOR SPORTS OR OTHER  
RECREATIONAL ACTIVITIES.

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

13 Enacting section 1. This amendatory act takes effect October  
14 15, 2005.