

Act No. 17
Public Acts of 2017
Approved by the Governor
March 30, 2017
Filed with the Secretary of State
March 31, 2017
EFFECTIVE DATE: June 29, 2017

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Senator Proos

ENROLLED SENATE BILL No. 23

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending sections 3, 4, 5, and 6 of chapter XIA (MCL 771A.3, 771A.4, 771A.5, and 771A.6), as added by 2012 PA 616, and by adding a heading for chapter XIA.

The People of the State of Michigan enact:

CHAPTER XIA

PROBATION SWIFT AND SURE SANCTIONS ACT

Sec. 3. It is the intent of the legislature to create a voluntary state program to fund swift and sure probation supervision based on the immediate detection of probation violations and the prompt imposition of sanctions and remedies to address those violations. In furtherance of this intent, the state swift and sure sanctions program must be implemented and maintained as provided in this chapter as follows:

(a) Probationers are to be sentenced with prescribed terms of probation meeting the objectives of this chapter. Probationers are to be aware of their probation terms as well as the consequences for violating the terms of their probation.

(b) Probationers are to be closely monitored and every detected violation is to be promptly addressed by the court.

(c) Probationers are to be arrested as soon as a violation has been detected and are to be promptly taken before a judge for a hearing on the violation.

(d) Continued violations are to be addressed by increasing sanctions and remedies as necessary to achieve results.

(e) To the extent possible and considering local resources, probationers subject to swift and sure probation under this chapter shall be treated uniformly throughout this state.

Sec. 4. (1) The swift and sure probation supervision fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(2) The state treasurer shall allocate sufficient funds to allow the state court administrative office to, under the supervision of the supreme court, expend funds from the swift and sure probation supervision fund to administer this chapter and to provide grants under this chapter to fund programs of swift and sure probation supervision in the circuit court that meet the objectives set forth in section 3 of this chapter and the requirements of section 5 of this chapter.

(3) A court may apply for a grant to fund a program of swift and sure probation supervision under this chapter by filing a written application with the state court administrative office in the manner required by that office. The funding of all grants under this chapter is subject to appropriation.

(4) A court that has received a grant under this chapter to fund programs of swift and sure probation supervision may accept participants from any other jurisdiction in this state based upon either the residence of the participant in the receiving jurisdiction or the unavailability of a swift and sure probation supervision program in the jurisdiction where the participant is charged. The transfer may occur at any time during the proceedings, including, but not limited to, prior to adjudication. The receiving court shall have jurisdiction to impose sentence, including, but not limited to, sanctions, incentives, incarceration, and phase changes. A transfer under this subsection is not valid unless it is agreed to by all of the following individuals:

- (a) The defendant or respondent in writing.
- (b) The attorney representing the defendant or respondent.
- (c) The judge of the transferring court and the prosecutor of the case.
- (d) The judge of the receiving court and the prosecutor of the receiving court funding unit.

Sec. 5. (1) A judge shall do all of the following if swift and sure probation applies to a probationer:

(a) Inform the probationer in person of the requirements of his or her probation and the sanctions and remedies that may apply to probation violations.

(b) Adhere to and not depart from the prescribed list of sanctions and remedies imposed on the probationer.

(c) Require the probationer to initially meet in person with a probation agent or probation officer and as otherwise required by the court.

(d) Provide for an appearance before the judge or another judge for any probation violation as soon as possible but within 72 hours after the violation is reported to the court unless a departure from the 72-hour requirement is authorized for good cause as determined by criteria established by the state court administrative office.

(e) Provide for the immediate imposition of sanctions and remedies approved by the state court administrative office to effectively address probation violations. The sanctions and remedies approved under this subdivision may include, but are not limited to, 1 or more of the following:

- (i) Temporary incarceration in a jail or other facility authorized by law to hold probation violators.
- (ii) Extension of the period of supervision within the period provided by law.
- (iii) Additional reporting and compliance requirements.
- (iv) Testing for the use of drugs and alcohol.
- (v) Counseling and treatment for emotional or other mental health problems, including for substance abuse.
- (vi) Probation revocation.
- (vii) Any other sanction approved by the state court administrative office.

(2) The state court administrative office may, under the supervision of the supreme court, do any of the following regarding programs funded under this chapter:

- (a) Establish general eligibility requirements for offender participation.
- (b) Require courts and offenders to enter into written participation agreements.
- (c) Create recommended and mandatory sanctions and remedies for use by participating courts.

(d) Establish criteria for deviating from recommended and mandatory sanctions and remedies if necessary to address special circumstances.

(e) Establish a system for determining sanctions and remedies that should or may be imposed under subdivision (c) and for alternative sanctions and remedies under subdivision (d).

Sec. 6. (1) The state court administrative office may, under the supervision of the supreme court, consult with the department of corrections to establish programming requirements under this chapter.

(2) An individual is eligible for the swift and sure probation supervision program if he or she receives a risk score of other than low on a validated risk assessment.

(3) A defendant who is charged with a crime under 1 or more of the following is not eligible under this chapter:

(a) Section 316, 317, 520b, 520d, 529, or 544 of the Michigan penal code, 1931 PA 328, MCL 750.316, 750.317, 750.520b, 750.520d, 750.529, and 750.544.

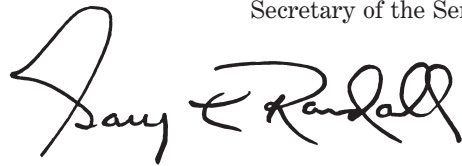
(b) A major controlled substance offense as that term is defined in section 2 of chapter I, except for a violation of section 7403(2)(a)(v) of the public health code, 1978 PA 368, MCL 333.7403.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor