

HOUSE BILL No. 5338

October 30, 1997, Introduced by Reps. Hale, Leland, Law and Kelly and referred to the Committee on Appropriations.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 1 of chapter I, section 1f of chapter IV,
section 14 of chapter VI, sections 1, 1b, and 28 of chapter IX,
and sections 1, 2, 2a, 3, 3a, 3c, 4, 5, 7, and 14a of chapter XI,
(MCL 761.1, 764.1f, 766.14, 769.1, 769.1b, 769.28, 771.1, 771.2,
771.2a, 771.3, 771.3a, 771.3c, 771.4, 771.5, 771.7, and 771.14a),
section 1 of chapter I and section 14 of chapter VI as amended by
1996 PA 418, section 1f of chapter IV as amended by 1996 PA 255,
section 1 of chapter IX as amended by 1996 PA 248, section 1b of
chapter IX and section 7 of chapter XI as amended by 1996 PA 247,
section 28 of chapter IX and sections 3a, 4, and 5 of chapter XI
as amended and section 14a of chapter XI as added by 1988 PA 78,
sections 1 and 3c of chapter XI as amended by 1993 PA 185,
section 2 of chapter XI as amended by 1994 PA 286, section 2a of

chapter XI as added by 1992 PA 251, and section 3 of chapter XI as amended by 1994 PA 445.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER I

Sec. 1. As used in this act:

(a) "Person", "accused", or a similar word means an individual or, unless a contrary intention appears, a public or private corporation, partnership, or unincorporated or voluntary association.

(b) "Act" or "doing of an act" includes "omission to act".

(c) "Property" includes any matter or thing upon or in respect to which an offense may be committed.

(d) "Indictment" means 1 or more of the following:

(i) An indictment.

(ii) An information.

(iii) A presentment.

(iv) A complaint.

(v) A warrant.

(vi) A formal written accusation.

(vii) Unless a contrary intention appears, a count contained in any document described in subparagraphs (i) through (vi).

(e) "Writing", "written", or a similar term refers to words printed, painted, engraved, lithographed, photographed, copied, traced, or otherwise made visible to the eye.

(f) "Magistrate" means a judge of the district court or a judge of a municipal court. Magistrate does not include a district court magistrate, except that a district court

1 magistrate may exercise the powers, jurisdiction, and duties of a
2 magistrate if specifically provided in this act, the revised
3 judiciary act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~
4 ~~being sections 600.101 to 600.9947 of the Michigan Compiled Laws~~
5 1961 PA 236, MCL 600.101 TO 600.9948, or any other statute. This
6 definition does not limit the power of a justice of the supreme
7 court, a circuit judge, or a judge of a court of record having
8 jurisdiction of criminal cases under this act, or deprive him or
9 her of the power to exercise the authority of a magistrate.

10 (g) "Felony" means a violation of a penal law of this state
11 for which the offender, upon conviction, may be punished by death
12 or by imprisonment for more than 1 year or an offense expressly
13 designated by law to be a felony.

14 (h) "Misdemeanor" means a violation of a penal law of this
15 state that is not a felony or a violation of an order, rule, or
16 regulation of a state agency that is punishable by imprisonment
17 or a fine that is not a civil fine.

18 (j) "Ordinance violation" means either of the following:

19 (i) A violation of an ordinance or charter of a city, vil-
20 lage, township, or county that is punishable by imprisonment or a
21 fine that is not a civil fine.

22 (ii) A violation of an ordinance, rule, or regulation of any
23 other governmental entity authorized by law to enact ordinances,
24 rules, or regulations that is punishable by imprisonment or a
25 fine that is not a civil fine.

26 (k) "Minor offense" means a misdemeanor or ordinance
27 violation for which the maximum permissible imprisonment does not

1 exceed 92 days and the maximum permissible fine does not exceed
2 \$500.00 and includes a violation described in section 9f(2) of
3 chapter IV for which the maximum permissible penalty does not
4 exceed 92 days in jail and a fine.

5 (1) "Prosecuting attorney" means the prosecuting attorney
6 for a county, an assistant prosecuting attorney for a county, the
7 attorney general, the deputy attorney general, an assistant
8 attorney general, a special prosecuting attorney, or, in connec-
9 tion with the prosecution of an ordinance violation, an attorney
10 for the political subdivision or governmental entity that enacted
11 the ordinance, charter, rule, or regulation upon which the ordi-
12 nance violation is based.

13 (m) "Judicial district" means the following:

14 (i) With regard to the circuit court, the county.

15 (ii) With regard to the recorder's court of the city of
16 Detroit, the city of Detroit.

17 (iii) With regard to municipal courts, the city in which the
18 municipal court functions or the village served by a municipal
19 court under section 9928 of the revised judicature act of 1961,
20 ~~Act No. 236 of the Public Acts of 1961, being section 600.9928~~
21 ~~of the Michigan Compiled Laws~~ 1961 PA 236, MCL 600.9928.

22 (iv) With regard to the district court, the county, dis-
23 trict, or political subdivision in which venue is proper for
24 criminal actions.

25 (n) "Complaint" means a written accusation, under oath or
26 upon affirmation, that a felony, misdemeanor, or ordinance

1 violation has been committed and that the person named or
2 described in the accusation is guilty of the offense.

3 (o) "Clerk" means the clerk or a deputy clerk of the court.

4 (p) "Federal law enforcement officer" means an officer or
5 agent employed by a law enforcement agency of the United States
6 government whose primary responsibility is ~~the enforcement of~~
7 ENFORCING laws of the United States.

8 (q) "Jail", "prison", or a similar word includes a juvenile
9 facility in which a juvenile has been placed pending trial under
10 section 27a of chapter IV.

11 (r) "Juvenile" means a person within the jurisdiction of the
12 circuit court under section 606 of the revised judicature act of
13 1961, ~~Act No. 236 of the Public Acts of 1961, being section~~
14 ~~600.606 of the Michigan Compiled Laws~~ 1961 PA 236, MCL 600.606,
15 or ~~within the jurisdiction of~~ the recorder's court of the city
16 of Detroit under section 10a(1)(c) of ~~Act No. 369 of the Public~~
17 ~~Acts of 1919, being section 725.10a of the Michigan Compiled~~
18 ~~Laws~~ 1919 PA 369, MCL 725.10A.

19 (s) "Juvenile facility" means a county facility, institution
20 operated as an agency of the county or family division of circuit
21 court, or ~~a state~~ AN institution or agency described in the
22 youth rehabilitation services act, ~~Act No. 150 of the Public~~
23 ~~Acts of 1974, being sections 803.301 to 803.309 of the Michigan~~
24 ~~Compiled Laws~~ 1974 PA 150, MCL 803.301 TO 803.309, to which a
25 juvenile has been committed under section 27a of chapter IV.

26 (T) "COUNTY JUVENILE AGENCY" MEANS THAT TERM AS DEFINED IN
27 SECTION 2 OF THE COUNTY JUVENILE AGENCY ACT.

1 (U) ~~(t)~~ "Taken", "brought", or "before" a magistrate or
2 judge for purposes of criminal arraignment or the setting of bail
3 means either of the following:

4 (i) Physical presence before a judge or district court
5 magistrate.

6 (ii) Presence before a judge or district court magistrate by
7 use of 2-way closed circuit television.

8 CHAPTER IV

9 Sec. 1f. (1) If the prosecuting attorney has reason to
10 believe that a juvenile 14 years of age or older but less than 17
11 years of age has committed a specified juvenile violation, the
12 prosecuting attorney may authorize the filing of a complaint and
13 warrant on the charge with a magistrate concerning the juvenile.

14 (2) As used in this section, "specified juvenile violation"
15 means any of the following:

(a) A violation of section 72, 83, 86, 89, 91, 316, 317, 349, 520b, 529, 529a, or 531 of the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931, being sections 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520b, 750.529, 750.529a, and 750.531 of the Michigan Compiled Laws—~~ 1931 PA 328, MCL 750.72, 750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349, 750.520B, 750.529, 750.529A, AND 750.531.

24 (b) ~~A violation of section 84 or 110a(2) of Act No. 328 of~~
25 ~~the Public Acts of 1931, being sections 750.84 and 750.110a of~~
26 ~~the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328,
27 MCL 750.84 AND 750.110A, if the juvenile is armed with a

1 dangerous weapon. As used in this subdivision, "dangerous
2 weapon" means 1 or more of the following:

3 (i) A loaded or unloaded firearm, whether operable or
4 inoperable.

5 (ii) A knife, stabbing instrument, brass knuckles, black-
6 jack, club, or other object specifically designed or customarily
7 carried or possessed for use as a weapon.

8 (iii) An object that is likely to cause death or bodily
9 injury when used as a weapon and that is used as a weapon or car-
10 ried or possessed for use as a weapon.

11 (iv) An object or device that is used or fashioned in a
12 manner to lead a person to believe the object or device is an
13 object or device described in subparagraphs (i) to (iii).

14 (c) ~~A violation of section 186a of Act No. 328 of the~~
15 ~~Public Acts of 1931, being section 750.186a of the Michigan~~
16 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
17 750.186A, regarding escape or attempted escape from a juvenile
18 facility, but only if the juvenile facility from which the indi-
19 vidual escaped or attempted to escape was 1 of the following:

20 (i) A high-security or medium-security facility operated by
21 the family independence agency OR A COUNTY JUVENILE AGENCY.

22 (ii) A high-security facility operated by a private agency
23 under contract with the family independence agency OR A COUNTY
24 JUVENILE AGENCY.

25 (d) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of
26 the public health code, ~~Act No. 368 of the Public Acts of 1978,~~

1 ~~being sections 333.7401 and 333.7403 of the Michigan Compiled~~
2 ~~Laws~~ 1978 PA 368, MCL 333.7401 AND 333.7403.

3 (e) An attempt to commit a violation described in subdivi-
4 sions (a) to (d).

5 (f) Conspiracy to commit a violation described in subdivi-
6 sions (a) to (d).

7 (g) Solicitation to commit a violation described in subdivi-
8 sions (a) to (d).

9 (h) Any lesser included offense of a violation described in
10 subdivisions (a) to (g) if the individual is charged with a vio-
11 lation described in subdivisions (a) to (g).

12 (i) Any other violation arising out of the same transaction
13 as a violation described in subdivisions (a) to (g) if the indi-
14 vidual is charged with a violation described in subdivisions (a)
15 to (g).

16 CHAPTER VI

17 Sec. 14. (1) If the court determines at the conclusion of
18 the preliminary examination of a person charged with a felony
19 that the offense charged is not a felony or that an included
20 offense that is not a felony has been committed, the accused
21 shall not be dismissed but the magistrate shall proceed in the
22 same manner as if the accused had initially been charged with an
23 offense that is not a felony.

24 (2) If at the conclusion of the preliminary examination of a
25 juvenile the magistrate finds that a specified juvenile violation
26 did not occur or that there is not probable cause to believe that
27 the juvenile committed the violation, but that there is probable

1 cause to believe that some other offense occurred and that the
 2 juvenile committed that other offense, the magistrate shall
 3 transfer the case to the family division of circuit court of the
 4 county where the offense is alleged to have been committed.

5 (3) A transfer under subsection (2) does not prevent the
 6 family division of circuit court from waiving jurisdiction over
 7 the juvenile under section 4 of chapter XIIIA of ~~Act No. 288 of~~
 8 ~~the Public Acts of 1939, being section 712A.4 of the Michigan~~
 9 ~~Compiled Laws~~ 1939 PA 288, MCL 712A.4.

10 (4) As used in this section, "specified juvenile violation"
 11 means any of the following:

12 (a) A violation of section 72, 83, 86, 89, 91, 316, 317,
 13 349, 520b, 529, 529a, or 531 of the Michigan penal code, ~~Act~~
 14 ~~No. 328 of the Public Acts of 1931, being sections 750.72,~~
 15 ~~750.83, 750.86, 750.89, 750.91, 750.316, 750.317, 750.349,~~
 16 ~~750.520b, 750.529, 750.529a, and 750.531 of the Michigan Compiled~~
 17 ~~Laws~~ 1931 PA 328, MCL 750.72, 750.83, 750.89, 750.91, 750.316,
 18 750.317, 750.349, 750.520B, 750.529, 750.529A, AND 750.531.

19 (b) ~~A violation of section 84 or 110a(2) of Act No. 328 of~~
 20 ~~the Public Acts of 1931, being sections 750.84 and 750.110a of~~
 21 ~~the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328,
 22 MCL 750.84 AND 750.110A, if the juvenile is armed with a danger-
 23 ous weapon. As used in this subdivision, "dangerous weapon"
 24 means 1 or more of the following:

25 (i) A loaded or unloaded firearm, whether operable or
 26 inoperable.

1 (ii) A knife, stabbing instrument, brass knuckles,
2 blackjack, club, or other object specifically designed or
3 customarily carried or possessed for use as a weapon.

4 (iii) An object that is likely to cause death or bodily
5 injury when used as a weapon and that is used as a weapon or car-
6 ried or possessed for use as a weapon.

7 (iv) An object or device that is used or fashioned in a
8 manner to lead a person to believe the object or device is an
9 object or device described in subparagraphs (i) to (iii).

10 (c) ~~A violation of section 186a of Act No. 328 of the~~
11 ~~Public Acts of 1931, being section 750.186a of the Michigan~~
12 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
13 750.186A, regarding escape or attempted escape from a juvenile
14 facility, but only if the juvenile facility from which the indi-
15 vidual escaped or attempted to escape was 1 of the following:

16 (i) A high-security or medium-security facility operated by
17 the family independence agency OR A COUNTY JUVENILE AGENCY.

18 (ii) A high-security facility operated by a private agency
19 under contract with the family independence agency OR A COUNTY
20 JUVENILE AGENCY.

21 (d) A violation of section 7401(2)(a)(i) or 7403(2)(a)(i) of
22 the public health code, ~~Act No. 368 of the Public Acts of 1978,~~
23 ~~being sections 333.7401 and 333.7403 of the Michigan Compiled~~
24 ~~Laws~~ 1978 PA 368, MCL 333.7401 AND 333.7403.

25 (e) An attempt to commit a violation described in subdivi-
26 sions (a) to (d).

1 (f) Conspiracy to commit a violation described in
2 subdivisions (a) to (d).

3 (g) Solicitation to commit a violation described in subdivi-
4 sions (a) to (d).

5 (h) Any lesser included offense of a violation described in
6 subdivisions (a) to (g) if the individual is charged with a vio-
7 lation described in subdivisions (a) to (g).

8 (i) Any other violation arising out of the same transaction
9 as a violation described in subdivisions (a) to (g) if the indi-
10 vidual is charged with a violation described in subdivisions (a)
11 to (g).

12 CHAPTER IX

13 Sec. 1. (1) A judge of a court having jurisdiction may pro-
14 nounce judgment against and pass sentence upon a person convicted
15 of an offense in that court. The sentence shall not exceed the
16 sentence prescribed by law. The court shall sentence a juvenile
17 convicted of any of the following crimes in the same manner as an
18 adult:

19 (a) Arson of a dwelling in violation of section 72 of the
20 Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~
21 ~~being section 750.72 of the Michigan Compiled Laws~~ 1931 PA 328,
22 MCL 750.72.

23 (b) Assault with intent to commit murder in violation of
24 section 83 of ~~Act No. 328 of the Public Acts of 1931, being sec-~~
25 ~~tion 750.83 of the Michigan Compiled Laws~~ THE MICHIGAN PENAL
26 CODE, 1931 PA 328, MCL 750.83.

1 (c) Assault with intent to maim in violation of section 86
2 of ~~Act No. 328 of the Public Acts of 1931, being section 750.86~~
3 ~~of the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA
4 328, MCL 750.86.

5 (d) Attempted murder in violation of section 91 of ~~Act~~
6 ~~No. 328 of the Public Acts of 1931, being section 750.91 of the~~
7 ~~Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
8 750.91.

9 (e) Conspiracy to commit murder in violation of section 157a
10 of ~~Act No. 328 of the Public Acts of 1931, being section~~
11 ~~750.157a of the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE,
12 1931 PA 328, MCL 750.157A.

13 (f) Solicitation to commit murder in violation of section
14 157b of ~~Act No. 328 of the Public Acts of 1931, being section~~
15 ~~750.157b of the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE,
16 1931 PA 328, MCL 750.157B.

17 (g) First degree murder in violation of section 316 of ~~Act~~
18 ~~No. 328 of the Public Acts of 1931, being section 750.316 of the~~
19 ~~Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
20 750.316.

21 (h) Second degree murder in violation of section 317 of ~~Act~~
22 ~~No. 328 of the Public Acts of 1931, being section 750.317 of the~~
23 ~~Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
24 750.317.

25 (i) Kidnapping in violation of section 349 of ~~Act No. 328~~
26 ~~of the Public Acts of 1931, being section 750.349 of the Michigan~~

1 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
2 750.349.

3 (j) First degree criminal sexual conduct in violation of
4 section 520b of ~~Act No. 328 of the Public Acts of 1931, being~~
5 ~~section 750.520b of the Michigan Compiled Laws~~ THE MICHIGAN
6 PENAL CODE, 1931 PA 328, MCL 750.520B.

7 (k) Armed robbery in violation of section 529 of ~~Act~~
8 ~~No. 328 of the Public Acts of 1931, being section 750.529 of the~~
9 ~~Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
10 750.529.

11 (l) Carjacking in violation of section 529a of ~~Act No. 328~~
12 ~~of the Public Acts of 1931, being section 750.529a of the~~
13 ~~Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
14 750.529A.

15 (2) A person convicted of a felony or of a misdemeanor pun-
16 ishable by imprisonment for more than 92 days shall not be sen-
17 tenced until the court has examined the court file and has deter-
18 mined that the PERSON'S fingerprints ~~of the person~~ have been
19 taken.

20 (3) Unless a juvenile is required to be sentenced in the
21 same manner as an adult under subsection (1), a judge of a court
22 having jurisdiction over a juvenile shall conduct a hearing at
23 the juvenile's sentencing to determine if the best interests of
24 the public would be served by placing the juvenile on probation
25 and committing the juvenile to ~~a state~~ AN institution or agency
26 described in the youth rehabilitation services act, ~~Act No. 150~~
27 ~~of the Public Acts of 1974, being sections 803.301 to 803.309 of~~

1 ~~the Michigan Compiled Laws~~ 1974 PA 150, MCL 803.301 TO 803.309,
2 or by imposing any other sentence provided by law for an adult
3 offender. Except as provided in subsection (5), the court shall
4 sentence the juvenile in the same manner as an adult unless the
5 court determines by a preponderance of the evidence that the
6 interests of the public would be best served by placing the juve-
7 nile on probation and committing the juvenile to ~~a state~~ AN
8 institution or agency described in ~~Act No. 150 of the Public~~
9 ~~Acts of 1974~~ THE YOUTH REHABILITATION SERVICES ACT, 1974 PA 150,
10 MCL 803.301 TO 803.309. The rules of evidence do not apply to a
11 hearing under this subsection. In making the determination
12 required under this subsection, the judge shall consider all of
13 the following, giving greater weight to the seriousness of the
14 alleged offense and the juvenile's prior record of delinquency:
15 (a) The seriousness of the alleged offense in terms of com-
16 munity protection, including, but not limited to, the existence
17 of any aggravating factors recognized by the sentencing guide-
18 lines, the use of a firearm or other dangerous weapon, and the
19 impact on any victim.
20 (b) The JUVENILE'S culpability ~~of the juvenile~~ in commit-
21 ting the alleged offense, including, but not limited to, the
22 level of the juvenile's participation in planning and carrying
23 out the offense and the existence of any aggravating or mitigat-
24 ing factors recognized by the sentencing guidelines.
25 (c) The juvenile's prior record of delinquency including,
26 but not limited to, any record of detention, any police record,

1 any school record, or any other evidence indicating prior
2 delinquent behavior.

3 (d) The juvenile's programming history, including, but not
4 limited to, the juvenile's past willingness to participate mean-
5 ingfully in available programming.

6 (e) The adequacy of the punishment or programming available
7 in the juvenile justice system.

8 (f) The dispositional options available for the juvenile.

9 (4) With the consent of the prosecutor and the defendant,
10 the court may waive the hearing required under subsection (3).
11 If the court waives the hearing required under subsection (3),
12 the court may place the juvenile on probation and commit the
13 juvenile to ~~a state~~ AN institution or agency described in ~~Act~~
14 ~~No. 150 of the Public Acts of 1974~~ THE YOUTH REHABILITATION
15 SERVICES ACT, 1974 PA 150, MCL 803.301 TO 803.309, but shall not
16 impose any other sentence provided by law for an adult offender.

17 (5) If a juvenile is convicted of a violation or conspiracy
18 to commit a violation of section 7401(2)(a)(i) or 7403(2)(a)(i)
19 of the public health code, ~~Act No. 368 of the Public Acts of~~
20 ~~1978, being sections 333.7401 and 333.7403 of the Michigan~~
21 ~~Compiled Laws~~ 1978 PA 368, MCL 333.7401 AND 333.7403, the court
22 shall determine whether the best interests of the public would be
23 served by imposing the sentence provided by law for an adult
24 offender, by placing the individual on probation and committing
25 the individual to ~~a state~~ AN institution or agency under
26 subsection (3), or by imposing a sentence of imprisonment for any
27 term of years but not less than 25 years. If the court

1 determines by clear and convincing evidence that the best
2 interests of the public would be served by imposing a sentence of
3 imprisonment for any term of years but not less than 25 years,
4 the court may impose that sentence. In making its determination,
5 the court shall use the criteria specified in subsection (3).

6 (6) The court shall state on the record the court's findings
7 of fact and conclusions of law for the probation and commitment
8 decision or sentencing decision made under subsection (3). If a
9 juvenile is committed under subsection (3) to ~~a state~~ AN insti-
10 tution or agency described in ~~Act No. 150 of the Public Acts of~~
11 ~~1974~~ THE YOUTH REHABILITATION SERVICES ACT, 1974 PA 150, MCL
12 803.301 TO 803.309, a transcript of the court's findings shall be
13 sent to the family independence agency OR COUNTY JUVENILE AGENCY,
14 AS APPLICABLE.

15 (7) If a juvenile is committed under subsection (3) or (4)
16 to ~~a state~~ AN institution or agency described in ~~Act No. 150~~
17 ~~of the Public Acts of 1974~~ THE YOUTH REHABILITATION SERVICES
18 ACT, 1974 PA 150, MCL 803.301 TO 803.309, the written order of
19 commitment shall contain a provision for the reimbursement to the
20 court by the juvenile or those responsible for the juvenile's
21 support, or both, for the cost of care or service. The amount of
22 reimbursement ordered shall be reasonable, taking into account
23 both the income and resources of the juvenile and those responsi-
24 ble for the juvenile's support. The amount may be based upon the
25 guidelines and model schedule prepared under section 18(6) of
26 chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~
27 ~~section 712A.18 of the Michigan Compiled Laws~~ 1939 PA 288, MCL

1 712A.18. The reimbursement provision shall apply during the
2 entire period the juvenile remains in care outside the juvenile's
3 own home and under court supervision. The court shall provide
4 for the collection of all amounts ordered to be reimbursed, and
5 the money collected shall be accounted for and reported to the
6 county board of commissioners. Collections to cover delinquent
7 accounts or to pay the balance due on reimbursement orders may be
8 made after a juvenile is released or discharged from care outside
9 the juvenile's own home and under court supervision. Twenty-five
10 percent of all amounts collected pursuant to an order entered
11 under this subsection shall be credited to the appropriate fund
12 of the county to offset the administrative cost of collections.
13 The balance of all amounts collected pursuant to an order entered
14 under this subsection shall be divided in the same ratio in which
15 the county, state, and federal government participate in the cost
16 of care outside the juvenile's own home and under COUNTY, state,
17 or court supervision. The court may also collect benefits paid
18 by the government of the United States for the cost of care of
19 the juvenile. Money collected for juveniles placed with or com-
20 mitted to the family independence agency OR A COUNTY JUVENILE
21 AGENCY shall be accounted for and reported on an individual
22 basis. In cases of delinquent accounts, the court may also enter
23 an order to intercept state tax refunds or the federal income tax
24 refund of a child, parent, guardian, or custodian and initiate
25 the necessary offset proceedings in order to recover the cost of
26 care or service. The court shall send to the person who is the
27 subject of the intercept order advance written notice of the

1 proposed offset. The notice shall include notice of the
2 opportunity to contest the offset on the grounds that the inter-
3 cept is not proper because of a mistake of fact concerning the
4 amount of the delinquency or the identity of the person subject
5 to the order. The court shall provide for the prompt reimburse-
6 ment of an amount withheld in error or an amount found to exceed
7 the delinquent amount.

8 (8) If the court appoints an attorney to represent a juve-
9 nile, an order entered under this section may require the juve-
10 nile or person responsible for the juvenile's support, or both,
11 to reimburse the court for attorney fees.

12 (9) An order directed to a person responsible for the
13 juvenile's support under this section is not binding on the
14 person unless an opportunity for a hearing has been given and
15 until a copy of the order is served on the person, personally or
16 by first-class mail to the person's last known address.

17 (10) If a juvenile is placed on probation and committed
18 under subsection (3) or (4) to ~~a state~~ AN institution or agency
19 described in ~~Act No. 150 of the Public Acts of 1974~~ THE YOUTH
20 REHABILITATION SERVICES ACT, 1974 PA 150, MCL 803.301 TO 803.309,
21 the court shall retain jurisdiction over the juvenile while the
22 juvenile is on probation and committed to that ~~state~~ institu-
23 tion or agency.

24 (11) If the court has retained jurisdiction over a juvenile
25 under subsection (10), the court shall conduct an annual review
26 of the services being provided to the juvenile, the juvenile's
27 placement, and the juvenile's progress in that placement. In

1 conducting this review, the court shall examine the juvenile's
2 annual report prepared ~~pursuant to~~ UNDER section 3 of the juve-
3 nile facilities act, ~~Act No. 73 of the Public Acts of 1988,~~
4 ~~being section 803.223 of the Michigan Compiled Laws~~ 1988 PA 73,
5 MCL 803.223. The court may order changes in the juvenile's
6 placement or treatment plan including, but not limited to, com-
7 mitting the juvenile to the jurisdiction of the department of
8 corrections, based on the review.

9 (12) If an individual who is under the court's jurisdiction
10 under section 4 of chapter XIIIA of ~~Act No. 288 of the Public~~
11 ~~Acts of 1939, being section 712A.4 of the Michigan Compiled Laws~~
12 1939 PA 288, MCL 712A.4, is convicted of a violation or conspir-
13 acy to commit a violation of section 7401(2)(a)(i) or
14 section 7403(2)(a)(i) of ~~Act No. 368 of the Public Acts of 1978~~
15 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401 AND 333.7403,
16 the court shall determine whether the best interests of the
17 public would be served by imposing the sentence provided by law
18 for an adult offender or by imposing a sentence of imprisonment
19 for any term of years but not less than 25 years. If the court
20 determines by clear and convincing evidence that the best inter-
21 ests of the public would be served by imposing a sentence of
22 imprisonment for any term of years but not less than 25 years,
23 the court may impose that sentence. In making its determination,
24 the court shall use the criteria specified in subsection (3) TO
25 THE EXTENT THEY APPLY.

26 (13) When sentencing a person convicted of a misdemeanor
27 involving the illegal delivery, possession, or use of alcohol or

1 a controlled substance or a felony, the court shall examine the
2 presentence investigation report and determine if the person
3 being sentenced is licensed or registered under article 15 of the
4 public health code, ~~Act No. 368 of the Public Acts of 1978,~~
5 ~~being sections 333.16101 to 333.18838 of the Michigan Compiled~~
6 ~~Laws~~ 1978 PA 368, MCL 333.16101 TO 333.18838. The court shall
7 also examine the court file and determine if a report of the con-
8 viction upon which the person is being sentenced has been for-
9 warded to the department of consumer and industry services as
10 provided in section 16a. If the report has not been forwarded to
11 the department of consumer and industry services, the court shall
12 order the clerk of the court to immediately prepare and forward
13 the report as provided in section 16a.

14 Sec. 1b. (1) If a juvenile is placed on probation and com-
15 mitted under section 1(3) or (4) of this chapter to ~~a state~~ AN
16 institution or agency described in the youth rehabilitation serv-
17 ices act, ~~Act No. 150 of the Public Acts of 1974, being sections~~
18 ~~803.301 to 803.309 of the Michigan Compiled Laws~~ 1974 PA 150,
19 MCL 803.301 TO 803.309, the court shall conduct a review hearing
20 to determine whether the juvenile has been rehabilitated and
21 whether the juvenile presents a serious risk to public safety.
22 If the court determines that the juvenile has not been rehabili-
23 tated or that the juvenile presents a serious risk to public
24 safety, jurisdiction over the juvenile shall be continued or the
25 court may commit the juvenile to the department of corrections as
26 provided in this section. In making this determination, the
27 court shall consider the following:

1 (a) The extent and nature of the juvenile's participation in
2 education, counseling, or work programs.

3 (b) The juvenile's willingness to accept responsibility for
4 prior behavior.

5 (c) The juvenile's behavior in his or her current
6 placement.

7 (d) The JUVENILE'S prior record and character ~~of the~~
8 ~~juvenile~~ and his or her physical and mental maturity.

9 (e) The juvenile's potential for violent conduct as demon-
10 strated by prior behavior.

11 (f) The recommendations of the ~~state~~ institution or agency
12 charged with the juvenile's care for the juvenile's release or
13 continued custody.

14 (g) Other information the prosecuting attorney or juvenile
15 may submit.

16 (2) A review hearing shall be scheduled and held unless
17 adjourned for good cause as near as possible to, but before, the
18 juvenile's nineteenth birthday. If the ~~state~~ institution or
19 agency to which the juvenile was committed believes that the
20 juvenile has been rehabilitated and that the juvenile does not
21 present a serious risk to public safety, ~~the state~~ THAT insti-
22 tution or agency may petition the court to conduct a review hear-
23 ing at any time before the juvenile becomes 19 years of age or,
24 if the court has continued jurisdiction under subsection (1), at
25 any time before the juvenile becomes 21 years of age.

26 (3) Not less than 14 days before a review hearing is to be
27 conducted, the prosecuting attorney, juvenile, and, if addresses

1 are known, the juvenile's parent or guardian shall be notified.
2 The notice shall state that the court may extend jurisdiction
3 over the juvenile and shall advise the juvenile and the
4 juvenile's parent or guardian of the right to legal counsel. If
5 legal counsel has not been retained or appointed to represent the
6 juvenile, the court shall appoint legal counsel and may assess
7 the cost of providing counsel as costs against the juvenile or
8 those responsible for the juvenile's support, or both, if the
9 persons to be assessed are financially able to comply.

10 (4) The ~~state~~ institution or agency charged with the care
11 of the juvenile shall prepare commitment reports as provided in
12 section 5 of the juvenile facilities act, ~~Act No. 73 of the~~
13 ~~Public Acts of 1988, being section 803.225 of the Michigan~~
14 ~~Compiled Laws~~ 1988 PA 73, MCL 803.225, for use by the court at a
15 review hearing held under this section.

16 (5) The court shall conduct a final review of the juvenile's
17 probation and commitment under section 1(3) or (4) OF THIS
18 CHAPTER not less than 3 months before the end of the period that
19 the juvenile is on probation and committed to the ~~state~~ insti-
20 tution or agency. If the court determines at this review that
21 the best interests of the public would be served by imposing any
22 other sentence provided by law for an adult offender, the court
23 may impose the sentence. In making its determination, the court
24 shall consider the criteria specified in subsection (1) and all
25 of the following criteria:

26 (a) The effect of treatment on the juvenile's
27 rehabilitation.

1 (b) Whether the juvenile is likely to be dangerous to the
2 public if released.

3 (c) The best interests of the public welfare and the protec-
4 tion of public security.

5 (6) Not less than 14 days before a final review hearing
6 under subsection (5) is to be conducted, the prosecuting attor-
7 ney, juvenile, and, if addresses are known, the juvenile's parent
8 or guardian shall be notified. The notice shall state that the
9 court may impose a sentence upon the juvenile under subsection
10 (5) and shall advise the juvenile and the juvenile's parent or
11 guardian of the right to legal counsel. If legal counsel has not
12 been retained or appointed to represent the juvenile, the court
13 shall appoint legal counsel and may assess the cost of providing
14 counsel as costs against the juvenile or those responsible for
15 the juvenile's support, or both, if the persons to be assessed
16 are financially able to comply.

17 (7) After a sentence is imposed under subsection (1) or (5),
18 the juvenile shall receive credit for the period of time served
19 on probation and committed to ~~a state~~ AN agency or institution
20 under section 1(3) or (4) of this chapter.

21 Sec. 28. Notwithstanding any provision of law to the con-
22 trary, ~~in case of the commitment or sentence of~~ IF a person
23 convicted of a crime or contempt of court IS COMMITTED OR
24 SENTENCED to imprisonment for a maximum of 1 year or less, the
25 commitment or sentence shall be ~~made~~ to the county jail of the
26 county in which the person was convicted ~~—~~ and not to a state
27 penal institution. This section ~~shall~~ DOES not apply to a

1 juvenile placed on probation and committed to ~~a state~~ AN
 2 institution or agency described in the youth rehabilitation serv-
 3 ices act, ~~Act No. 150 of the Public Acts of 1974, being sections~~
 4 ~~803.301 to 803.309 of the Michigan Compiled Laws~~ 1974 PA 150,
 5 MCL 803.301 TO 803.309, under section 1(3) or (4) of this
 6 chapter.

7 CHAPTER XI

8 Sec. 1. (1) In all prosecutions for felonies or misdemea-
 9 ors ~~, except~~ OTHER THAN murder, treason, criminal sexual con-
 10 duct in the first or third degree, ARMED robbery, ~~while armed,~~
 11 and major controlled substance offenses not described in subsec-
 12 tion (4), if the defendant has been found guilty upon verdict or
 13 plea ~~, and if it appears to the satisfaction of~~ the court
 14 DETERMINES that the defendant is not likely again to engage in an
 15 offensive or criminal course of conduct and that the public good
 16 does not require that the defendant suffer the penalty imposed by
 17 law, the court may place the defendant on probation under the
 18 charge and supervision of a probation officer.

19 (2) Except as provided in subsection (4), in an action in
 20 which the court may place the defendant on probation, the court
 21 may delay ~~the imposing of sentence of~~ SENTENCING the defendant
 22 for ~~a period of~~ not ~~to exceed~~ MORE THAN 1 year ~~for the pur-~~
 23 ~~pose of giving~~ TO GIVE the defendant an opportunity to prove to
 24 the court his or her eligibility for probation or other leniency
 25 compatible with the ends of justice and the DEFENDANT'S
 26 rehabilitation. ~~of the defendant.~~ When ~~the~~ sentencing is
 27 delayed, the court shall ~~make~~ ENTER an order stating the reason

1 for the delay ~~—, which order shall be entered—~~ upon the COURT'S
 2 records. ~~of the court.~~ The delay in passing sentence ~~shall~~
 3 DOES not deprive the court of jurisdiction to sentence the
 4 defendant at any time during the period of delay.

5 (3) If a defendant is before the circuit court and ~~is made~~
 6 ~~subject to a delay in~~ THE COURT DELAYS imposing sentence under
 7 subsection (2), the court shall include in the delayed sentence
 8 order that the department of corrections shall collect a supervi-
 9 sion fee of not more than \$30.00 multiplied by the number of
 10 months of delay ordered, but not more than 12 months. The fee is
 11 payable when the delayed sentence order is entered, but the fee
 12 may be paid in monthly installments if the court approves
 13 installment payments for that defendant. In determining the
 14 amount of the fee, the court shall consider the defendant's
 15 projected income and financial resources. The court shall use
 16 the following table of projected monthly income in determining
 17 the amount of the fee to be ordered:

18	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
19	\$ 0-249.99	\$ 0.00
20	\$ 250.00-499.99	\$10.00
21	\$ 500.00-749.99	\$20.00
22	\$ 750.00 or more	\$30.00

23 The court may order a higher amount than indicated by the table,
 24 up to the maximum of \$30.00 multiplied by the number of months of
 25 delay ordered but not more than 12 months, if the court
 26 determines that the defendant has sufficient assets or other

1 financial resources to warrant the higher amount. If the court
2 orders a higher amount, the amount and the reasons for ordering
3 that amount shall be stated in the court order. The fee shall be
4 collected as provided in section 25a of ~~Act No. 232 of the~~
5 ~~Public Acts of 1953, being section 791.225a of the Michigan~~
6 ~~Compiled Laws~~ 1953 PA 232, MCL 791.225A. A person shall not be
7 subject to more than 1 supervision fee at the same time. If a
8 supervision fee is ordered for a person for any month or months
9 during which that person already is subject to a supervision fee,
10 the court shall waive the fee having the shorter remaining
11 duration.

12 (4) The sentencing judge may place a defendant on life pro-
13 bation pursuant to subsection (1) if the defendant is convicted
14 for a violation of section 7401(2)(a)(iv) or 7403(2)(a)(iv) of
15 the public health code, ~~Act No. 368 of the Public Acts of 1978,~~
16 ~~being sections 333.7401 or 333.7403 of the Michigan Compiled~~
17 ~~Laws~~ 1978 PA 368, MCL 333.7401 AND 333.7403, or conspiracy to
18 commit either ~~of those 2 offenses~~ OFFENSE. Subsection (2) does
19 not apply to this subsection.

20 (5) ~~Beginning June 1, 1988, this~~ THIS section does not
21 apply to a juvenile placed on probation and committed under sec-
22 tion 1(3) or (4) of chapter IX to ~~a state~~ AN institution or
23 agency described in the youth rehabilitation services act, ~~Act~~
24 ~~No. 150 of the Public Acts of 1974, being sections 803.301 to~~
25 ~~803.309 of the Michigan Compiled Laws~~ 1974 PA 150, MCL 803.301
26 TO 803.309.

1 Sec. 2. (1) Except as provided in section 2a of this
2 chapter, if the defendant is convicted for an offense that is not
3 a felony, the PROBATION period ~~of probation~~ shall not exceed 2
4 years. Except as provided in section 2a of this chapter, if the
5 defendant is convicted of a felony that is not a major controlled
6 substance offense, the PROBATION period ~~of probation~~ shall not
7 exceed 5 years.

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

14 (3) A defendant who is placed on probation ~~pursuant to~~
15 UNDER section 1(4) of this chapter shall be placed on probation
16 for life. That sentence shall be made subject to conditions of
17 probation specified in section 3 of this chapter, including the
18 payment of a probation supervision fee as prescribed in section
19 3c of this chapter, and to revocation for violation of those con-
20 ditions, but the PROBATION period ~~of probation~~ shall not be
21 reduced other than by a revocation that results in imprisonment.

22 (4) If an individual is placed on probation for a listed
23 offense enumerated in section 2 of the sex offenders registration
24 act, 1994 PA 295, MCL 28.722, the individual's probation officer
25 shall register the individual or accept the individual's regis-
26 tration ~~pursuant to~~ AS PROVIDED IN that act.

1 (5) Subsections (1) and (3) do not apply to a juvenile
2 placed on probation and committed under section 1(3) or (4) of
3 chapter IX to ~~a state~~ AN institution or agency described in the
4 youth rehabilitation services act, ~~Act No. 150 of the Public~~
5 ~~Acts of 1974, being sections 803.301 to 803.309 of the Michigan~~
6 ~~Compiled Laws~~ 1974 PA 150, MCL 803.301 TO 803.309.

7 Sec. 2a. (1) The court may place an individual convicted of
8 violating section 411h of the Michigan penal code, ~~Act No. 328~~
9 ~~of the Public Acts of 1931, being section 750.411h of the~~
10 ~~Michigan Compiled Laws~~ 1931 PA 328, MCL 750.411H, on probation
11 for not more than 5 years. The sentence is subject to the condi-
12 tions of probation set forth in section 411h(3) of ~~Act No. 328~~
13 ~~of the Public Acts of 1931~~ THE MICHIGAN PENAL CODE, 1931 PA 328,
14 MCL 750.400H, and section 3 of this chapter. The probation is
15 subject to revocation for any violation of a condition of that
16 probation.

17 (2) The court may place an individual convicted of violating
18 section 411i of the Michigan penal code, ~~Act No. 328 of the~~
19 ~~Public Acts of 1931, being section 750.411i of the Michigan~~
20 ~~Compiled Laws~~ 1931 PA 328, MCL 750.411I, on probation for any
21 term of years, but not less than 5 years. The sentence is
22 subject to the conditions of probation set forth in
23 section 411i(4) of ~~Act No. 328 of the Public Acts of 1931~~ THE
24 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.411I, and section 3 of
25 this chapter. The probation is subject to revocation for any
26 violation of a condition of that probation.

1 (3) The court shall by order, to be filed or entered in the
2 cause as the court directs by general rule or in each case, fix
3 and determine the period and conditions of probation. The order
4 ~~, whether it is filed or entered, shall be considered as~~ IS
5 part of the record in the cause. ~~and shall be at all times~~
6 ~~alterable and amendable, both in form and in substance, in the~~
7 ~~court's discretion.~~ THE COURT MAY AMEND THE ORDER IN FORM OR
8 SUBSTANCE AT ANY TIME.

9 (4) This section does not apply to a juvenile placed on pro-
10 bation and committed under section 1(3) or (4) of chapter IX to
11 ~~a state~~ AN institution or agency described in the youth reha-
12 bilitation services act, ~~Act No. 150 of the Public Acts of 1974,~~
13 ~~being sections 803.301 to 803.309 of the Michigan Compiled Laws~~
14 1974 PA 150, MCL 803.301 TO 803.309.

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

17 (a) ~~The probationer shall not, during~~ DURING the term of
18 his or her probation, THE PROBATIONER SHALL NOT violate any crim-
19 inal law of this state, the United States, or another state or
20 any ordinance of any municipality in this state or another
21 state.

22 (b) ~~The probationer shall not, during~~ DURING the term of
23 his or her probation, THE PROBATIONER SHALL NOT leave the state
24 without the consent of the court granting his or her application
25 for probation.

26 (c) The probationer shall report to the probation officer,
27 either in person or in writing, monthly or as often as the

1 probation officer requires. This subdivision does not apply to a
2 juvenile placed on probation and committed under section 1(3) or
3 (4) of chapter IX to ~~a state~~ AN institution or agency described
4 in the youth rehabilitation services act, ~~Act No. 150 of the~~
5 ~~Public Acts of 1974, being sections 803.301 to 803.309 of the~~
6 ~~Michigan Compiled Laws~~ 1974 PA 150, MCL 803.301 TO 803.309.

7 (d) ~~The probationer, if~~ IF convicted of a felony, THE
8 PROBATIONER shall pay a probation supervision fee as prescribed
9 in section 3c of this chapter.

10 (e) The probationer shall pay restitution to the victim of
11 the defendant's course of conduct giving rise to the conviction
12 or to the victim's estate as provided in chapter IX. An order
13 for payment of restitution may be modified and shall be enforced
14 as provided in chapter IX.

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

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

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

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

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

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

19 (d) Pay any assessment ordered by the court other than an
20 assessment described in subsection (1)(f) OR (G).

21 (e) Engage in community service.

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

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

25 (h) Participate in mental health treatment.

26 (i) Participate in mental health or substance abuse
27 counseling.

(j) Participate in a community corrections program.

(k) Be under house arrest.

(l) Be subject to electronic monitoring.

(m) Participate in a residential probation program.

(n) Satisfactorily complete a program of incarceration in a special alternative incarceration unit as provided in section 3b of this chapter.

(3) Subsection (2) may be applied to a person who is placed on probation for life pursuant to sections 1(4) and 2(3) of this chapter for the first 5 years of that probation.

(4) The court may impose other lawful conditions of probation as the circumstances of the case require or warrant — or as in its judgment are proper. If the court requires the probationer to pay costs, the costs shall be limited to expenses specifically incurred in prosecuting the defendant or providing legal assistance to the defendant and supervision of the probationer.

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

(a) The court shall not require a probationer to pay costs unless the probationer is or will be able to pay them during the term of probation. In determining the amount and method of payment of costs, the court shall take into account the PROBATIONER'S financial resources ~~of the probationer~~ and the nature of the burden that payment of costs will impose, with due regard to his or her other obligations.

1 (b) A probationer who is required to pay costs and who is
2 not in willful default of the payment of the costs ~~—, at any~~
3 ~~time,~~ may petition the sentencing judge or his or her successor
4 AT ANY TIME for a remission of the payment of any unpaid portion
5 of those costs. If the court determines that payment of the
6 amount due will impose a manifest hardship on the probationer or
7 his or her immediate family, the court may remit all or part of
8 the amount due in costs or modify the method of payment.

9 (6) If a probationer is required to pay costs as part of a
10 sentence of probation, the court may require payment to be made
11 immediately or the court may provide for payment to be made
12 within a specified period of time or in specified installments.

13 (7) If a probationer is ordered to pay costs as part of a
14 sentence of probation, compliance with that order shall be a con-
15 dition of probation. The court may revoke probation if the pro-
16 bationer fails to comply with the order and if the probationer
17 has not made a good faith effort to comply with the order. In
18 determining whether to revoke probation, the court shall consider
19 the probationer's employment status, earning ability, and finan-
20 cial resources, the willfulness of the probationer's failure to
21 pay, and any other special circumstances that may have a bearing
22 on the probationer's ability to pay. The proceedings provided
23 for in this subsection are in addition to those provided in sec-
24 tion 4 of this chapter.

25 Sec. 3a. (1) A person under 22 years of age who is con-
26 victed of ~~the commission of~~ a crime in this state for which a
27 sentence in a state prison may be imposed may be required under a

1 probation order ~~of the court~~ to spend ~~a part~~ NOT MORE THAN 1
2 YEAR of the probation period, ~~not exceeding 1 year~~ as the court
3 directs, in a probation camp made available to the court by the
4 department of corrections. Admission to a probation camp under
5 this section shall be made only with the prior consent of the
6 department of corrections. The department shall have custody of
7 the ~~person of the~~ probationer for the period ~~directed by~~ the
8 court DIRECTS. A probationer fleeing the DEPARTMENT'S custody
9 ~~of the department~~ may be pursued and recaptured as if the pro-
10 bationer had been regularly committed to a penal institution and
11 had escaped from the institution. A violation by the probationer
12 of the department's rules ~~shall constitute~~ CONSTITUTES suffi-
13 cient grounds for the court to revoke its probation order and to
14 sentence the probationer for the offense for which ~~the~~
15 ~~probationer~~ HE OR SHE was originally convicted and placed on
16 probation. This section ~~shall~~ DOES not restrict or limit the
17 COURT'S jurisdiction ~~of the court~~ to place a person on proba-
18 tion in another facility suitable and available to the court.
19 The expense of transporting a probationer to and from the proba-
20 tion camp shall be borne by the county from which the probationer
21 was committed to the department of corrections.

22 (2) This section does not apply to a person placed on proba-
23 tion ~~pursuant to~~ UNDER sections 1(3) and 2(3) of this chapter
24 ~~nor~~ OR to a juvenile placed on probation and committed under
25 section 1(3) or (4) of chapter IX to ~~a state~~ AN institution or
26 agency described in the youth rehabilitation services act, ~~Act~~
27 ~~No. 150 of the Public Acts of 1974, being sections 803.301 to~~

~~1 803.309 of the Michigan Compiled Laws~~ 1974 PA 150, MCL 803.301
 2 TO 803.309.

3 Sec. 3c. (1) The circuit court shall include in each order
 4 of probation for a defendant convicted of a felony that the
 5 department of corrections shall collect a probation supervision
 6 fee of not more than \$30.00 multiplied by the number of months of
 7 probation ordered, but not more than 60 months. The fee is pay-
 8 able when the probation order is entered, but the fee may be paid
 9 in monthly installments if the court approves installment pay-
 10 ments for that probationer. In determining the amount of the
 11 fee, the court shall consider the probationer's projected income
 12 and financial resources. The court shall use the following table
 13 of projected monthly income in determining the amount of the fee
 14 to be ordered:

15	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
16	\$ 0-249.99	\$0.00
17	\$ 250.00-499.99	\$10.00
18	\$ 500.00-749.99	\$20.00
19	\$ 750.00 or more	\$30.00

20 The court may order a higher amount than indicated by the table,
 21 up to the maximum of \$30.00 multiplied by the number of months of
 22 probation ordered, but not more than 60 months, if the court
 23 determines that the probationer has sufficient assets or other
 24 financial resources to warrant the higher amount. If the court
 25 orders a higher amount, the amount and the reasons for ordering
 26 that amount shall be stated in the court order. The fee shall be

1 collected as provided in section 25a of ~~Act No. 232 of the~~
2 ~~Public Acts of 1953, being section 791.225a of the Michigan~~
3 ~~Compiled Laws~~ 1953 PA 232, MCL 791.225A. A person shall not be
4 subject to more than 1 supervision fee at the same time. If a
5 supervision fee is ordered for a person for any month or months
6 during which that person already is subject to a supervision fee,
7 the court shall waive the fee having the shorter remaining
8 duration.

9 (2) A probation oversight fee ordered before October 1, 1993
10 ~~, pursuant to~~ UNDER this section as it existed before ~~the 1993~~
11 ~~amendatory act that amended this section~~ AMENDMENT BY 1993 PA
12 185 remains enforceable according to the terms of that probation
13 order notwithstanding the amendments made by ~~the 1993 amendatory~~
14 ~~act that amended~~ 1993 PA 185 TO this section.

15 (3) If a person who is subject to a probation supervision
16 fee is also subject to any combination of fines, costs, restitu-
17 tion orders, assessments, or payments arising out of the same
18 criminal proceeding, the allocation of money collected for those
19 obligations shall be as otherwise provided in the code of crimi-
20 nal procedure, ~~Act No. 175 of the Public Acts of 1927, being~~
21 ~~sections 760.1 to 776.21 of the Michigan Compiled Laws~~ 1927 PA
22 175, MCL 760.1 TO 776.22.

23 (4) This section does not apply to a juvenile placed on pro-
24 bation and committed under section 1(3) or (4) of chapter IX to
25 ~~a state~~ AN institution or agency described in the youth reha-
26 bilitation services act, ~~Act No. 150 of the Public Acts of 1974,~~

1 ~~being sections 803.301 to 803.309 of the Michigan Compiled Laws~~
2 1974 PA 150, MCL 803.301 TO 803.309.

3 Sec. 4. It is the intent of the legislature that the grant-
4 ing of probation ~~shall be~~ IS a matter of grace conferring no
5 vested right to its continuance. If during the PROBATION period
6 ~~of probation it appears to~~ the sentencing ~~court's~~
7 ~~satisfaction~~ COURT DETERMINES that the probationer is likely
8 again to engage in an offensive or criminal course of conduct or
9 that the public good requires revocation of probation, the court
10 may revoke probation. All probation orders ~~shall be~~ ARE revo-
11 cable in any manner ~~which~~ the court ~~which~~ THAT imposed proba-
12 tion ~~shall consider~~ CONSIDERS applicable either for a violation
13 or attempted violation of a PROBATION condition ~~of probation~~ or
14 for any other type of antisocial conduct or action on the
15 PROBATIONER'S part ~~of the probationer~~ FOR which ~~shall satisfy~~
16 the court DETERMINES that revocation is proper in the public
17 interest. Hearings on the revocation shall be summary and infor-
18 mal and not subject to the rules of evidence or of pleadings
19 applicable in criminal trials. ~~The court may, in~~ IN its proba-
20 tion order or by general rule, THE COURT MAY provide for the
21 apprehension, detention, and confinement of a probationer accused
22 of ~~a violation of~~ VIOLATING a probation condition or ~~of~~ con-
23 duct inconsistent with the public good. The method of hearing
24 and presentation of charges ~~accorded shall lie~~ ARE within the
25 court's discretion, ~~which granted probation~~ except that the
26 probationer ~~shall be~~ IS entitled to a written copy of the
27 charges ~~against him or her which constitute~~ CONSTITUTING the

1 claim that he or she violated probation ~~—~~ and ~~shall be~~
 2 ~~entitled~~ to a probation revocation hearing. The court may
 3 investigate and enter a disposition of THE probationer as the
 4 court determines best serves the public interest. If a probation
 5 order is revoked, the court may ~~proceed to~~ sentence the proba-
 6 tioner in the same manner and to the same penalty as the court
 7 might have done if the probation order had never been made. This
 8 section does not apply to a juvenile placed on probation and com-
 9 mitted under section 1(3) or (4) of chapter IX to ~~a state~~ AN
 10 institution or agency described in the youth rehabilitation serv-
 11 ices act, ~~Act No. 150 of the Public Acts of 1974, being sections~~
 12 ~~803.301 to 803.309 of the Michigan Compiled Laws~~ 1974 PA 150,
 13 MCL 803.301 TO 803.309.

14 Sec. 5. (1) ~~Upon the termination of~~ WHEN the probation
 15 period TERMINATES, the probation officer shall report ~~the~~ THAT
 16 fact ~~to the court~~ and ~~shall report~~ the PROBATIONER'S conduct
 17 ~~of the probationer~~ during the PROBATION period ~~of probation~~
 18 TO THE COURT. Upon ~~receipt of~~ RECEIVING the report, the court
 19 may discharge the probationer from further supervision and enter
 20 a judgment of suspended sentence or extend the probation period
 21 as the circumstances require, so long as the maximum PROBATION
 22 period ~~of probation~~ is not exceeded.

23 (2) This section does not apply to a juvenile placed on pro-
 24 bation and committed under section 1(3) or (4) of chapter IX to
 25 ~~a state~~ AN institution or agency described in the youth reha-
 26 bilitation services act, ~~Act No. 150 of the Public Acts of 1974,~~

1 ~~being sections 803.301 to 803.309 of the Michigan Compiled Laws~~
2 1974 PA 150, MCL 803.301 TO 803.309.

3 Sec. 7. (1) If THE COURT FINDS THAT a juvenile placed on
4 probation and committed under section 1(3) or (4) of chapter IX
5 to ~~a state~~ AN institution or agency described in the youth
6 rehabilitation services act, ~~Act No. 150 of the Public Acts of~~
7 ~~1974, being sections 803.301 to 803.309 of the Michigan Compiled~~
8 ~~Laws, is found by the court to have~~ 1974 PA 150, MCL 803.301 TO
9 803.309, violated probation by being convicted of a felony or a
10 misdemeanor punishable by imprisonment for more than 1 year, the
11 court shall revoke probation and order the juvenile committed to
12 the department of corrections for a term of years that ~~shall~~
13 DOES not exceed the penalty that could have been imposed for the
14 offense for which the juvenile was originally convicted and
15 placed on probation. ~~with~~ THE COURT SHALL GRANT credit
16 ~~granted~~ against the sentence for the period of time the juve-
17 nile served on probation.

18 (2) If THE COURT FINDS THAT a juvenile placed on probation
19 and committed under section 1(3) or (4) of chapter IX to ~~a~~
20 ~~state~~ AN institution or agency described in ~~Act No. 150 of the~~
21 ~~Public Acts of 1974 is found by the court to have~~ THE YOUTH
22 REHABILITATION SERVICES ACT, 1974 PA 150, MCL 803.301 TO 803.309,
23 violated probation other than as provided in subsection (1), the
24 court may order the juvenile committed to the department of cor-
25 rections or may order any of the following for the juvenile:

26 (a) A change of placement.

- 1 (b) Community service.
- 2 (c) Substance abuse counseling.
- 3 (d) Mental health counseling.
- 4 (e) Participation in a vocational-technical education
5 program.
- 6 (f) Incarceration in a county jail for not more than 30
7 days. If a juvenile is under 17 years of age, the juvenile shall
8 be placed in a room or ward out of sight and sound from adult
9 prisoners.
- 10 (g) Other participation or performance as the court consid-
11 ers necessary.
- 12 Sec. 14a. (1) Before ~~sentencing~~ THE COURT SENTENCES a
13 juvenile under section 1(3) or (4) of chapter IX, the ~~department~~
14 ~~of social services~~ FAMILY INDEPENDENCE AGENCY OR COUNTY JUVENILE
15 AGENCY, AS APPLICABLE, shall inquire into the JUVENILE'S ante-
16 cedents, character, and circumstances ~~of the juvenile,~~ and
17 shall report in writing to the court as provided in section 4 of
18 the juvenile facilities act, 1988 PA 73, MCL 803.224.
- 19 (2) The court may exempt from disclosure in a report under
20 this section information or a diagnostic opinion ~~which~~ THAT
21 might seriously disrupt a program of rehabilitation or sources of
22 information obtained on a promise of confidentiality. If a part
23 of the report is not disclosed, the court shall state on the
24 record the reasons for its action and inform the juvenile and his
25 or her attorney that information has not been disclosed. The
26 action of the court in exempting information from disclosure
27 ~~shall be~~ IS subject to appellate review. Information or a

1 diagnostic opinion exempted from disclosure ~~pursuant to~~ UNDER
2 this subsection shall be specifically noted in the report.

3 (3) The court shall permit the prosecutor, the juvenile's
4 attorney, and the juvenile to review the report ~~prior to~~ BEFORE
5 sentencing.

6 (4) At the time of sentencing, either party may challenge
7 ~~—~~ on the record ~~—~~ the accuracy or relevancy of any informa-
8 tion contained in the report. The court may order an adjournment
9 to permit the parties to prepare a challenge or a response to a
10 challenge. If the court finds that the challenged information is
11 inaccurate or irrelevant, that finding shall be made a part of
12 the record and the report shall be amended ~~and~~ BY STRIKING the
13 inaccurate or irrelevant information. ~~shall be stricken~~
14 ~~accordingly.~~

15 (5) The juvenile and, on appeal, the juvenile's attorney
16 shall be provided with a copy of the report and any attachments
17 to the report, with the exception of any information exempted
18 from disclosure ~~—, on the record, by the court~~ under subsection
19 (2).

20 (6) If the juvenile is committed to a state penal institu-
21 tion or is placed on probation and committed to ~~a state~~ AN
22 institution or agency described in the youth rehabilitation serv-
23 ices act, ~~Act No. 150 of the Public Acts of 1974, being sections~~
24 ~~803.301 to 803.309 of the Michigan Compiled Laws~~ 1974 PA 150,
25 MCL 803.301 TO 803.309, a copy of the report and any attachments
26 to it shall accompany the commitment papers. If the juvenile is
27 sentenced by fine or imprisonment or placed on probation but not

1 committed to ~~a state~~ AN institution or agency described in ~~Act~~
 2 ~~No. 150 of the Public Acts of 1974~~ THE YOUTH REHABILITATION
 3 SERVICES ACT, 1974 PA 150, MCL 803.301 TO 803.309, a copy of the
 4 report and any attachments to it shall be filed with the depart-
 5 ment of corrections.

6 (7) A report under this section is in addition to, and not
 7 in lieu of, a presentence investigation report required by
 8 section 14 of this chapter.

9 Enacting section 1. This amendatory act does not take
 10 effect unless the United States department of health and human
 11 services grants part 3 of the family independence agency's waiver
 12 filed under the child welfare demonstration project to permit a
 13 transfer of title IV-E funding from the state to 1 or more coun-
 14 ties and the family independence agency files with the secretary
 15 of state a certification that the necessary waiver was granted.

16 Enacting section 2. This amendatory act does not take
 17 effect unless all of the following bills of the 89th Legislature
 18 are enacted into law:

19 (a) Senate Bill No. _____ or House Bill No. _____ (request
 20 no. 03597'97 *).

21 (b) Senate Bill No. _____ or House Bill No. _____ (request
 22 no. 03598'97 *).

23 (c) Senate Bill No. _____ or House Bill No. _____ (request
 24 no. 03598'97 a *).

25 (d) Senate Bill No. _____ or House Bill No. _____ (request
 26 no. 03598'97 b *).

- 1 (e) Senate Bill No. _____ or House Bill No. _____ (request
2 no. 03599'97 *).
- 3 (f) Senate Bill No. _____ or House Bill No. _____ (request
4 no. 03644'97 *).
- 5 (g) Senate Bill No. _____ or House Bill No. _____ (request
6 no. 03917'97 *).