

SENATE BILL No. 23

January 18, 2017, Introduced by Senator PROOS and referred to the Committee on Michigan Competitiveness.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," 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 ~~at the local level based upon~~ **ON** the immediate detection of probation violations and **THE** prompt ~~the~~ imposition of sanctions and remedies to address those violations. In furtherance

1 of this intent, the state swift and sure sanctions program ~~is~~
2 ~~created with the following objectives.~~ **MUST BE IMPLEMENTED AND**
3 **MAINTAINED AS PROVIDED IN THIS CHAPTER AS FOLLOWS:**

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

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

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

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

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

18 Sec. 4. (1) ~~Beginning January 1, 2013, the~~ **THE SWIFT AND SURE**
19 **PROBATION SUPERVISION FUND IS CREATED WITHIN THE STATE TREASURY.**
20 **THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM ANY**
21 **SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL DIRECT**
22 **THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT TO THE**
23 **FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS. MONEY IN THE FUND**
24 **AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL**
25 **NOT LAPSE TO THE GENERAL FUND.**

26 (2) **THE STATE TREASURER SHALL ALLOCATE SUFFICIENT FUNDS TO**
27 **ALLOW THE** state court administrative office ~~shall,~~ **TO,** under the

1 supervision of the supreme court, **EXPEND FUNDS FROM THE SWIFT AND**
2 **SURE PROBATION SUPERVISION FUND TO ADMINISTER THIS CHAPTER AND TO**
3 provide grants under this chapter to fund programs of swift and
4 sure probation supervision in the circuit court that meet the
5 objectives set forth in section 3 **OF THIS CHAPTER** and the
6 requirements of section 5 **OF THIS CHAPTER**.

7 (3) ~~(2)~~—A court may apply for a grant to fund a program of
8 swift and sure probation supervision under this chapter by filing a
9 written application with the state court administrative office in
10 the manner required by that office. The funding of all grants under
11 this chapter is subject to appropriation.

12 (4) **A COURT THAT HAS RECEIVED A GRANT UNDER THIS CHAPTER TO**
13 **FUND PROGRAMS OF SWIFT AND SURE PROBATION SUPERVISION MAY ACCEPT**
14 **PARTICIPANTS FROM ANY OTHER JURISDICTION IN THIS STATE BASED UPON**
15 **EITHER THE RESIDENCE OF THE PARTICIPANT IN THE RECEIVING**
16 **JURISDICTION OR THE UNAVAILABILITY OF A SWIFT AND SURE PROBATION**
17 **SUPERVISION PROGRAM IN THE JURISDICTION WHERE THE PARTICIPANT IS**
18 **CHARGED. THE TRANSFER MAY OCCUR AT ANY TIME DURING THE PROCEEDINGS,**
19 **INCLUDING, BUT NOT LIMITED TO, PRIOR TO ADJUDICATION. THE RECEIVING**
20 **COURT SHALL HAVE JURISDICTION TO IMPOSE SENTENCE, INCLUDING, BUT**
21 **NOT LIMITED TO, SANCTIONS, INCENTIVES, INCARCERATION, AND PHASE**
22 **CHANGES. A TRANSFER UNDER THIS SUBSECTION IS NOT VALID UNLESS IT IS**
23 **AGREED TO BY ALL OF THE FOLLOWING INDIVIDUALS:**

24 (A) **THE DEFENDANT OR RESPONDENT IN WRITING.**

25 (B) **THE ATTORNEY REPRESENTING THE DEFENDANT OR RESPONDENT.**

26 (C) **THE JUDGE OF THE TRANSFERRING COURT AND THE PROSECUTOR OF**
27 **THE CASE.**

1 (D) THE JUDGE OF THE RECEIVING COURT AND THE PROSECUTOR OF THE
2 RECEIVING COURT FUNDING UNIT.

3 Sec. 5. (1) A ~~program of swift and sure probation supervision~~
4 ~~funded under section 4~~ JUDGE shall do all of the following IF SWIFT
5 AND SURE PROBATION APPLIES TO A PROBATIONER:

6 (a) ~~Require the court to inform~~ INFORM the probationer in
7 person of the requirements of his or her probation and the
8 sanctions and remedies that may apply to probation violations.

9 (B) ADHERE TO AND NOT DEPART FROM THE PRESCRIBED LIST OF
10 SANCTIONS AND REMEDIES IMPOSED ON THE PROBATIONER.

11 (C) ~~(b)~~ Require the probationer to initially meet in person
12 with a probation agent or probation officer and as otherwise
13 required by the court.

14 (D) ~~(c)~~ Provide for an appearance before the judge OR ANOTHER
15 JUDGE for any probation violation as soon as possible but within 72
16 hours after the violation is reported to the court unless a
17 departure from the 72-hour requirement is authorized for good cause
18 as determined by criteria established by the state court
19 administrative office.

20 (E) ~~(d)~~ Provide for the immediate imposition of sanctions and
21 remedies approved by the state court administrative office to
22 effectively address probation violations. The sanctions and
23 remedies approved under this subdivision may include ~~, but need not~~
24 ~~be limited to,~~ 1 or more of the following:

25 (i) Temporary incarceration in a jail or other facility
26 authorized by law to hold probation violators.

27 (ii) Extension of the period of supervision within the period

1 provided by law.

2 (iii) Additional reporting and compliance requirements.

3 (iv) Testing for the use of drugs and alcohol.

4 (v) Counseling and treatment for emotional or other mental
5 health problems, including for substance abuse.

6 (vi) Probation revocation.

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

10 (a) Establish general eligibility requirements for offender
11 participation.

12 (b) Require courts and offenders to enter into written
13 participation agreements.

14 (c) Create recommended and mandatory sanctions and remedies
15 for use by participating courts.

16 (d) Establish criteria for deviating from recommended and
17 mandatory sanctions and remedies ~~when~~ **IF** necessary to address
18 special circumstances.

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

22 **(3) AN INDIVIDUAL WHO IS ELIGIBLE TO PARTICIPATE IN THE SWIFT**
23 **AND SURE PROBATION SUPERVISION PROGRAM MAY REQUEST THAT HE OR SHE**
24 **NOT BE SENTENCED TO PROBATION IN THAT PROGRAM. THE COURT MAY PLACE**
25 **AN INDIVIDUAL DESCRIBED IN THIS SUBSECTION ON PROBATION UNDER**
26 **CHAPTER XI.**

27 Sec. 6. (1) The state court administrative office may, under

1 the supervision of the supreme court, consult with the department
2 of corrections when establishing ~~initial programming and~~
3 ~~eligibility requirements~~ under this chapter.

4 (2) AN INDIVIDUAL IS ELIGIBLE FOR THE SWIFT AND SURE PROBATION
5 SUPERVISION PROGRAM IF EITHER OF THE FOLLOWING APPLIES:

6 (A) HE OR SHE RECEIVES A RISK SCORE OF HIGH ON A VALIDATED
7 RISK ASSESSMENT.

8 (B) HE OR SHE RECEIVES A RISK SCORE OTHER THAN HIGH OR LOW ON
9 THE VALIDATED RISK ASSESSMENT AND THE JUDGE, PROSECUTOR, AND
10 DEFENDANT AGREE TO THE DEFENDANT'S PLACEMENT IN THE PROGRAM.

11 (3) A DEFENDANT WHO IS CHARGED WITH A CRIME UNDER 1 OR MORE OF
12 THE FOLLOWING IS NOT ELIGIBLE UNDER THIS CHAPTER:

13 (A) SECTIONS 316, 317, 520B, 520D, 529, OR 544 OF THE MICHIGAN
14 PENAL CODE, 1931 PA 328, MCL 750.316, 750.317, 750.520B, 750.520D,
15 750.529, AND 750.544.

16 (B) A MAJOR CONTROLLED SUBSTANCE OFFENSE AS THAT TERM IS
17 DEFINED IN SECTION 2 OF CHAPTER I OF THE CODE OF CRIMINAL
18 PROCEDURE, 1927 PA 175, MCL 761.2.

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