

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4245**

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 1 of chapter XI (MCL 771.1), as amended by 2019
PA 165.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XI

1
2 Sec. 1. (1) ~~In~~**Except as otherwise provided in this**
3 **subsection, in** all prosecutions for felonies, misdemeanors, or
4 ordinance violations other than murder, treason, criminal sexual
5 conduct in the first or third degree, armed robbery, or major
6 controlled substance offenses, if the defendant has been found
7 guilty upon verdict or plea and the court determines that the
8 defendant is not likely again to engage in an offensive or criminal

1 course of conduct and that the public good does not require that
2 the defendant suffer the penalty imposed by law, the court may
3 place the defendant on probation under the charge and supervision
4 of a probation officer. **A defendant may be sentenced to probation**
5 **for a violation of section 7401(2) (a) (iv) of the public health code,**
6 **1978 PA 368, MCL 333.7401, if the violation involved a substance**
7 **that is not heroin, fentanyl, carfentanil, or any derivative of**
8 **heroin, fentanyl, or carfentanil.**

9 (2) In an action in which the court may place the defendant on
10 probation, the court may delay sentencing the defendant for not
11 more than 1 year to give the defendant an opportunity to prove to
12 the court his or her eligibility for probation or other leniency
13 compatible with the ends of justice and the defendant's
14 rehabilitation, such as participation in a drug treatment court
15 under chapter 10A of the revised judiciary act of 1961, 1961 PA
16 236, MCL 600.1060 to 600.1088. When sentencing is delayed, the
17 court shall enter an order stating the reason for the delay upon
18 the court's records. The delay in passing sentence does not deprive
19 the court of jurisdiction to sentence the defendant at any time
20 during the period of delay.

21 (3) Except as provided in subsection (5), if a defendant is
22 before the circuit court and the court delays imposing sentence
23 under subsection (2), the court shall include in the delayed
24 sentence order that the department of corrections collect a
25 supervision fee of \$30.00 multiplied by the number of months of
26 delay ordered, but not more than 12 months, if the individual is
27 placed on supervision without electronic monitoring. If the
28 individual is placed on supervision with an electronic monitoring
29 device under this subsection, the court shall include in the

1 delayed sentence order that the department of corrections collect a
2 supervision fee of \$60.00 multiplied by the number of months of
3 supervision ordered under the delay of sentence, but not more than
4 12 months. The fee is payable when the delayed sentence order is
5 entered, but the fee may be paid in monthly installments if the
6 court approves installment payments for that defendant. The fee
7 must be collected as provided in section 25a of the corrections
8 code of 1953, 1953 PA 232, MCL 791.225a. A person must not be
9 subject to more than 1 supervision fee at the same time. If a
10 supervision fee is ordered for a person for any month or months
11 during which that person already is subject to a supervision fee,
12 the court shall waive the fee having the shorter remaining
13 duration.

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

18 (5) The court may waive the fee required to be collected under
19 this section if the court determines the supervised individual is
20 indigent.

21 (6) As used in this section, "electronic monitoring device"
22 includes any electronic device or instrument that is used to track
23 the location of an individual, enforce a curfew, or detect the
24 presence of alcohol in an individual's body.

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

27 Enacting section 2. This amendatory act does not take effect
28 unless House Bill No. 4243 of the 101st Legislature is enacted into
29 law.