

Appendix B

Statutory Requirements

Statutes Referencing Ability to Pay:

Determination to revoke probation or impose imprisonment under conditional sentence:

Failure to comply with order of restitution:

[MCL 712A.30\(11\)](#)

[MCL 769.1a\(11\)](#)

[MCL 780.766\(11\)](#)

[MCL 780.794\(11\)](#)

[MCL 780.826\(11\)](#)

Failure to comply with order of costs for probationers:

[MCL 771.3\(8\)](#)

Determination to modify method of payment of restitution:

[MCL 712A.30\(12\)](#)

[MCL 769.1a\(12\)](#)

[MCL 780.766\(12\)](#)

[MCL 780.794\(12\)](#)

[MCL 780.826\(12\)](#)

Determination to detain/incarcerate for violation of probation for nonpayment of restitution:

[MCL 712A.30\(14\)](#)

[MCL 769.1a\(14\)](#)

[MCL 780.766\(14\)](#)

[MCL 780.794\(14\)](#)

[MCL 780.826\(14\)](#)

Determination to order parents to pay restitution:

[MCL 712A.30\(16\)](#)

[MCL 780.766\(16\)](#)

[MCL 780.794\(16\)](#)

Determination to modify/cancel parent's obligation to pay restitution:

[MCL 712A.30\(17\)](#)

[MCL 780.766\(17\)](#)

[MCL 780.794\(17\)](#)

Determination of amount and method of payment of costs for probationers:

[MCL 771.3\(6\)](#)

Determination to incarcerate for nonpayment of costs ordered under MCL 769.1k:

[MCL 769.1k\(10\)](#)

Statutes Referencing Ability to Pay:

Determination to revoke probation or impose imprisonment under conditional sentence:

712A.30 “Offense” and “victim” defined; order of restitution.

Sec. 30.

(11) If the juvenile is placed on probation, any restitution ordered under this section shall be a condition of that probation. The court may revoke probation if the juvenile fails to comply with the order and if the juvenile has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the juvenile's employment status, earning ability, and financial resources, the willfulness of the juvenile's failure to pay, and any other special circumstances that may have a bearing on the juvenile's ability to pay.

769.1a Order of restitution.

Sec. 1a.

(11) If the defendant is placed on probation or paroled or the court imposes a conditional sentence under section 3 of this chapter, any restitution ordered under this section shall be a condition of that probation, parole, or sentence. The court may revoke probation or impose imprisonment under the conditional sentence and the parole board may revoke parole if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole or impose imprisonment, the court or parole board shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

771.3 Probation; conditions; entry of order into LEIN; costs as part of sentence of probation; compliance as condition of probation; revocation of probation; fees in delayed or deferred entry of judgment or sentencing.

Sec. 3.

(8) If a probationer is ordered to pay costs as part of a sentence of probation, compliance with that order shall be a condition of probation. The court may revoke probation if the probationer fails to comply with the order and if the probationer has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the probationer's employment status, earning ability, and financial resources, the willfulness of the probationer's failure to pay, and any other special circumstances that may have a bearing on the probationer's ability to pay. The proceedings provided for in this subsection are in addition to those provided in section 4 of this chapter.

780.766 "Victim" defined; restitution; order; condition of probation, parole, or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.

Sec. 16.

(11) If the defendant is placed on probation or paroled or the court imposes a conditional sentence as provided in section 3 of chapter IX of the code of criminal procedure, 1927 PA 175,

MCL 769.3, any restitution ordered under this section shall be a condition of that probation, parole, or sentence. The court may revoke probation or impose imprisonment under the conditional sentence and the parole board may revoke parole if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole or impose imprisonment, the court or parole board shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

780.794 Definitions; order of restitution to be made by juvenile.

Sec. 44.

(11) If the juvenile is placed on probation, any restitution ordered under this section shall be a condition of that probation. The court may revoke probation if the juvenile fails to comply with the order and if the juvenile has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the juvenile's employment status, earning ability, and financial resources, the willfulness of the juvenile's failure to pay, and any other special circumstances that may have a bearing on the juvenile's ability to pay.

780.826 Definitions; restitution by defendant convicted of misdemeanor.

Sec. 76.

(11) If the defendant is placed on probation or the court imposes a conditional sentence as provided in section 3 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.3, any restitution ordered under this section shall be a condition of that probation or sentence. The court may revoke probation or impose imprisonment under the conditional sentence if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or impose imprisonment, the court shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

Determination to modify method of payment of restitution:

712A.30 "Offense" and "victim" defined; order of restitution.

Sec. 30.

(12) A juvenile who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the court to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the juvenile or his or her immediate family, the court may modify the method of payment.

769.1a Order of restitution.

Sec. 1a.

(12) A defendant who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant or his or her immediate family, the court may modify the method of payment.

780.766 "Victim" defined; restitution; order; condition of probation, parole, or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.

Sec. 16.

(12) Subject to subsection (18), a defendant who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant or his or her immediate family, and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim, the court may modify the method of payment.

780.794 Definitions; order of restitution to be made by juvenile.

Sec. 44.

(12) Subject to subsection (18), a juvenile who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the court to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the juvenile or his or her immediate family, and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim, the court may modify the method of payment.

780.826 Definitions; restitution by defendant convicted of misdemeanor.

Sec. 76.

(12) Subject to subsection (15), a defendant who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant or his or her immediate family, and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim, the court may modify the method of payment.

Determination to detain/incarcerate for violation of probation for nonpayment of restitution:

712A.30 "Offense" and "victim" defined; order of restitution.

Sec. 30.

(14) Notwithstanding any other provision of this section, a juvenile shall not be detained for a violation of probation, or otherwise, for failure to pay restitution as ordered under this section unless the court determines that the juvenile has the resources to pay the ordered restitution and has not made a good faith effort to do so.

769.1a Order of restitution.

Sec. 1a.

(14) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court or parole board determines that the

defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

780.766 "Victim" defined; restitution; order; condition of probation, parole, or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.

Sec. 16.

(14) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court or parole board determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

780.794 Definitions; order of restitution to be made by juvenile.

Sec. 44.

(14) Notwithstanding any other provision of this section, a juvenile shall not be detained or imprisoned for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court determines that the juvenile has the resources to pay the ordered restitution and has not made a good faith effort to do so.

780.826 Definitions; restitution by defendant convicted of misdemeanor.

Sec. 76.

(14) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or otherwise for failure to pay restitution as ordered under this section unless the court determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

Determination to order parents to pay restitution:

712A.30 "Offense" and "victim" defined; order of restitution.

Sec. 30.

(16) If the court orders a parent to pay restitution under subsection (15), the court shall take into account the financial resources of the parent and the burden that the payment of restitution will impose, with due regard to any other moral or legal financial obligations that the parent may have. If a parent is required to pay restitution under subsection (15), the court shall provide for payment to be made in specified installments and within a specified period of time.

780.766 "Victim" defined; restitution; order; condition of probation, parole, or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.

Sec. 16.

(16) If the court orders a parent to pay restitution under subsection (15), the court shall take into account the parent's financial resources and the burden that the payment of restitution will impose, with due regard to any other moral or legal financial obligations the parent may have. If a parent is required to pay restitution under subsection (15), the court shall provide for payment to be made in specified installments and within a specified period of time.

780.794 Definitions; order of restitution to be made by juvenile.

Sec. 44.

(16) If the court orders a parent to pay restitution under subsection (15), the court shall take into account the parent's financial resources and the burden that the payment of restitution will impose, with due regard to any other moral or legal financial obligations the parent may have. If a parent is required to pay restitution under subsection (15), the court shall provide for payment to be made in specified installments and within a specified period of time.

Determination to modify/cancel parent's obligation to pay restitution:

712A.30 "Offense" and "victim" defined; order of restitution.

Sec. 30.

(17) A parent who has been ordered to pay restitution under subsection (15) may petition the court for a modification of the amount of restitution owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent.

780.766 "Victim" defined; restitution; order; condition of probation, parole, or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.

Sec. 16.

(17) A parent who has been ordered to pay restitution under subsection (15) may petition the court for a modification of the amount of restitution owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim.

780.794 Definitions; order of restitution to be made by juvenile.

Sec. 44.

(17) A parent who has been ordered to pay restitution under subsection (15) may petition the court for a modification of the amount of restitution owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim.

Determination of amount and method of payment of costs for probationers:

771.3 Probation; conditions; entry of order into LEIN; costs as part of sentence of probation; compliance as condition of probation; revocation of probation; fees in delayed or deferred entry of judgment or sentencing.

Sec. 3.

(6) If the court imposes costs under subsection (2) as part of a sentence of probation, all of the following apply:

(a) The court shall not require a probationer to pay costs under subsection (2) 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 under subsection (2), the court shall take into account the probationer's financial resources and the nature of the burden that payment of costs will impose, with due regard to his or her other obligations.

(b) A probationer who is required to pay costs under subsection (1)(g) or (2)(c) and who is not in willful default of the payment of the costs may petition the sentencing judge or his or her successor at any time for a remission of the payment of any unpaid portion of those costs. If the court determines that payment of the amount due will impose a manifest hardship on the probationer or his or her immediate family, the court may remit all or part of the amount due in costs or modify the method of payment.

Determination to incarcerate for nonpayment of costs ordered under MCL 769.1k:

769.1k Imposition of fine, cost, or assessment.

Sec. 1k.

(10) A defendant shall not be imprisoned, jailed, or incarcerated for the nonpayment of costs ordered under this section unless the court determines that the defendant has the resources to pay the ordered costs and has not made a good-faith effort to do so.