



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

CONDITIONAL POSTCONVICTION RELEASE ACT

House Bill 4659

Sponsor: Rep. Michael Nye

Committee: Judiciary and Civil Rights

Complete to 5-3-96

A SUMMARY OF HOUSE BILL 4659 AS INTRODUCED 3-22-95

The bill would create the Conditional Postconviction Release Act, which would allow certain prisoners to be released on the condition that they post an early release bond through a surety.

Under the bill, an official or board with authority to release a prisoner onto probation, furlough, or parole (the "releasing authority") could require the posting of an early release bond. The bond could contain conditions for release, including, but not limited to: alcohol or drug testing, participation in one or more recovery programs, avoiding contact with any witnesses and/or victims involved in participant's conviction, obtaining employment and remaining employed, abiding by travel restrictions, being on home arrest via an electronic monitoring device, making all required restitution payments, paying fines and court costs, performing any specified community service, obtaining education or pursuing specified educational courses, and participating in family or third party involvement. The release would also have to require, as mandatory conditions, that the participant personally report to the surety at times and in a manner as directed by the releasing authority and the surety, and that the participant pay the surety's charge.

An early release bond posted by a surety would have to:

-- be for a one-year period, renewable annually;

-- be payable to the state;

-- be conditioned that the surety have facilities available for monitoring home arrest, providing drug and alcohol testing, and facilitating regular check-ins by participants; and that the surety report to the releasing authority any "breach" (violation of a condition of release) by a participant within 24 hours after gaining actual knowledge of the violation.

The releasing authority could revoke a bond upon a breach by a participant, or could continue the bond by nullifying the breach. Further, the bond could be revoked at any time the releasing authority determined that the participant was not attempting to abide by the conditions of the bond. The surety would have to pay a "major penalty", or \$15,000, for failure to maintain facilities for home arrest, drug and alcohol testing, and regular check-ins by participants; and for

House Bill 4659 (5-3-96)

failure to report a breach within 24 hours. Further, the surety would have to pay a "breach penalty" upon a breach of a condition by a participant, and upon revocation of a bond. The amount of a breach penalty would be 1/2 the annual charge collected by the surety to write the bond.

A surety would have to charge at least 15 percent of the major penalty amount (or a minimum of \$2,250) to write a bond. The bill would specify that the charge would be fully earned when the bond was written.