



HOUSE BILL No. 4659

March 22, 1995, Introduced by Rep. Nye and referred to the Committee on Judiciary and Civil Rights.

A bill to provide for the release of certain prisoners under certain circumstances; to specify the powers and duties of certain state and local officials and agencies; and to provide for certain penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "conditional postconviction release act".

3 Sec. 2. As used in this act:

4 (a) "Bond" means the written undertaking delivered by the
5 surety to the releasing authority and describing the terms and
6 conditions of the surety's duties.

7 (b) "Breach" means a condition of release violated by the
8 participant.

9 (c) "Breach penalty" means the amount of money to be paid to
10 this state by the surety upon revocation of the bond. The breach

1 penalty shall be 1/2 the annual charge collected by the surety to
2 write the bond.

3 (d) "Charge" means the amount of money the surety charges to
4 write the bond. In no case shall that amount be less than 15% of
5 the major penalty amount. The charge is fully earned when the
6 bond is written.

7 (e) "Conditions" means requirements imposed by the releasing
8 authority as a prerequisite to the participant being released
9 from custody.

10 (f) "Major penalty" means the amount of money to be paid by
11 the surety to this state upon the surety's failure to meet the
12 requirements under this act, for which failure a major penalty is
13 provided. The major penalty shall be \$15,000.00.

14 (g) "Mandatory conditions" means those conditions the
15 releasing authority must place upon the participant as a condi-
16 tion to early release.

17 (h) "Participant" means an individual eligible to be
18 released under this act.

19 (i) "Releasing authority" means an official or board of this
20 state or of a political subdivision of this state having legal
21 authority to release a prisoner onto probation, furlough, or
22 parole.

23 (j) "Revocation of bond" means the use and effectiveness of
24 the bond has ceased. The releasing authority may revoke the bond
25 upon a breach or continue the bond by nullifying the breach. Or,
26 the bond may be revoked at any time the releasing authority

1 determines that the participant is not attempting to abide by the
2 conditions of the bond.

3 (k) "Surety" means any person or entity licensed in this
4 state to execute bonds filed in criminal cases.

5 Sec. 3. Upon the decision of the releasing authority to
6 return a prisoner to society, the releasing authority may release
7 a participant by requiring the posting of an early release bond
8 by a surety. The releasing authority may set conditions for that
9 release. The conditions shall be attached to the bond and made a
10 part of the bond. The conditions may, unless otherwise speci-
11 fied, be any of the following, but are not limited to these con-
12 ditions and are to include any conditions imposed by the releas-
13 ing authority:

14 (a) The participant shall be drug or alcohol tested as
15 specified.

16 (b) The participant shall take part in 1 or more specified
17 recovery programs.

18 (c) The participant shall not contact, go near, or communi-
19 cate directly with any witness involved in the participant's
20 conviction.

21 (d) The participant shall not contact, go near, or communi-
22 cate directly or indirectly with any victim involved in the
23 participant's conviction.

24 (e) The participant shall obtain and keep employment.

25 (f) The participant shall be on home arrest via electronic
26 monitoring devices approved by this state.

1 (g) The participant shall abide by specified travel
2 restrictions.

3 (h) The participant shall make all specified periodic resti-
4 tution payments.

5 (i) The participant shall pay specified fines and court
6 costs.

7 (j) The participant shall perform specified community
8 services.

9 (k) The participant shall pursue specified education
10 courses.

11 (l) The participant shall obtain education as specified.

12 (m) The participant shall participate in family or third
13 part involvement as specified.

14 (n) The participant shall have, as a mandatory condition,
15 that he or she pay the surety's charge.

16 (o) The participant shall have, as a mandatory condition,
17 that he or she personally report to the surety at such time and
18 in such manner as directed by the releasing authority and the
19 surety.

20 Sec. 4. The early release bond put up by the surety shall
21 meet all of the following requirements:

22 (a) Be for a term of 1 year, and may be renewed annually.

23 (b) Be in favor of and payable to this state.

24 (c) Be conditioned that the surety shall do both of the
25 following:

26 (i) Have available those facilities necessary for meeting
27 all of the following conditions:

1 (A) Home arrest as provided in section 3(f).

2 (B) Drug or alcohol testing as provided in section 3(a).

3 (C) Regular check-ins as provided in section 3(o).

4 (ii) Report to the releasing authority any breach within 24
5 hours after the surety has actual knowledge of the breach.

6 Sec. 5. The surety shall pay penalties as follows:

7 (a) A breach penalty shall be paid upon breach of a condi-
8 tion by the participant.

9 (b) A major penalty shall be paid upon failure of the surety
10 to meet the requirements of section 4(c)(i).

11 (c) A major penalty shall be paid upon failure of the surety
12 to meet the requirement of section 4(c)(ii).

13 (d) There shall be only 1 penalty per bond.