

HOUSE BILL No. 5639

March 10, 1998, Introduced by Reps. Schauer and Callahan and referred to the Committee on Corrections.

A bill to amend 1953 PA 232, entitled

"An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

by amending sections 34 and 36 (MCL 791.234 and 791.236), section 34 as amended by 1994 PA 345 and section 36 as amended by 1996 PA 554.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 34. (1) Except as provided in section 34a, a prisoner
2 sentenced to an indeterminate sentence and confined in a state
3 correctional facility with a minimum in terms of years other than
4 a prisoner subject to disciplinary time is subject to the juris-
5 diction of the parole board when the prisoner has served a period
6 of time equal to the minimum sentence imposed by the court for
7 the crime of which he or she was convicted, less good time and
8 disciplinary credits, if applicable.

9 (2) Except as provided in section 34a, a prisoner subject to
10 disciplinary time sentenced to an indeterminate sentence and con-
11 fined in a state correctional facility with a minimum in terms of
12 years is subject to the jurisdiction of the parole board when the
13 prisoner has served a period of time equal to the minimum sen-
14 tence imposed by the court for the crime of which he or she was
15 convicted, plus any disciplinary time accumulated pursuant to
16 section 34 of ~~Act No. 118 of the Public Acts of 1893, being sec-~~
17 ~~tion 800.34 of the Michigan Compiled Laws 1893 PA 118, MCL~~
18 800.34.

19 (3) If a prisoner other than a prisoner subject to disci-
20 plinary time is sentenced for consecutive terms, whether received
21 at the same time or at any time during the life of the original
22 sentence, the parole board has jurisdiction over the prisoner for
23 purposes of parole when the prisoner has served the total time of
24 the added minimum terms, less the good time and disciplinary
25 credits allowed by statute. The maximum terms of the sentences
26 shall be added to compute the new maximum term under this

1 subsection, and discharge shall be issued only after the total of
2 the maximum sentences has been served less good time and disci-
3 plinary credits, unless the prisoner is paroled and discharged
4 upon satisfactory completion of the parole.

5 (4) If a prisoner subject to disciplinary time is sentenced
6 for consecutive terms, whether received at the same time or at
7 any time during the life of the original sentence, the parole
8 board has jurisdiction over the prisoner for purposes of parole
9 when the prisoner has served the total time of the added minimum
10 terms, plus any disciplinary time. The maximum terms of the sen-
11 tences shall be added to compute the new maximum term under this
12 subsection, and discharge shall be issued only after the total of
13 the maximum sentences has been served, unless the prisoner is
14 paroled and discharged upon satisfactory completion of the
15 parole.

16 (5) If a prisoner other than a prisoner subject to disci-
17 plinary time has 1 or more consecutive terms remaining to serve
18 in addition to the term he or she is serving, the parole board
19 may terminate the sentence the prisoner is presently serving at
20 any time after the minimum term of the sentence has been served.

21 (6) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (7), A prisoner
22 ~~under sentence~~ SENTENCED TO IMPRISONMENT for life or ~~for~~ TO a
23 term of years ~~, other than a prisoner sentenced for life for~~
24 ~~murder in the first degree or sentenced for life or for a minimum~~
25 ~~term of imprisonment for a major controlled substance offense,~~
26 who has served 10 calendar years of the sentence in the case of a
27 prisoner sentenced for a crime committed before October 1, 1992,

1 or who has served 15 calendar years of the sentence in the case
2 of a prisoner sentenced for a crime committed on or after
3 October 1, 1992, is subject to the jurisdiction of the parole
4 board and may be released on parole by the parole board, subject
5 to the following conditions:

6 (a) One member of the parole board shall interview the pris-
7 oner at the conclusion of 10 calendar years of the sentence and
8 every 5 years thereafter until ~~such time as~~ the prisoner is
9 paroled, discharged, or deceased. The interview schedule pre-
10 scribed in this subdivision applies to all prisoners to whom this
11 subsection is applicable, ~~whether~~ REGARDLESS OF WHEN THE PRIS-
12 ONER WAS sentenced. ~~before, on, or after the effective date of~~
13 ~~the 1992 amendatory act that amended this subdivision.~~

14 (b) A parole shall not be granted a prisoner so sentenced
15 until after a public hearing held in the manner prescribed for
16 pardons and commutations in sections 44(2)(f) to (h) and 45.
17 Notice of the public hearing shall be given to the sentencing
18 judge, or the judge's successor in office, and parole shall not
19 be granted if the sentencing judge, or the judge's successor in
20 office, files written objections to the granting of the parole
21 within 30 days of receipt of the notice of hearing. The written
22 objections shall be made part of the prisoner's file.

23 (c) A parole granted under this subsection shall be for a
24 period of not less than 4 years and subject to the usual rules
25 pertaining to paroles granted by the parole board. A parole
26 ordered under this subsection is not valid until the transcript
27 of the record is filed with the attorney general whose

1 certification of receipt of the transcript shall be returnable to
2 the office of the parole board within 5 days. Except for medical
3 records protected under section 2157 of the revised judicature
4 act of 1961, ~~Act No. 236 of the Public Acts of 1961, being sec-~~
5 ~~tion 600.2157 of the Michigan Compiled Laws~~ 1961 PA 236, MCL
6 600.2157, the file of a prisoner granted a parole under this sub-
7 section is a public record.

8 (d) A parole shall not be granted under this subsection in
9 the case of a prisoner who is otherwise prohibited by law from
10 parole consideration. In such cases the interview procedures in
11 section 44 shall be followed.

12 (7) SUBSECTION (6) DOES NOT ALLOW THE RELEASE ON PAROLE OF
13 ANY OF FOLLOWING PRISONERS:

14 (A) A PRISONER SENTENCED TO IMPRISONMENT FOR LIFE FOR MURDER
15 IN THE FIRST DEGREE.

16 (B) A PRISONER SENTENCED TO IMPRISONMENT FOR LIFE OR A MINI-
17 MUM TERM OF IMPRISONMENT FOR A MAJOR CONTROLLED SUBSTANCE
18 OFFENSE.

19 (C) A PRISONER SENTENCED TO IMPRISONMENT FOR LIFE FOR ANY OF
20 THE FOLLOWING VIOLATIONS:

21 (i) A VIOLATION OF SECTION 204(2)(E) OF THE MICHIGAN PENAL
22 CODE, 1931 PA 328, MCL 750.204.

23 (ii) A VIOLATION OF SECTION 207(2)(E) OF THE MICHIGAN PENAL
24 CODE, 1931 PA 328, MCL 750.207.

25 (iii) A VIOLATION OF SECTION 209(1)(E) OF THE MICHIGAN PENAL
26 CODE, 1931 PA 328, MCL 750.209.

1 (iv) A VIOLATION OF SECTION 210(2)(E) OF THE MICHIGAN PENAL
2 CODE, 1931 PA 328, MCL 750.210.

3 (v) A VIOLATION OF SECTION 211A(1)(E) OF THE MICHIGAN PENAL
4 CODE, 1931 PA 328, MCL 750.211A.

5 (8) ~~(7)~~ Except as provided in section 34a, a prisoner's
6 release on parole is discretionary with the parole board. The
7 action of the parole board in granting or denying a parole is
8 appealable by the prisoner, the prosecutor of the county from
9 which the prisoner was committed, or the victim of the crime for
10 which the prisoner was convicted. The appeal shall be to the
11 circuit court in the county from which the prisoner was commit-
12 ted, by leave of the court.

13 (9) ~~(8)~~ The provisions of this section regarding prisoners
14 subject to disciplinary time take effect beginning on the effec-
15 tive date of ~~Act No. 217 of the Public Acts of 1994~~ 1994 PA
16 217, as prescribed in enacting section 2 of that amendatory act.

17 Sec. 36. (1) All paroles shall be ordered by the parole
18 board and shall be signed by the chairperson. Written notice of
19 the order shall be given to the sheriff or other police officer
20 of the municipality or county in which the prisoner was con-
21 victed, and to the sheriff or other local police officer of the
22 municipality or county to which the paroled prisoner is sent.

23 (2) ~~An order of~~ A parole ORDER may be amended or rescinded
24 at the discretion of the parole board for cause. If a paroled
25 prisoner who is required to register pursuant to the sex offend-
26 ers registration act, ~~Act No. 295 of the Public Acts of 1994,~~
27 ~~being sections 28.721 to 28.732 of the Michigan Compiled Laws~~

1 1994 PA 295, MCL 28.721 TO 28.732, willfully violates that act,
2 the parole board shall rescind the parole.

3 (3) A parole shall not be rescinded unless an interview is
4 conducted by 1 member of the parole board. The purpose of the
5 interview is to consider and act upon information received by the
6 board after the original parole release decision. A rescission
7 interview shall be conducted within 45 days after receiving the
8 new information. At least 10 days before the interview, the
9 parolee shall receive a copy or summary of the new evidence that
10 is the basis for the interview. An amendment to a parole order
11 shall be in writing and is not effective until notice of the
12 amendment is given to the parolee.

13 (4) ~~(3)~~ When ~~an order for~~ A parole ORDER is issued, the
14 order shall contain the conditions of the parole and shall spe-
15 cifically provide proper means of supervision of the paroled
16 prisoner in accordance with the rules of the bureau of field
17 services.

18 (5) ~~(4)~~ The ~~order of~~ parole ORDER shall contain a condi-
19 tion to pay restitution to the victim of the prisoner's crime or
20 the victim's estate if the prisoner was ordered to make restitue-
21 tion pursuant to the crime victim's rights act, ~~Act No. 87 of~~
22 ~~the Public Acts of 1985, being sections 780.751 to 780.834 of the~~
23 ~~Michigan Compiled Laws~~ 1985 PA 87, MCL 780.751 TO 780.834, or
24 the code of criminal procedure, ~~Act No. 175 of the Public Acts~~
25 ~~of 1927, being sections 760.1 to 776.21 of the Michigan Compiled~~
26 ~~Laws~~ 1927 PA 175, MCL 760.1 TO 776.22.

1 (6) ~~(5)~~ The ~~order of~~ parole ORDER shall contain a
2 condition requiring the parolee to pay a parole supervision fee
3 as prescribed in section 36a.

4 (7) ~~(6)~~ The ~~order of~~ parole ORDER shall contain a condi-
5 tion requiring the parolee to pay any assessment the prisoner was
6 ordered to pay pursuant to section 5 of ~~Act No. 196 of the~~
7 ~~Public Acts of 1989, being section 780.905 of the Michigan~~
8 ~~Compiled Laws~~ 1989 PA 196, MCL 780.905.

9 (8) ~~(7)~~ If the parolee is required to be registered under
10 ~~Act No. 295 of the Public Acts of 1994~~ THE SEX OFFENDERS REGIS-
11 TRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732, the ~~order of~~
12 parole ORDER shall contain a condition requiring the parolee to
13 comply with that act.

14 (9) ~~(8)~~ ~~An order of~~ A parole ORDER issued for a prisoner
15 subject to disciplinary time shall contain a condition requiring
16 the parolee to be housed in a community corrections center or a
17 community residential home for not less than the first 30 days
18 but not more than the first 180 days of his or her term of
19 parole. As used in this subsection, "community corrections
20 center" and "community residential home" mean those terms as
21 defined in section 65a. This subsection applies beginning on the
22 date that sentencing guidelines are enacted into law after the
23 sentencing commission submits recommended sentencing guidelines
24 to the secretary of the senate and the clerk of the house of rep-
25 resentatives pursuant to section 33 of chapter IX of the code of
26 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~

1 ~~being section 769.33 of the Michigan Compiled Laws~~ 1927 PA 175,
2 MCL 769.33.

3 (10) ~~-(9)-~~ The ~~order of~~ parole ORDER shall contain a con-
4 dition requiring the parolee to pay the following amounts owed by
5 the prisoner, if applicable:

6 (a) The balance of filing fees and costs ordered to be paid
7 under section 2963 of the revised judicature act of 1961, ~~Act~~
8 ~~No. 236 of the Public Acts of 1961, being section 600.2963 of the~~
9 ~~Michigan Compiled Laws~~ 1961 PA 236, MCL 600.2963.

10 (b) The balance of any filing fee ordered to be paid by a
11 federal court under section 1915 of title 28 of the United States
12 Code, 28 U.S.C. 1915 and any unpaid order of costs assessed
13 against the prisoner.

14 (11) ~~-(10)-~~ In each case in which payment of restitution is
15 ordered as a condition of parole, a parole officer assigned to a
16 case shall review the case not less than twice yearly to ensure
17 that restitution is being paid as ordered. The final review
18 shall be conducted not less than 60 days before the expiration of
19 the parole period. If the parole officer determines that resti-
20 tution is not being paid as ordered, the parole officer shall
21 file a written report of the violation with the parole board on a
22 form prescribed by the parole board. The report shall include a
23 statement of the amount of arrearage and any reasons for the
24 arrearage known by the parole officer. The parole board shall
25 immediately provide a copy of the report to the court, the prose-
26 cuting attorney, and the victim.

1 (12) ~~-(11)-~~ If a parolee is required to register ~~pursuant~~
2 ~~to Act No. 295 of the Public Acts of 1994~~ UNDER THE SEX
3 OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732,
4 the parole officer shall register the parolee as provided in that
5 act.

6 Enacting section 1. This amendatory act does not take
7 effect unless all of the following bills of the 89th Legislature
8 are enacted into law:

9 (a) Senate Bill No. 97.

10 (b) House Bill No. 4289.