

# HOUSE BILL No. 4702

May 18, 1999, Introduced by Reps. Faunce, Law, Sanborn, DeHart, Richner, O'Neil, Julian, Kelly and Shulman and referred to the Committee on Criminal Law and 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 allow for the operation of certain facilities by private entities; 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 section 38 (MCL 791.238), as amended by 1994 PA 217.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 38. (1) Each prisoner on parole shall remain in the  
2 legal custody and under the control of the department. ~~The~~  
3 SUBJECT TO SUBSECTION (2), THE deputy director of the bureau of  
4 field services, upon a showing of probable violation of parole,  
5 may issue a warrant for the return of any paroled prisoner.  
6 Pending a hearing upon any charge of parole violation, the pris-  
7 oner shall remain incarcerated.

8       (2) IF THE CONDUCT CONSTITUTING THE PROBABLE VIOLATION OF  
9 PAROLE WOULD ALSO CONSTITUTE A FELONY, THE PROSECUTING ATTORNEY  
10 FOR THE COUNTY IN WHICH THE CONDUCT OCCURRED MAY REQUEST THAT THE  
11 DEPUTY DIRECTOR ISSUE A WARRANT DESCRIBED IN SUBSECTION (1). IF  
12 THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PAROLED PRISONER  
13 ENGAGED IN CONDUCT THAT WOULD CONSTITUTE A FELONY, THE DEPUTY  
14 DIRECTOR SHALL ISSUE THE WARRANT PROMPTLY UPON RECEIVING THE  
15 REQUEST FROM THE PROSECUTING ATTORNEY. THE PROSECUTING ATTORNEY  
16 WHO MADE THE REQUEST SHALL BE A PARTY IN ALL HEARINGS AND PRO-  
17 CEEDINGS HELD UNDER SECTIONS 39A TO 41 REGARDING THE POSSIBLE  
18 RESCISSION OF THAT PRISONER'S PAROLE.

19       (3) ~~-(2)-~~ A prisoner violating the provisions of his or her  
20 parole and for whose return a warrant has been issued by the  
21 deputy director of the bureau of field services is treated as an  
22 escaped prisoner and is liable, when arrested, to serve out the  
23 unexpired portion of his or her maximum imprisonment. The time  
24 from the date of the declared violation to the date of the  
25 prisoner's availability for return to an institution shall not be  
26 counted as time served. The warrant of the deputy director of  
27 the bureau of field services is a sufficient warrant authorizing

1 all officers named in the warrant to detain the paroled prisoner  
2 in any jail of the state until his or her return to the state  
3 penal institution.

4       (4) ~~-(3)-~~ If a paroled prisoner fails to return to prison  
5 when required by the deputy director of the bureau of field serv-  
6 ices or if the paroled prisoner escapes while on parole, the  
7 paroled prisoner shall be treated in all respects as if he or she  
8 had escaped from prison and is subject to be retaken as provided  
9 by the laws of this state.

10       (5) ~~-(4)-~~ The parole board, in its discretion, may cause the  
11 forfeiture of all good time to the date of the declared  
12 violation.

13       (6) ~~-(5)-~~ A prisoner committing a crime while at large on  
14 parole and being convicted and sentenced for the crime shall be  
15 treated as to the last incurred term as provided under section  
16 34.

17       (7) ~~-(6)-~~ A parole shall be construed as a permit to the  
18 prisoner to leave the ~~prison~~ STATE CORRECTIONAL FACILITY, and  
19 not as a release. While at large, the paroled prisoner shall be  
20 considered to be serving out the sentence imposed by the court  
21 and, if he or she is eligible for good time, shall be entitled to  
22 good time the same as if confined in a state correctional  
23 facility.