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House Bill 5967 (Substitute H-1 as passed by the House)
Sponsor: Representative Richard Ball
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 6-27-06

CONTENT

The bill would amend the Corrections Code to do all of the following:

- Specify that a parole order could be rescinded for cause before a prisoner was released on parole and that, after a prisoner was paroled, his or her parole order would be subject to revocation.**
- Require revocation, rather than rescission, of parole under certain circumstances.**
- Require that the Director of the Department of Corrections (DOC), or a designated deputy director, be notified if a preliminary parole violation hearing or fact-finding hearing were not held in the required time period for that proceeding, and require the hearing to be held as soon as possible.**
- Prohibit the release of a parolee held in custody pending disposition of a preliminary parole violation hearing or a fact-finding hearing.**

Parole Order Amendment, Rescission, or Revocation

Under the Code, a parole order may be amended or rescinded at the discretion of the parole board for cause. Under the bill, a parole order could be rescinded at the board's discretion for cause before the prisoner was released on parole. A parole order still could be amended at the discretion of the parole board for cause.

At present, if a parole prisoner who is required to register under the Sex Offenders Registration Act willfully violates that Act, the parole board must rescind the parole. Parole also must be rescinded if a prisoner convicted of violating or conspiring to violate certain controlled substances prohibitions, is released on parole and either violates or conspires to violate Article 7 of the Public Health Code (which contains controlled substances prohibitions) and the violation is punishable by at least four years' imprisonment, or commits a violent felony during his or her release on parole. Under the bill, parole in those instances would have to be revoked rather than rescinded.

(The Code prohibits parole from being rescinded unless an interview is conducted by one member of the parole board. The purpose of the interview is to consider and act upon information received by the board after the original parole release decision. A rescission interview must be conducted within 45 days after the board receives the new information. At least 10 days before the interview, the parolee must receive a copy or summary of the new evidence that is the basis for the interview.)

The bill specifies that, after a prisoner was released on parole, his or her parole order would be subject to revocation, at the discretion of the parole board, as provided in Section 40a of the Code (described below).

Hearing Schedule/Delay

Under Section 39a of the Code, within 10 days after an arrest for an alleged parole violation, a parolee is entitled either to a preliminary hearing to determine whether there is probable cause to believe that the conditions of parole have been violated or to a fact-finding hearing held pursuant to Section 40a. A preliminary hearing may be postponed beyond the 10-day time limit on the written request of the parolee, but may not be postponed by the DOC.

Under Section 40a, within 45 days after a paroled prisoner has been returned or is available for return to a State correctional facility because of an alleged parole violation other than a criminal conviction punishable by imprisonment, the prisoner is entitled to a fact-finding hearing on the charges before a member of the parole board or an attorney hearings officer designated by the chairperson of the board. A fact-finding hearing may be postponed for cause beyond the 45-day time limit, on the written request of the parolee or his or her attorney or, if a postponement of the preliminary hearing has been granted beyond the 10-day time limit, by the parole board.

The bill specifies that the DOC Director, or a deputy director designated by the Director, would have to be notified in writing if the preliminary parole violation hearing were not conducted within the 10-day time limit, and the hearing would have to be conducted as soon as possible. The Director or a designated deputy director also would have to be notified in writing if the fact-finding hearing were not conducted within the 45-day time limit, and the hearing would have to be conducted as soon as possible. A parolee held in custody could not be released pending disposition of either hearing.

MCL 791.236 & 791.240a

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on the Department of Corrections. The bill would put into statute policies already adopted by the DOC.

Fiscal Analyst: Lindsay Hollander

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.