

HOUSE BILL No. 5377

October 27, 2005, Introduced by Reps. Amos, Jones, Shaffer, Pastor, Vander Veen, Sheltrown, Brown, Vagnozzi, Acciavatti, LaJoy, Caul, Nitz, Booher, Palmer, Casperson, Walker, Rocca, Pavlov, Ward and Taub and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending section 36 (MCL 791.236), as amended by 2003 PA 75.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36. (1) All paroles shall be ordered by the parole board
2 and shall be signed by the chairperson. Written notice of the order
3 shall be given to the sheriff or other police officer of the
4 municipality or county in which the prisoner was convicted, and to
5 the sheriff or other local police officer of the municipality or
6 county to which the paroled prisoner is sent.

7 (2) A parole order may be amended or rescinded at the
8 discretion of the parole board for cause. If a paroled prisoner who

1 is required to register pursuant to the sex offenders registration
2 act, 1994 PA 295, MCL 28.721 to 28.732, willfully violates that
3 act, the parole board shall rescind the parole. If a prisoner
4 convicted of violating or conspiring to violate section
5 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii) of the public health
6 code, 1978 PA 368, MCL 333.7401 and 333.7403, is released on parole
7 and violates or conspires to violate article 7 of the public health
8 code, 1978 PA 368, MCL 333.7401 to 333.7545, and that violation or
9 conspiracy to violate is punishable by imprisonment for 4 or more
10 years, or commits a violent felony during his or her release on
11 parole, parole shall be rescinded.

12 (3) A parole shall not be rescinded unless an interview is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

22 (4) When a parole order is issued, the order shall contain the
23 conditions of the parole and shall specifically provide proper
24 means of supervision of the paroled prisoner in accordance with the
25 rules of the bureau of field services.

26 (5) The parole order shall contain a condition to pay
27 restitution to the victim of the prisoner's crime or the victim's

1 estate if the prisoner was ordered to make restitution pursuant to
2 the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834,
3 or the code of criminal procedure, 1927 PA 175, MCL 760.1 to
4 777.69.

5 (6) The parole order shall contain a condition requiring the
6 parolee to pay a parole supervision fee as prescribed in section
7 36a.

8 (7) The parole order shall contain a condition requiring the
9 parolee to pay any assessment the prisoner was ordered to pay
10 pursuant to section 5 of 1989 PA 196, MCL 780.905.

11 (8) The parole order shall contain a condition requiring the
12 parolee to pay the minimum state cost prescribed by section 1j of
13 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
14 769.1j, if the minimum state cost has not been paid.

15 (9) If the parolee is required to be registered under the sex
16 offenders registration act, 1994 PA 295, MCL 28.721 to 28.732, the
17 parole order shall contain a condition requiring the parolee to
18 comply with that act.

19 (10) If a prisoner convicted of violating or conspiring to
20 violate section 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii) of the
21 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is
22 released on parole, the parole order shall contain a notice that if
23 the parolee violates or conspires to violate article 7 of the
24 public health code, 1978 PA 368, MCL 333.7401 to 333.7545, and that
25 violation or conspiracy to violate is punishable by imprisonment
26 for 4 or more years, or commits a violent felony during his or her
27 release on parole, parole shall be rescinded.

1 (11) A parole order issued for a prisoner subject to
2 disciplinary time may contain a condition requiring the parolee to
3 be housed in a community corrections center or a community
4 residential home for not less than the first 30 days but not more
5 than the first 180 days of his or her term of parole. As used in
6 this subsection, "community corrections center" and "community
7 residential home" mean those terms as defined in section 65a.

8 (12) The parole order shall contain a condition requiring the
9 parolee to pay the following amounts owed by the prisoner, if
10 applicable:

11 (a) The balance of filing fees and costs ordered to be paid
12 under section 2963 of the revised judicature act of 1961, 1961 PA
13 236, MCL 600.2963.

14 (b) The balance of any filing fee ordered to be paid by a
15 federal court under section 1915 of title 28 of the United States
16 Code, 28 ~~U.S.C.~~ **USC** 1915 and any unpaid order of costs assessed
17 against the prisoner.

18 (13) In each case in which payment of restitution is ordered
19 as a condition of parole, a parole officer assigned to a case shall
20 review the case not less than twice yearly to ensure that
21 restitution is being paid as ordered. The final review shall be
22 conducted not less than 60 days before the expiration of the parole
23 period. If the parole officer determines that restitution is not
24 being paid as ordered, the parole officer shall file a written
25 report of the violation with the parole board on a form prescribed
26 by the parole board. The report shall include a statement of the
27 amount of arrearage and any reasons for the arrearage known by the

1 parole officer. The parole board shall immediately provide a copy
2 of the report to the court, the prosecuting attorney, and the
3 victim.

4 (14) If a parolee is required to register pursuant to the sex
5 offenders registration act, 1994 PA 295, MCL 28.721 to 28.732, the
6 parole officer shall register the parolee as provided in that act.

7 (15) If the parole order contains a condition intended to
8 protect 1 or more named persons, the department shall enter those
9 provisions of the parole order into the corrections management
10 information system, accessible by the law enforcement information
11 network. If the parole board rescinds a parole order described in
12 this subsection, the department within 3 business days shall remove
13 from the corrections management information system the provisions
14 of that parole order.

15 (16) IN ADDITION TO ANY OTHER REQUIREMENTS FOR THE PROPER
16 SUPERVISION OF THE PAROLEE, THE PAROLE ORDER SHALL PROHIBIT A
17 PAROLEE DESCRIBED IN THIS SUBSECTION FROM PARTICIPATING IN ANY WAY
18 IN ACTIVITIES TRADITIONALLY CONDUCTED DURING THE EVENING OF
19 HALLOWEEN, INCLUDING DISTRIBUTING CANDY OR OTHER ITEMS TO CHILDREN.
20 THE PAROLE ORDER ALSO SHALL PROHIBIT THE PAROLEE FROM LEAVING ANY
21 EXTERIOR LIGHTS ON AT THE PAROLEE'S RESIDENCE OR DOING ANYTHING
22 ELSE THAT WOULD CONVEY THE IMPRESSION THAT THE RESIDENCE IS
23 OCCUPIED DURING EACH OCTOBER 31 OCCURRING DURING THE PAROLE PERIOD
24 BETWEEN THE HOURS OF 6 P.M. AND 8 P.M. OR DURING ANY OTHER DATE OR
25 TIME DESIGNATED BY THE MUNICIPALITY IN WHICH THE PAROLEE RESIDES AS
26 BEING THE PERIOD FOR THE OBSERVANCE OF HALLOWEEN IN THAT
27 MUNICIPALITY. THIS SUBSECTION APPLIES TO A PRISONER SERVING A

1 SENTENCE FOR A VIOLATION OR ATTEMPTED VIOLATION OF ANY OF THE
2 FOLLOWING:

3 (A) SECTION 158 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
4 750.158 (SODOMY), IF THE VICTIM IS LESS THAN 18 YEARS OF AGE.

5 (B) SECTION 335A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
6 750.335A (INDECENT EXPOSURE), IF THE VICTIM IS LESS THAN 18 YEARS
7 OF AGE.

8 (C) SECTION 350 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
9 750.350 (LEADING, TAKING, CARRYING AWAY, DECOYING, OR ENTICING AWAY
10 CHILD UNDER 14 YEARS OF AGE).

11 (D) SECTION 520B OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
12 750.520B (FIRST DEGREE CRIMINAL SEXUAL CONDUCT), IF THE VICTIM IS
13 LESS THAN 18 YEARS OF AGE.

14 (E) SECTION 520C OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
15 750.520C (SECOND DEGREE CRIMINAL SEXUAL CONDUCT), IF THE VICTIM IS
16 LESS THAN 18 YEARS OF AGE.

17 (F) SECTION 520D OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
18 750.520D (THIRD DEGREE CRIMINAL SEXUAL CONDUCT), IF THE VICTIM IS
19 LESS THAN 18 YEARS OF AGE.

20 (G) SECTION 520G OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
21 750.520G (ASSAULT WITH INTENT TO COMMIT CRIMINAL SEXUAL CONDUCT),
22 IF THE VICTIM IS LESS THAN 18 YEARS OF AGE.

23 (H) A LAW OF THE UNITED STATES, ANOTHER STATE, OR A POLITICAL
24 SUBDIVISION OF THIS STATE OR ANOTHER STATE SUBSTANTIALLY
25 CORRESPONDING TO A VIOLATION DESCRIBED IN SUBDIVISIONS (A) TO (G).

26 (17) ~~(16)~~ As used in this section, "violent felony" means an
27 offense against a person in violation of section 82, 83, 84, 86,

1 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
2 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA
3 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,
4 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397,
5 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529,
6 750.529a, and 750.530.