

HOUSE BILL No. 5969

April 25, 2006, Introduced by Reps. Robertson, Gosselin, Ball, Taub, Acciavatti and Schuitmaker and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending section 6 (MCL 791.206), as amended by 1996 PA 104.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) The director may promulgate rules pursuant to the
2 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
3 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
4 ~~Compiled Laws~~ **1969 PA 306, MCL 24.201 TO 24.328**, which may provide
5 for all of the following:

6 (a) The control, management, and operation of the general
7 affairs of the department.

8 (b) Supervision and control of probationers and probation
9 officers throughout this state.

1 (c) The manner in which applications for pardon, reprieve,
2 medical commutation, or commutation shall be made to the governor;
3 the procedures for handling applications and recommendations by the
4 parole board; the manner in which paroles shall be considered, the
5 criteria to be used to reach release decisions, the procedures for
6 medical and special paroles, and the duties of the parole board in
7 those matters; interviews on paroles and for the notice of intent
8 to conduct an interview; the entering of appropriate orders
9 granting or denying paroles; the supervision and control of paroled
10 prisoners; and the revocation of parole.

11 (d) The management and control of state penal institutions,
12 correctional farms, probation recovery camps, and programs for the
13 care and supervision of youthful trainees separate and apart from
14 persons convicted of crimes within the jurisdiction of the
15 department. Except as provided ~~for~~ in section 62(3), this
16 subdivision ~~shall~~ **DOES** not apply to detention facilities operated
17 by local units of government used to detain persons less than 72
18 hours. The rules may permit the use of portions of penal
19 institutions in which persons convicted of crimes are detained. The
20 rules shall provide that decisions as to the removal of a youth
21 from the youthful trainee facility or the release of a youth from
22 the supervision of the department shall be made by the department
23 and shall assign responsibility for those decisions to a committee.

24 (e) The management and control of prison labor and industry.

25 (2) The director may promulgate rules providing for a parole
26 board structure consisting of 3-member panels.

27 (3) The director may promulgate further rules with respect to

1 the affairs of the department as the director considers necessary
2 or expedient for the proper administration of this act. The
3 director may modify, amend, supplement, or rescind a rule.

4 (4) The director and the corrections commission shall not
5 promulgate a rule or adopt a guideline that does either of the
6 following:

7 (a) Prohibits a probation officer or parole officer from
8 carrying a firearm while on duty.

9 (b) Allows a prisoner to have his or her name changed. If the
10 Michigan supreme court rules that ~~subsection 4(b) is violative of~~
11 ~~constitutional provisions under the first and fourteenth amendments~~
12 ~~to the United States constitution and article I, sections 2 and 4~~
13 ~~of the Michigan constitution of 1963~~ **THIS SUBDIVISION VIOLATES THE**
14 **UNITED STATES CONSTITUTION OR THE STATE CONSTITUTION OF 1963**, the
15 remaining provisions of the code ~~shall~~ remain in effect.

16 ~~(5) If the Michigan supreme court rules that sections 45 and~~
17 ~~46 of the administrative procedures act of 1969, Act No. 306 of the~~
18 ~~Public Acts of 1969, being sections 24.245 and 24.246 of the~~
19 ~~Michigan Compiled Laws, are unconstitutional, and a statute~~
20 ~~requiring legislative review of administrative rules is not enacted~~
21 ~~within 90 days after the Michigan supreme court ruling, the~~
22 ~~department shall not promulgate rules under this section.~~