

# Legislative Analysis

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## **PAROLE OF LIFERS: REMOVE SUCCESSOR JUDGE'S VETO POWER**

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### **House Bill 5273 (Proposed H-1 Substitute)**

**Sponsor: Rep. Dave Pagel**

**1st Committee: Judiciary**

**2nd Committee: Criminal Justice**

**Complete to 4-11-16**

Analysis available at  
<http://www.legislature.mi.gov>

### **SUMMARY:**

Under the bill, a written objection by a "successor judge" to the parole of a prisoner who was sentenced to life imprisonment but who is eligible for parole would no longer automatically remove the decision to grant or deny parole from the jurisdiction of the parole board. (A "successor judge" is the judge who succeeded the judge who originally imposed the life sentence.) The bill would take effect 90 days after enactment.

Currently, before the Michigan Parole Board can grant or deny parole to a prisoner serving a sentence of life but who is eligible for parole, a public hearing must be held. (For detailed information, see Michigan's Parole Process for Parolable Lifers below.) Notice of the public hearing must be given to the judge who imposed the sentence (sentencing judge) or to the judge who currently holds that office (successor judge). If either the sentencing judge or the successor judge files a written objection to the parole within 30 days of receiving the notice, parole cannot be granted. The written objections become part of the prisoner's file.

House Bill 5273 would amend the Corrections Code to remove the ability of a successor judge to block a parole hearing from going forward (MCL 791.234). Under the bill, the notice of the parole hearing would still have to be given to the sentencing judge or the successor judge and either could file written objections.

However, a sentencing judge's written objections would bar parole only if that judge were still in office in the court before which the prisoner was convicted and sentenced.

A successor judge's written objections would not bar the granting of parole.

The bill would also clarify that the written objections filed by either the sentencing judge or the judge's successor in office will be made part of the prisoner's file.

### **MICHIGAN'S PAROLE PROCESS FOR PAROLABLE LIFERS:**

The parole process for a prisoner sentenced to life imprisonment but eligible for parole is different from the process for other prisoners. A parolable lifer must serve at least 10 or 15 years of a sentence before being considered for release on parole, depending on whether the offense for which life was imposed was committed before or after October 1, 1992.

According to statute, one member of the parole board must interview the prisoner at the conclusion of 10 years of imprisonment and again thereafter according to a schedule determined by the parole board until such time as the prisoner is paroled, discharged, or deceased. Prisoners may be represented at the interview by an individual of their own choosing, but the representative may not be another prisoner. The prisoner or the representative may present evidence in favor of holding a public parole hearing. In addition, the prisoner's file must be reviewed after 15 years post-sentencing and every 5 years thereafter. The prisoner must be notified 30 days prior to a file review and must be allowed to submit written statements or documentary evidence for consideration by the parole board.

If the parole board member conducting the interview believes the prisoner is a good candidate for parole, the case is presented before the parole board at what is known as an "executive session." A majority of the board must then decide whether or not to proceed with considering parole for the prisoner. A decision to not proceed any further is referred to as a "no interest decision" and the parole process is effectively ended until the next scheduled review.

If the parole board decides to continue consideration for parole, a public hearing is scheduled. A decision to grant or deny parole cannot be made until after a public hearing is held. Notice of the public hearing must be sent to the judge who sentenced the prisoner to life or to the judge who is currently holding that position on the bench (the "successor judge"), and also to the prosecutor of the county where the prisoner was convicted. The sentencing judge or the successor judge has 30 days from the date the notice of the public hearing was received to submit to the parole board written objections to the parole of the prisoner. If the parole board receives such written objections, the public hearing is cancelled and the parole process is effectively ended until the next scheduled review.

If no objections to the parole by the sentencing judge or the successor are received by the parole board, the public hearing is conducted. A member of the parole board conducts the hearing and the public is represented by the attorney general. Anyone can speak at a public parole hearing, including the county prosecutor and victims or their families. After the hearing, the parole board makes its final decision whether to grant or deny parole. If parole is granted, it must be for a period of at least four years. The county prosecutor or the victim of the crime may appeal a grant of parole in circuit court.

## **FISCAL IMPACT:**

The bill would have an indeterminate fiscal impact on the state, though very likely nominal. The impact would depend on the change in the number of parole hearings and paroles resulting from provisions of the bill.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.