

SENATE BILL No. 265

April 11, 2019, Introduced by Senator SANTANA and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1953 PA 232, entitled
 "Corrections code of 1953,"
 by amending sections 25a, 36, and 36a (MCL 791.225a, 791.236, and
 791.236a), sections 25a and 36a as amended by 2002 PA 502 and
 section 36 as amended by 2012 PA 623.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 25a. (1) ~~The~~**SUBJECT TO THE MARIHUANA VIOLATION SENTENCE**
 2 **REDUCTION ACT, THE** department shall collect supervision fees
 3 ordered under section ~~13(2)~~**13** of chapter II or section 1 or 3c of
 4 chapter XI of the code of criminal procedure, 1927 PA 175, MCL
 5 762.13, 771.1, and 771.3c. The department shall maintain records of
 6 supervision fees ordered by the court, including records of payment

1 by persons subject to supervision fees and any amounts of
2 supervision fees past due and owing.

3 (2) A supervision fee is payable when the order of delayed
4 sentence or order of probation is entered, unless the court allows
5 a person who is subject to a supervision fee to pay the fee in
6 monthly installments.

7 (3) The department shall waive any applicable supervision fee
8 for a person who is transferred to another state under the
9 interstate compact entered into pursuant to 1935 PA 89, MCL 798.101
10 to 798.103, or the interstate compact entered into pursuant to 2002
11 PA 40, MCL 3.1011 to 3.1012, for the months during which he or she
12 is in another state. The department shall collect a supervision fee
13 of not more than \$135.00 per month for each month of supervision in
14 this state for an offender transferred to this state under an
15 interstate compact. In determining the amount of the fee, the
16 department shall consider the offender's projected income and
17 financial resources. The department shall use the following table
18 of projected monthly income in determining the amount of the fee:

19	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
20	\$ 0-249.99	\$ 0.00
21	\$ 250.00-499.99	\$10.00
22	\$ 500.00-749.99	\$25.00
23	\$ 750.00-999.99	\$40.00
24	\$1,000.00 or more	5% of monthly income, but
25		not more than \$135.00

26 The department may collect a higher amount than indicated by
27 the table, up to the maximum of \$135.00 for each month of

1 supervision in this state, if the department determines that the
2 offender has sufficient assets or other financial resources to
3 warrant the higher amount. If the department collects a higher
4 amount, the amount and the reasons for collecting that amount ~~shall~~
5 **MUST** be stated in the department records.

6 (4) If a person who is subject to a supervision fee is also
7 subject to any combination of fines, costs, restitution orders,
8 assessments, or payments arising out of the same criminal
9 proceeding, the allocation of money collected for those obligations
10 ~~shall~~**MUST** be as otherwise provided in the code of criminal
11 procedure, 1927 PA 175, MCL 760.1 to 777.69.

12 (5) Twenty percent of the money collected by the department
13 under this section ~~shall~~**MUST** be allocated for administrative costs
14 incurred by the department in collecting supervision fees and for
15 enhanced services, as described in this subsection. Enhanced
16 services include, but are not limited to, the purchase of services
17 for offenders such as counseling, employment training, employment
18 placement, or education; public transportation expenses related to
19 training, counseling, or employment; enhancement of staff
20 performance through specialized training and equipment purchase;
21 and purchase of items for offender employment. The department shall
22 develop priorities for expending the money for enhanced services in
23 consultation with circuit judges in this state. At the end of each
24 fiscal year, the unexpended balance of the money allocated for
25 administrative costs and enhanced services ~~shall~~**MUST** be available
26 for carryforward to be used for the purposes described in this
27 subsection in subsequent fiscal years.

1 (6) If a person has not paid the full amount of a supervision
2 fee upon being discharged from probation, or upon termination of
3 the period of delayed sentence for a person subject to delayed
4 sentence, the department shall review and compare the actual income
5 of the person during the period of probation or delayed sentence
6 with the income amount projected when the supervision fee was
7 ordered. If the department determines that the person's actual
8 income did not equal or exceed the projected income, the department
9 shall waive any unpaid amount in excess of the total amount that
10 the person would have been ordered to pay if the person's income
11 had been accurately projected, unless the court order states that a
12 higher amount was ordered due to available assets or other
13 financial resources. Any unpaid amounts not waived by the
14 department ~~shall~~**MUST** be reported to the department of treasury.
15 The department of treasury shall attempt to collect the unpaid
16 balances pursuant to section 30a of 1941 PA 122, MCL 205.30a. Money
17 collected under this subsection ~~shall~~**MUST** not be allocated for the
18 purposes described in subsection (5).

19 Sec. 36. (1) All paroles shall be ordered by the parole board
20 and ~~shall~~**MUST** be signed by the chairperson. Written notice of the
21 order shall be sent by first-class mail or by electronic means to
22 the prosecuting attorney and the sheriff or other police officer of
23 the municipality or county in which the prisoner was convicted and
24 to the prosecuting attorney and the sheriff or other local police
25 officer of the municipality or county to which the paroled prisoner
26 is sent or is to be sent. The notice ~~shall~~**MUST** be provided within
27 10 days after the parole board issues its order to parole the

1 prisoner.

2 (2) A parole order may be rescinded at the discretion of the
3 parole board for cause before the prisoner is released on parole. A
4 parole ~~shall~~**MUST** not be revoked unless an interview with the
5 prisoner is conducted by 1 member of the parole board. The purpose
6 of the interview is to consider and act upon information received
7 by the board after the original parole release decision. A
8 revocation interview ~~shall~~**MUST** be conducted within 45 days after
9 receiving the new information. At least 10 days before the
10 interview, the parolee ~~shall~~**MUST** receive a copy or summary of the
11 new evidence that is the basis for the interview.

12 (3) ~~A~~**SUBJECT TO THE MARIHUANA VIOLATION SENTENCE REDUCTION**
13 **ACT, A** parole order may be amended at the discretion of the parole
14 board for cause. An amendment to a parole order ~~shall~~**MUST** be in
15 writing and is not effective until notice of the amendment is given
16 to the parolee.

17 (4) When a parole order is issued, the order ~~shall~~**MUST**
18 contain the conditions of the parole and ~~shall~~**MUST** specifically
19 provide proper means of supervision of the paroled prisoner in
20 accordance with the rules of the bureau of field services.

21 (5) The parole order ~~shall~~**MUST** contain a condition to pay
22 restitution to the victim of the prisoner's crime or the victim's
23 estate if the prisoner was ordered to make restitution under the
24 William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL
25 780.751 to 780.834, or the code of criminal procedure, 1927 PA 175,
26 MCL 760.1 to 777.69.

27 (6) ~~The~~**SUBJECT TO THE MARIHUANA VIOLATION SENTENCE REDUCTION**

1 **ACT, THE** parole order ~~shall~~**MUST** contain a condition requiring the
2 parolee to pay a parole supervision fee as prescribed in section
3 36a.

4 (7) The parole order ~~shall~~**MUST** contain a condition requiring
5 the parolee to pay any assessment the prisoner was ordered to pay
6 under section 5 of 1989 PA 196, MCL 780.905.

7 (8) The parole order ~~shall~~**MUST** contain a condition requiring
8 the parolee to pay the minimum state cost prescribed by section 1j
9 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
10 769.1j, if the minimum state cost has not been paid.

11 (9) If the parolee is required to be registered under the sex
12 offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the
13 parole order ~~shall~~**MUST** contain a condition requiring the parolee
14 to comply with that act.

15 (10) If a prisoner convicted of violating or conspiring to
16 violate section 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii) of
17 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is
18 released on parole, the parole order ~~shall~~**MUST** contain a notice
19 that if the parolee violates or conspires to violate article 7 of
20 the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, and
21 that violation or conspiracy to violate is punishable by
22 imprisonment for 4 or more years, or commits a violent felony
23 during his or her release on parole, parole ~~shall~~**MUST** be revoked.

24 (11) ~~A~~**SUBJECT TO THE MARIHUANA VIOLATION SENTENCE REDUCTION**
25 **ACT, A** parole order issued for a prisoner subject to disciplinary
26 time may contain a condition requiring the parolee to be housed in
27 a community corrections center or a community residential home for

1 not less than the first 30 days but not more than the first 180
2 days of his or her term of parole. As used in this subsection,
3 "community corrections center" and "community residential home"
4 mean those terms as defined in section 65a.

5 (12) The parole order ~~shall~~**MUST** contain a condition requiring
6 the parolee to pay the following amounts owed by the prisoner, if
7 applicable:

8 (a) The balance of filing fees and costs ordered to be paid
9 under section 2963 of the revised judicature act of 1961, 1961 PA
10 236, MCL 600.2963.

11 (b) The balance of any filing fee ordered to be paid by a
12 federal court under 28 USC 1915 and any unpaid order of costs
13 assessed against the prisoner.

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

27 (14) If a parolee is required to register under the sex

1 offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the
2 parole officer shall register the parolee as provided in that act.

3 (15) Beginning August 28, 2006, if a parolee convicted of
4 violating or conspiring to violate section 520b or 520c of the
5 Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, other
6 than a parolee who is subject to lifetime electronic monitoring
7 under section 85, is placed on parole, the parole board may require
8 that the parolee be subject to electronic monitoring. The
9 electronic monitoring required under this subsection ~~shall~~**MUST** be
10 conducted in the same manner, and ~~shall~~**MUST** be subject to the same
11 requirements, as is described in section 85 of this act and section
12 520n(2) of the Michigan penal code, 1931 PA 328, MCL 750.520n,
13 except as follows:

14 (a) The electronic monitoring ~~shall~~**MUST** continue only for the
15 duration of the term of parole.

16 (b) A violation by the parolee of any requirement prescribed
17 in section 520n(2) (a) to (c) is a violation of a condition of
18 parole, not a felony violation.

19 (16) If the parole order contains a condition intended to
20 protect 1 or more named persons, the department shall enter those
21 provisions of the parole order into the corrections management
22 information system, accessible by the law enforcement information
23 network. If the parole board rescinds a parole order described in
24 this subsection, the department within 3 business days shall remove
25 from the corrections management information system the provisions
26 of that parole order.

27 (17) Each prisoner who is required to be registered under the

1 sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736,
2 before being released on parole or being released upon completion
3 of his or her maximum sentence, shall provide to the department
4 notice of the location of his or her proposed place of residence or
5 domicile. The department then shall forward that notice of location
6 to the appropriate law enforcement agency as required under section
7 5(3) of the sex offenders registration act, 1994 PA 295, MCL
8 28.725. A prisoner who refuses to provide notice of the location of
9 his or her proposed place of residence or domicile or knowingly
10 provides an incorrect notice of the location of his or her proposed
11 place of residence or domicile under this subsection is guilty of a
12 felony punishable by imprisonment for not more than 4 years or a
13 fine of not more than \$2,000.00, or both.

14 (18) If a prisoner is serving a sentence for violating section
15 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i
16 (aggravated stalking), and if a victim of that crime has registered
17 to receive notices about that prisoner under the William Van
18 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to
19 780.834, the parole order for that prisoner ~~shall~~**MUST** require that
20 the prisoner's location be monitored by a global positioning
21 monitoring system during the entire period of the prisoner's
22 parole. If, at the time a prisoner described in this subsection is
23 paroled, no victim of the crime has registered to receive notices
24 about that prisoner under the William Van Regenmorter crime
25 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, but a
26 victim of the crime subsequently registers to receive those
27 notices, the prisoner's order of parole ~~shall~~**MUST** immediately be

1 modified to require that the prisoner's location be monitored by a
2 global positioning system during the balance of the period of that
3 prisoner's parole. As used in this subsection, "global positioning
4 monitoring system" means a system that electronically determines
5 and reports the location of an individual by means of an ankle
6 bracelet transmitter or similar device worn by the individual,
7 which transmits latitude and longitude data to monitoring
8 authorities through global positioning satellite technology but
9 does not include any radio frequency identification technology,
10 global positioning technology, or similar technology that would be
11 implanted in the parolee or would otherwise violate the corporeal
12 body of the parolee.

13 (19) The parole order ~~shall~~**MUST** require the parolee to
14 provide written consent to submit to a search of his or her person
15 or property upon demand by a peace officer or parole officer. The
16 written consent ~~shall~~**MUST** include the prisoner's name and date of
17 birth, his or her physical description, the date for release on
18 parole, and the ending date for that parole. The prisoner shall
19 sign the written consent before being released on parole. The
20 department shall promptly enter this condition of parole into the
21 department's corrections management information system or offender
22 management network information system or into a corresponding
23 records management system that is accessible through the law
24 enforcement information network. Consent to a search as provided
25 under this subsection does not authorize a search that is conducted
26 with the sole intent to intimidate or harass.

27 (20) As used in this section, "violent felony" means an

1 offense against a person in violation of section 82, 83, 84, 86,
 2 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
 3 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA
 4 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,
 5 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397,
 6 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529,
 7 750.529a, and 750.530.

8 Sec. 36a. (1) The parole board shall include in each order of
 9 parole that the department of corrections shall collect a parole
 10 supervision fee of not more than \$135.00 multiplied by the number
 11 of months of parole ordered, but not more than 60 months. The fee
 12 is payable when the parole order is entered, but the fee may be
 13 paid in monthly installments if the parole board approves
 14 installment payments for that parolee. In determining the amount of
 15 the fee, the parole board shall consider the parolee's projected
 16 income and financial resources. The parole board shall use the
 17 following table of projected monthly income in determining the
 18 amount of the fee to be ordered:

19	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
20	\$ 0-249.99	\$ 0.00
21	\$ 250.00-499.99	\$10.00
22	\$ 500.00-749.99	\$25.00
23	\$ 750.00-999.99	\$40.00
24	\$1,000.00 or more	5% of monthly income, but
25		not more than \$135.00

26 The parole board may order a higher amount than indicated by
 27 the table, up to the maximum of \$135.00 multiplied by the number of

1 months of parole ordered but not more than 60 months, if the parole
2 board determines that the parolee has sufficient assets or other
3 financial resources to warrant the higher amount. If the parole
4 board orders a higher amount, the amount and the reasons for
5 ordering that amount ~~shall~~**MUST** be stated in the parole order.

6 (2) If a person who is subject to a supervision fee is also
7 subject to any combination of fines, costs, restitution,
8 assessments, or payments arising out of the same criminal
9 proceeding, the allocation of money collected for those obligations
10 ~~shall~~**MUST** be as provided in section 22 of chapter XV of the code
11 of criminal procedure, 1927 PA 175, MCL 775.22.

12 (3) A person shall not be subject to more than 1 parole
13 supervision fee at the same time. If a parole supervision fee is
14 ordered for a parolee for any month or months during which that
15 parolee already is subject to a parole supervision fee, the
16 department shall waive the fee having the shorter remaining
17 duration.

18 (4) The department shall waive the parole supervision fee for
19 a parolee who is transferred to another state under the interstate
20 compact entered into pursuant to 1935 PA 89, MCL 798.101 to
21 798.103, or the interstate compact entered into pursuant to 2002 PA
22 40, MCL 3.1011 to 3.1012, for the months during which he or she is
23 in another state. The department shall collect a parole supervision
24 fee of not more than \$135.00 per month for each month of parole
25 supervision in this state for an offender transferred to this state
26 under an interstate compact. In determining the amount of the fee,
27 the department shall consider the parolee's projected income and

1 financial resources. The department shall use the following table
2 of projected monthly income in determining the amount of the fee:

3	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
4	\$ 0-249.99	\$ 0.00
5	\$ 250.00-499.99	\$10.00
6	\$ 500.00-749.99	\$25.00
7	\$ 750.00-999.99	\$40.00
8	\$1,000.00 or more	5% of monthly income, but
9		not more than \$135.00

10 The department may collect a higher amount than indicated by
11 the table, up to the maximum of \$135.00 for each month of parole
12 supervision in this state, if the department determines that the
13 parolee has sufficient assets or other financial resources to
14 warrant the higher amount. If the department collects a higher
15 amount, the amount and the reasons for collecting that amount ~~shall~~
16 **MUST** be stated in the department records.

17 (5) Twenty percent of the money collected by the department
18 under this section ~~shall~~ **MUST** be allocated for administrative costs
19 incurred by the department in collecting parole supervision fees
20 and for enhanced services, as described in this subsection.
21 Enhanced services include, but are not limited to, the purchase of
22 services for parolees such as counseling, employment training,
23 employment placement, or education; public transportation expenses
24 related to training, counseling, or employment; enhancement of
25 staff performance through specialized training and equipment
26 purchase; and purchase of items for parolee employment. At the end
27 of each fiscal year, the unexpended balance of the money allocated

1 for administrative costs and enhanced services ~~shall~~**MUST** be
2 available for carryforward to be used for the purposes described in
3 this subsection in subsequent fiscal years.

4 (6) If a parolee has not paid the full amount of the parole
5 supervision fee upon being discharged from parole, the department
6 shall review and compare the actual income of the person during the
7 period of parole with the income amount projected when the parole
8 supervision fee was ordered. If the department determines that the
9 parolee's actual income did not equal or exceed the projected
10 income, the department shall waive any unpaid amount in excess of
11 the total amount that the parolee would have been ordered to pay if
12 the parolee's income had been accurately projected, unless the
13 parole order states that a higher amount was ordered due to
14 available assets or other financial resources. Any unpaid amounts
15 not waived by the department ~~shall~~**MUST** be reported to the
16 department of treasury. The department of treasury shall attempt to
17 collect the unpaid balances pursuant to section 30a of 1941 PA 122,
18 MCL 205.30a. Money collected under this subsection ~~shall~~**MUST** not
19 be allocated for the purposes described in subsection (5).

20 (7) **A FEE PROVISION IN AN ORDER FOR PAROLE DESCRIBED UNDER**
21 **THIS SECTION IS SUBJECT TO THE MARIHUANA VIOLATION SENTENCE**
22 **REDUCTION ACT.**

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No. 262

25 of the 100th Legislature is enacted into law.