

Act No. 346  
Public Acts of 1993  
Approved by the Governor  
January 10, 1994  
Filed with the Secretary of State  
January 10, 1994

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

**Introduced by Senators Van Regenmorter, Cisky, Dingell, DeGrow, Dunaskiss and Faust**

# **ENROLLED SENATE BILL No. 472**

AN ACT to amend sections 36, 36a, and 40a of Act No. 232 of the Public Acts of 1953, entitled as amended "An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act," section 36 as amended by Act No. 185 of the Public Acts of 1989, section 36a as amended by Act No. 184 of the Public Acts of 1993, and section 40a as amended by Act No. 85 of the Public Acts of 1985, being sections 791.236, 791.236a, and 791.240a of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 36, 36a, and 40a of Act No. 232 of the Public Acts of 1953, section 36 as amended by Act No. 185 of the Public Acts of 1989, section 36a as amended by Act No. 184 of the Public Acts of 1993, and section 40a as amended by Act No. 85 of the Public Acts of 1985, being sections 791.236, 791.236a, and 791.240a of the Michigan Compiled Laws, are amended to read as follows:

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

(2) An order of parole may be amended or rescinded at the discretion of the parole board for cause. A parole shall not be rescinded unless an interview is conducted by 1 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 shall be conducted within 45 days after receiving the new information. At least 10 days before the interview, the parolee shall receive a copy or summary of the new evidence that is the basis for the interview. An amendment to a parole order shall be in writing and is not effective until notice of the amendment is given to the parolee.

(3) When an order for parole is issued, the order shall contain the conditions of the parole and shall specifically provide proper means of supervision of the paroled prisoner in accordance with the rules of the bureau of field services.

(4) The order of parole shall contain a condition to pay restitution to the victim of the prisoner's crime or the victim's estate if the prisoner was ordered to make restitution pursuant to the crime victim's rights act, Act No. 87 of the Public Acts of 1985, being sections 780.751 to 780.834 of the Michigan Compiled Laws, or the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 760.1 to 776.21 of the Michigan Compiled Laws.

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

(6) The order of parole shall contain a condition requiring the parolee to pay any assessment the prisoner was ordered to pay pursuant to section 5 of Act No. 196 of the Public Acts of 1989, being section 780.905 of the Michigan Compiled Laws.

(7) In each case in which payment of restitution is ordered as a condition of parole, a parole officer assigned to a case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. The final review shall be conducted not less than 60 days before the expiration of the parole period. If the parole officer determines that restitution is not being paid as ordered, the parole officer shall file a written report of the violation with the parole board on a form prescribed by the parole board. The report shall include a statement of the amount of arrearage and any reasons for the arrearage known by the parole officer. The parole board shall immediately provide a copy of the report to the court, the prosecuting attorney, and the victim.

Sec. 36a. (1) The parole board shall include in each order of parole that the department of corrections shall collect a parole supervision fee of not more than \$30.00 multiplied by the number of months of parole ordered, but not more than 60 months. The fee is payable when the parole order is entered, but the fee may be paid in monthly installments if the parole board approves installment payments for that parolee. In determining the amount of the fee, the parole board shall consider the parolee's projected income and financial resources. The parole board shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
\$ 0-249.99	\$ 0.00
\$250.00-499.99	\$10.00
\$500.00-749.99	\$20.00
\$750.00 or more	\$30.00

The parole board may order a higher amount than indicated by the table, up to the maximum of \$30.00 multiplied by the number of months of parole ordered but not more than 60 months, if the parole board determines that the parolee has sufficient assets or other financial resources to warrant the higher amount. If the parole board orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the parole order.

(2) A parole oversight fee ordered before October 1, 1993, pursuant to this section as it existed before this section was amended by Act No. 184 of the Public Acts of 1993 remains enforceable according to the terms of that parole order notwithstanding the amendments to this section made by Act No. 184 of the Public Acts of 1993.

(3) If a person who is subject to a supervision fee imposed on or after May 1, 1994 is also subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal proceeding, the allocation of money collected for those obligations shall be as provided in section 22 of chapter XV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 775.22 of the Michigan Compiled Laws.

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

(5) The department shall waive the parole supervision fee for a parolee who is transferred to another state under the interstate compact entered into pursuant to Act No. 89 of the Public Acts of 1935, being sections 798.101 to 798.103 of the Michigan Compiled Laws, for the months during which he or she is in another state. The department shall collect a parole supervision fee of not more than \$30.00 per month for each month of parole supervision in this state for an offender transferred to this state under that interstate compact. In determining the amount of the fee, the department shall consider the parolee's projected income and financial resources. The department shall use the following table of projected monthly income in determining the amount of the fee:

<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
\$ 0-249.99	\$ 0.00
\$250.00-499.99	\$10.00
\$500.00-749.99	\$20.00
\$750.00 or more	\$30.00

The department may collect a higher amount than indicated by the table, up to the maximum of \$30.00 for each month of parole supervision in this state, if the department determines that the parolee has sufficient assets or other financial resources to warrant the higher amount. If the department collects a higher amount, the amount and the reasons for collecting that amount shall be stated in the department records.

(6) Twenty percent of the money collected by the department under this section shall be allocated for administrative costs incurred by the department in collecting parole supervision fees and for enhanced services, as described in this subsection. Enhanced services include, but are not limited to, the purchase of services for parolees such as counseling, employment training, employment placement, or education; public transportation expenses related to training, counseling, or employment; enhancement of staff performance through specialized training and equipment purchase; and purchase of items for parolee employment. At the end of each fiscal year, the unexpended balance of the money allocated for administrative costs and enhanced services shall be available for carryforward to be used for the purposes described in this subsection in subsequent fiscal years. Money received by the department pursuant to this subsection in the fiscal year ending September 30, 1994 is appropriated for the purposes described in this subsection.

(7) If a parolee has not paid the full amount of the parole supervision fee upon being discharged from parole, the department shall review and compare the actual income of the person during the period of parole with the income amount projected when the parole supervision fee was ordered. If the department determines that the parolee's actual income did not equal or exceed the projected income, the department shall waive any unpaid amount in excess of the total amount that the parolee would have been ordered to pay if the parolee's income had been accurately projected, unless the parole order states that a higher amount was ordered due to available assets or other financial resources. Any unpaid amounts not waived by the department shall be reported to the department of treasury. The department of treasury shall attempt to collect the unpaid balances pursuant to section 30a of Act No. 122 of the Public Acts of 1941, being section 205.30a of the Michigan Compiled Laws. Money collected under this subsection shall not be allocated for the purposes described in subsection (6).

Sec. 40a. (1) Within 45 days after a paroled prisoner has been returned or is available for return to a state correctional facility under accusation of a parole violation other than conviction for a felony or misdemeanor punishable by imprisonment under the laws of this state, the United States, or any other state or territory of the United States, the prisoner is entitled to a fact-finding hearing on the charges before 1 member of the parole board or an attorney hearings officer designated by the chairperson of the parole board. The fact-finding hearing shall be conducted only after the accused parolee has had a reasonable amount of time to prepare a defense. The fact-finding hearing may be held at a state correctional facility or at or near the location of the alleged violation.

(2) An accused parolee shall be given written notice of the charges against him or her and the time, place, and purpose of the fact-finding hearing. At the fact-finding hearing, the accused parolee may be represented by an appointed or retained attorney and is entitled to the following rights:

- (a) Full disclosure of the evidence against him or her.
- (b) To testify and present relevant witnesses and documentary evidence.
- (c) To confront and cross-examine adverse witnesses unless the person conducting the fact-finding hearing finds on the record that a witness is subject to risk of harm if his or her identity is revealed.
- (d) To present other relevant evidence in mitigation of the charges.

(3) A fact-finding hearing may be postponed for cause beyond the 45-day time limit on the written request of the parolee, the parolee's attorney, or, if a postponement of the preliminary hearing has been granted beyond the 10-day time limit, by the parole board.

(4) If the evidence presented is insufficient to support the allegation that a parole violation occurred, the parolee shall be reinstated to parole status.

(5) If the parole board member or hearings officer conducting the fact-finding hearing determines from a preponderance of the evidence that a parole violation has occurred, the member or hearings officer shall present the relevant facts to the parole board and make a recommendation as to the disposition of the charges.

(6) If a preponderance of the evidence supports the allegation that a parole violation occurred, the parole board may revoke parole, and the parolee shall be provided with a written statement of the findings of fact and the reasons for the determination within 60 days after the paroled prisoner has been returned or is available for return to a state correctional facility.

(7) A parolee who is ordered to make restitution under the crime victim's rights act, Act No. 87 of the Public Acts of 1985, being sections 780.751 to 780.834 of the Michigan Compiled Laws, or the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 760.1 to 776.21 of the Michigan Compiled Laws, or to pay an assessment ordered under section 5 of Act No. 196 of the Public Acts of 1989, being section 780.905 of the Michigan Compiled Laws, as a condition of parole may have his or her parole revoked by the parole board if the parolee fails to comply with the order and if the parolee has not made a good faith effort to comply with the order. In determining whether to revoke parole, the parole board shall consider the parolee's employment status, earning ability, and financial resources, the

willfulness of the parolee's failure to comply with the order, and any other special circumstances that may have a bearing on the parolee's ability to comply with the order.

Section 2. Sections 36 and 40a of Act No. 232 of the Public Acts of 1953, as amended by this amendatory act, shall take effect May 1, 1994.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

- (a) Senate Bill No. 137.
- (b) Senate Bill No. 138.
- (c) Senate Bill No. 139.
- (d) Senate Bill No. 469.
- (e) Senate Bill No. 470.
- (f) Senate Bill No. 473.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Co-Clerk of the House of Representatives.

Approved -----

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Governor.