



SENATE BILL No. 101

January 13, 1993, Introduced by Senator DI NELLO and referred to the Committee on Family Law, Criminal Law, and Corrections.

A bill to amend sections 34 and 44 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 prison labor and correctional industries, and 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 hereby transferred; 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 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,"

as amended by Act No. 181 of the Public Acts of 1992, being sections 791.234 and 791.244 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 34 and 44 of Act No. 232 of the Public
2 Acts of 1953, as amended by Act No. 181 of the Public Acts of
3 1992, being sections 791.234 and 791.244 of the Michigan Compiled
4 Laws, are amended to read as follows:

5 Sec. 34. (1) Except as provided in section 34a, a prisoner
6 sentenced to an indeterminate sentence and confined in a state
7 correctional facility with a minimum in terms of years shall be
8 subject to the jurisdiction of the parole board when the prisoner
9 has served a period of time equal to the minimum sentence imposed
10 by the court for the crime of which he or she was convicted, less
11 good time and disciplinary credits, if applicable.

12 (2) If a prisoner is sentenced for consecutive terms,
13 whether received at the same time or at any time during ~~the life~~
14 ~~of~~ the original sentence, the parole board shall have jurisdic-
15 tion over the prisoner for purposes of parole when the prisoner
16 has served the total time of the added minimum terms, less the
17 good time and disciplinary credit allowed by statute. The maxi-
18 mum terms of the sentences shall be added to compute the new max-
19 imum term under this subsection, and discharge shall be issued
20 only after the total of the maximum sentences has been served
21 less good time and disciplinary credits, unless the prisoner is
22 paroled and discharged upon satisfactory completion of the
23 parole.

24 (3) If a prisoner has 1 or more consecutive terms remaining
25 to serve in addition to the term he or she is serving, the parole
26 board may terminate the sentence the prisoner is presently

1 serving at any time after the minimum term of the sentence has
2 been served.

3 (4) A prisoner ~~under sentence~~ SENTENCED TO IMPRISONMENT
4 for life ~~or~~ SHALL NOT BE RELEASED ON PAROLE. A PRISONER SEN-
5 TENCED TO IMPRISONMENT for a term of years, other than a prisoner
6 sentenced ~~for life for murder in the first degree or sentenced~~
7 ~~for life or for~~ TO a minimum term of imprisonment for a major
8 controlled substance offense, who has served 10 calendar years of
9 the sentence in the case of a prisoner sentenced for a crime com-
10 mitted before October 1, 1992, or who has served 15 calendar
11 years of the sentence in the case of a prisoner sentenced for a
12 crime committed on or after October 1, 1992, is subject to the
13 jurisdiction of the parole board and may be released on parole by
14 the parole board, subject to the following conditions:

15 (a) One member of the parole board shall interview the pris-
16 oner at the conclusion of 10 calendar years of the sentence and
17 every 5 years thereafter until such time as the prisoner is
18 paroled, discharged, or deceased. The interview schedule pre-
19 scribed in this subdivision applies to all prisoners to whom this
20 subsection is applicable, whether sentenced before, on, or after
21 ~~the effective date of the 1992 amendatory act that amended this~~
22 ~~subdivision~~ SEPTEMBER 22, 1992.

23 (b) A parole shall not be granted a prisoner so sentenced
24 until after a public hearing held in the manner prescribed for
25 pardons and commutations in ~~sections~~ SECTION 44(d) to (f) and
26 SECTION 45. Notice of the public hearing shall be given to the
27 sentencing judge, or the judge's successor in office, and parole

1 shall not be granted if the sentencing judge, or the judge's
2 successor in office, files written objections to the granting of
3 the parole within 30 days of receipt of the notice of hearing.
4 The written objections shall be made part of the prisoner's
5 file.

6 (c) A parole granted under this subsection shall be for a
7 period of not less than 4 years and subject to the usual rules
8 pertaining to paroles granted by the parole board. A parole
9 ordered under this subsection shall not become valid until the
10 transcript of the record is filed with the attorney general whose
11 certification of receipt of the transcript shall be returnable to
12 the office of the parole board within 5 days. Except for medical
13 records protected under section 2157 of the revised judicature
14 act of 1961, Act No. 236 of the Public Acts of 1961, being sec-
15 tion 600.2157 of the Michigan Compiled Laws, the file of a pris-
16 oner granted a parole under this subsection shall be a public
17 record.

18 (d) A parole shall not be granted under this subsection in
19 the case of a prisoner who is otherwise prohibited by law from
20 parole consideration. In such cases the interview procedures in
21 section 44 shall be followed.

22 (5) Except as provided in section 34a, a prisoner's release
23 on parole shall be discretionary with the parole board. The
24 action of the parole board in granting or denying a parole shall
25 be appealable by the prisoner, the prosecutor of the county from
26 which the prisoner was committed, or the victim of the crime for

1 which the prisoner was convicted. The appeal shall be to the
2 circuit court by leave of the court.

3 Sec. 44. (1) Subject to the constitutional authority of the
4 governor to grant reprieves, commutations, and pardons, 1 member
5 of the parole board shall interview a prisoner serving ~~a sen-~~
6 ~~tence for murder in the first degree or~~ a sentence of imprison-
7 ment for life ~~without parole~~ at the conclusion of 10 calendar
8 years and thereafter as determined appropriate by the parole
9 board, but not later than every 5 years until ~~such time as~~ the
10 prisoner is granted a reprieve, commutation, or pardon by the
11 governor, or is deceased. The interview schedule prescribed in
12 this subsection applies to all prisoners to whom this section is
13 applicable, whether sentenced before, on, or after the effective
14 date of the 1992 amendatory act that amended this subsection.

15 (2) Upon its own initiation of, or upon receipt of any
16 application for, a reprieve, commutation, or pardon, the parole
17 board shall do all of the following, as applicable:

18 (a) Not more than 60 days after receipt of an application,
19 conduct a review to determine whether the application for a
20 reprieve, commutation, or pardon has merit.

21 (b) Deliver either the written documentation of the initia-
22 tion or the original application with the parole board's determi-
23 nation regarding merit, to the governor and retain a copy of each
24 in its file, pending an investigation and hearing.

25 (c) Within 10 days after initiation, or after determining
26 that an application has merit, forward to the sentencing judge
27 and to the prosecuting attorney of the county having original

1 jurisdiction of the case, or their successors in office, a
2 written notice of the filing of the application or initiation,
3 together with copies of the application or initiation, any sup-
4 porting affidavits, and a brief summary of the case. Within 30
5 days after ~~receipt of~~ RECEIVING notice of the filing of any
6 application or initiation, the sentencing judge and the prosecut-
7 ing attorney, or their successors in office, may file information
8 at their disposal, together with any objections, in writing,
9 ~~which~~ THAT they may desire to interpose. If the sentencing
10 judge and the prosecuting attorney, or their successors in
11 office, do not respond within 30 days, the parole board shall
12 proceed on the application or initiation.

13 (d) If an application or initiation for commutation is based
14 on physical or mental incapacity, direct the bureau of health
15 care services to evaluate the condition of the prisoner and
16 report on that condition. If the bureau of health care services
17 determines ~~that~~ the prisoner is physically or mentally incapac-
18 itated, the bureau shall appoint a specialist in the appropriate
19 field of medicine, who is not employed by the department, to
20 evaluate the condition of the prisoner and to report on that
21 condition. These reports are protected by the doctor-patient
22 privilege of confidentiality, except ~~that~~ these reports shall
23 be provided to the governor for his or her review.

24 (e) Within 270 days after initiation by the parole board or
25 receipt of an application ~~that~~ the parole board has determined
26 to have merit pursuant to subdivision (a), make a full

1 investigation and determination on whether or not to proceed to a
2 public hearing.

3 (f) Conduct a public hearing not later than 90 days after
4 making a decision to proceed with consideration of a recommenda-
5 tion for the granting of a reprieve, commutation, or pardon. The
6 public hearing shall be held before a formal recommendation is
7 transmitted to the governor. One member of the parole board who
8 will be involved in the formal recommendation may conduct the
9 hearing, and the public shall be represented by the attorney gen-
10 eral or a member of the attorney general's staff.

11 (g) At least 30 days before conducting the public hearing,
12 provide written notice of the public hearing by mail to the
13 attorney general, the sentencing trial judge, and the prosecuting
14 attorney, or their successors in office, and each victim who
15 requests notice pursuant to the crime victim's rights act, Act
16 No. 87 of the Public Acts of 1985, being sections 780.751 to
17 780.834 of the Michigan Compiled Laws.

18 (h) Conduct the public hearing pursuant to the rules promul-
19 gated by the department. Except as otherwise provided in this
20 subdivision, any person ~~having information~~ PRESENTING TESTIMONY
21 in connection with the pardon, commutation, or reprieve shall be
22 sworn as a witness. A person who is a victim shall be given an
23 opportunity to address and be questioned by the parole board at
24 the hearing or to submit written testimony for the hearing. In
25 hearing testimony, the parole board shall give liberal construc-
26 tion to any technical rules of evidence.

1 (i) Transmit its formal recommendation to the governor.

2 (j) Make all data in its files available to the governor if
3 the parole board recommends ~~the~~ granting ~~of~~ a reprieve, com-
4 mutation, or pardon.

5 (3) Except for medical records protected by the
6 doctor-patient privilege of confidentiality, the files of the
7 parole board in cases under this section shall be matters of
8 public record.