



SENATE BILL No. 472

March 9, 1993, Introduced by Senators VAN REGENMORTER, CISKY, DINGELL, DE GROW, DUNASKISS and FAUST and referred to the Committee on Judiciary.

A bill to amend sections 36 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 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,"

section 36 as amended by Act No. 185 of the Public Acts of 1989 and section 40a as amended by Act No. 85 of the Public Acts of

1985, being sections 791.236 and 791.240a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

12 (2) An order of parole may be amended or rescinded at the
13 discretion of the parole board for cause. A parole shall not be
14 rescinded unless an interview is conducted by 1 member of the
15 parole board. The purpose of the interview ~~shall be~~ IS to con-
16 sider and act upon information received by the board ~~subsequent~~
17 ~~to~~ AFTER the original parole release decision. A rescission
18 interview shall be conducted within 45 days ~~of receipt of~~ AFTER
19 RECEIVING the new information. At least 10 days before the
20 interview, the parolee shall receive a copy or summary of the new
21 evidence ~~which~~ THAT is the basis for the interview. An amend-
22 ment to a parole order shall be in writing and ~~shall~~ IS not
23 ~~be~~ effective until notice of the amendment is given to the
24 parolee.

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

5 (4) The order of parole shall contain a condition to pay
6 restitution to, or perform services for, the victim of the
7 prisoner's crime or the victim's estate if the prisoner ~~has~~
8 ~~been~~ WAS sentenced to make restitution pursuant to the crime
9 victim's rights act, Act No. 87 of the Public Acts of 1985, being
10 sections 780.751 to 780.834 of the Michigan Compiled Laws, or
11 chapter IX of the code of criminal procedure, Act No. 175 of the
12 Public Acts of 1927, being sections 769.1 to 769.28 of the
13 Michigan Compiled Laws.

14 (5) The order of parole shall contain a condition requiring
15 the parolee to pay ~~a parole oversight fee or perform community~~
16 ~~service, as prescribed in section 36a~~ ANY ASSESSMENT THE PRIS-
17 ONER WAS ORDERED TO PAY PURSUANT TO SECTION 5 OF ACT NO. 196 OF
18 THE PUBLIC ACTS OF 1989, BEING SECTION 780.905 OF THE MICHIGAN
19 COMPILED LAWS.

20 (6) FROM TIME TO TIME, BUT NOT LESS THAN EVERY 2 MONTHS, A
21 PAROLE OFFICER SHALL REPORT TO THE PAROLE BOARD ANY UNPAID AMOUNT
22 OF RESTITUTION MADE A PAROLE CONDITION PURSUANT TO SUBSECTION (4)
23 OR ANY UNPAID AMOUNT OF ASSESSMENT MADE A PAROLE CONDITION PURSU-
24 ANT TO SUBSECTION (5) FOR EACH PRISONER UNDER THE PAROLE
25 OFFICER'S SUPERVISION.

26 (7) FROM TIME TO TIME, BUT NOT LESS THAN QUARTERLY, THE
27 PAROLE BOARD SHALL REVIEW EACH CASE IN WHICH RESTITUTION OR AN

1 ASSESSMENT DESCRIBED IN SUBSECTION (6) IS ORDERED TO BE PAID AS A
2 CONDITION OF PAROLE. IF THE PAROLE BOARD DETERMINES THAT RESTI-
3 TUTION OR ASSESSMENTS ARE NOT BEING PAID AS REQUIRED, THE PAROLE
4 BOARD SHALL PROMPTLY CONDUCT A HEARING TO DETERMINE WHETHER
5 PAROLE SHOULD BE REVOKED.

6 Sec. 40a. (1) Within 45 days after a paroled prisoner has
7 been returned or is available for return to a state correctional
8 facility under accusation of a PAROLE violation ~~of parole,~~
9 other than ~~the~~ conviction for a felony or misdemeanor punish-
10 able by imprisonment under the laws of this state, the United
11 States, or any other state or territory of the United States, the
12 prisoner is entitled to a fact-finding hearing on the charges
13 before 1 member of the parole board or an attorney hearings offi-
14 cer designated by the chairperson of the parole board. The
15 fact-finding hearing shall be conducted only after the accused
16 parolee has had a reasonable amount of time to prepare a
17 defense. The fact-finding hearing may be held at a state correc-
18 tional facility or at or near the location of the alleged
19 violation.

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

25 (a) Full disclosure of the evidence against him or her.

26 (b) To testify and present relevant witnesses and
27 documentary evidence.

1 (c) To confront and cross-examine adverse witnesses unless
2 the person conducting the fact-finding hearing finds on the
3 record that a witness ~~may be subjected~~ IS SUBJECT to risk of
4 harm if his or her identity is revealed.

5 (d) To present other relevant evidence in mitigation of the
6 charges.

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

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

15 (5) If the parole board member or hearings officer conduct-
16 ing the fact-finding hearing determines ~~based upon~~ FROM a
17 preponderance of the evidence ~~that~~ that a PAROLE violation ~~of~~
18 ~~parole~~ has occurred, the member or hearings officer shall
19 present the relevant facts to the parole board and make a recom-
20 mendation as to the disposition of the charges.

21 (6) If a preponderance of the evidence supports the allega-
22 tion that a PAROLE violation ~~of parole has~~ occurred, the parole
23 board may revoke parole, and the parolee shall be provided with a
24 written statement of the findings of fact and the reasons for the
25 determination within 60 days after the paroled prisoner has been
26 returned or is available for return to a state correctional
27 facility.

