



SENATE BILL No. 1242

September 14, 1994, Introduced by Senators HART, CHERRY, MILLER, O'BRIEN, DINGELL, BERRYMAN, KELLY, KOIVISTO, SMITH and WELBORN and referred to the Committee on Judiciary

A bill to amend sections 34 and 38 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,"

as amended by Act No 217 of the Public Acts of 1994, being sections 791 234 and 791 238 of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 34 and 38 of Act No 232 of the Public
2 Acts of 1953, as amended by Act No 217 of the Public Acts of
3 1994, being sections 791 234 and 791 238 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 other than
8 a prisoner subject to disciplinary time is subject to the juris-
9 diction of the parole board when the prisoner has served a period
10 of time equal to the minimum sentence imposed by the court for
11 the crime of which he or she was convicted, less good time and
12 disciplinary credits, if applicable

13 (2) Except as provided in section 34a, a prisoner subject to
14 disciplinary time sentenced to an indeterminate sentence and con-
15 fined in a state correctional facility with a minimum in terms of
16 years is subject to the jurisdiction of the parole board when the
17 prisoner has served a period of time equal to the minimum sen-
18 tence imposed by the court for the crime of which he or she was
19 convicted, plus any disciplinary time accumulated pursuant to
20 section 34 of Act No 118 of the Public Acts of 1893, being sec-
21 tion 800 34 of the Michigan Compiled Laws

22 (3) ~~IF~~ EXCEPT AS PROVIDED IN SUBSECTION (5), IF a prisoner
23 other than a prisoner subject to disciplinary time is sentenced
24 for consecutive terms, whether received at the same time or at
25 any time during the life of the original sentence, the parole
26 board has jurisdiction over the prisoner for purposes of parole

1 when the prisoner has served the total time of the added minimum
2 terms, less the good time and disciplinary credits allowed by
3 statute The maximum terms of the sentences shall be added to
4 compute the new maximum term under this subsection, and discharge
5 shall be issued only after the total of the maximum sentences has
6 been served less good time and disciplinary credits, unless the
7 prisoner is paroled and discharged upon satisfactory completion
8 of the parole

9 (4) ~~If~~ EXCEPT AS PROVIDED IN SUBSECTION (5), IF a prisoner
10 subject to disciplinary time is sentenced for consecutive terms,
11 whether received at the same time or at any time during the life
12 of the original sentence, the parole board has jurisdiction over
13 the prisoner for purposes of parole when the prisoner has served
14 the total time of the added minimum terms, plus any disciplinary
15 time The maximum terms of the sentences shall be added to com-
16 pute the new maximum term under this subsection, and discharge
17 shall be issued only after the total of the maximum sentences has
18 been served, unless the prisoner is paroled and discharged upon
19 satisfactory completion of the parole

20 (5) NOTWITHSTANDING SUBSECTIONS (3) AND (4), IF A PRISONER,
21 WHETHER OR NOT HE OR SHE IS A PRISONER SUBJECT TO DISCIPLINARY
22 TIME, IS SENTENCED FOR CONSECUTIVE TERMS FOR COMMISSION OF A
23 FELONY WHILE ON PAROLE FROM A SENTENCE FOR A PREVIOUS OFFENSE,
24 THE PAROLE BOARD HAS JURISDICTION OVER THE PRISONER WHEN HE OR
25 SHE HAS SERVED THE TOTAL OF THE MAXIMUM TERM IMPOSED FOR THE PRE-
26 VIOUS OFFENSE AND THE MINIMUM TERM IMPOSED FOR THE SUBSEQUENT
27 OFFENSE, LESS GOOD TIME OR DISCIPLINARY CREDITS, IF APPLICABLE,

1 OR PLUS ANY DISCIPLINARY TIME, IF APPLICABLE THE COMPUTATION OF
2 GOOD TIME, DISCIPLINARY CREDITS, OR DISCIPLINARY TIME FOR A PRIS-
3 ONER DESCRIBED IN THIS SUBSECTION IS APPLICABLE ONLY TO THE MINI-
4 MUM TERM IMPOSED FOR THE SUBSEQUENT OFFENSE, AND SHALL NOT BE
5 SUBTRACTED FROM OR ADDED TO THE MAXIMUM TERM IMPOSED FOR THE PRE-
6 VIOUS OFFENSE, WHICH SHALL BE SERVED IN ITS ENTIRETY

7 (6) ~~-(5)-~~ If a prisoner other than a prisoner subject to
8 disciplinary time has 1 or more consecutive terms remaining to
9 serve in addition to the term he or she is serving, the parole
10 board may terminate the sentence the prisoner is presently serv-
11 ing at any time after the minimum term of the sentence has been
12 served

13 (7) ~~-(6)-~~ A prisoner under sentence for life or for a term
14 of years, other than a prisoner sentenced for life for murder in
15 the first degree or sentenced for life or for a minimum term of
16 imprisonment for a major controlled substance offense who has
17 served 10 calendar years of the sentence in the case of a pris-
18 oner sentenced for a crime committed before October 1, 1992, or
19 who has served 15 calendar years of the sentence in the case of a
20 prisoner sentenced for a crime committed on or after October 1,
21 1992, is subject to the jurisdiction of the parole board and may
22 be released on parole by the parole board, subject to the follow-
23 ing conditions

24 (a) One member of the parole board shall interview the pris-
25 oner at the conclusion of 10 calendar years of the sentence and
26 every 5 years thereafter until such time as the prisoner is
27 paroled, discharged, or deceased The interview schedule

1 prescribed in this subdivision applies to all prisoners to whom
2 this subsection is applicable, whether sentenced before, on, or
3 after the effective date of the 1992 amendatory act that amended
4 this subdivision

5 (b) A parole shall not be granted a prisoner so sentenced
6 until after a public hearing held in the manner prescribed for
7 pardons and commutations in sections 44(2)(f) to (h) and 45
8 Notice of the public hearing shall be given to the sentencing
9 judge, or the judge's successor in office, and parole shall not
10 be granted if the sentencing judge, or the judge's successor in
11 office, files written objections to the granting of the parole
12 within 30 days of receipt of the notice of hearing The written
13 objections shall be made part of the prisoner's file

14 (c) A parole granted under this subsection shall be for a
15 period of not less than 4 years and subject to the usual rules
16 pertaining to paroles granted by the parole board A parole
17 ordered under this subsection is not valid until the transcript
18 of the record is filed with the attorney general whose certifica-
19 tion of receipt of the transcript shall be returnable to the
20 office of the parole board within 5 days Except for medical
21 records protected under section 2157 of the revised judicature
22 act of 1961, Act No 236 of the Public Acts of 1961, being sec-
23 tion 600 2157 of the Michigan Compiled Laws, the file of a pris-
24 oner granted a parole under this subsection is a public record

25 (d) A parole shall not be granted under this subsection in
26 the case of a prisoner who is otherwise prohibited by law from

1 parole consideration In such cases the interview procedures in
2 section 44 shall be followed

3 (8) ~~-(7)-~~ Except as provided in section 34a, a prisoner's
4 release on parole is discretionary with the parole board The
5 action of the parole board in granting or denying a parole is
6 appealable by the prisoner, the prosecutor of the county from
7 which the prisoner was committed, or the victim of the crime for
8 which the prisoner was convicted The appeal shall be to the
9 circuit court by leave of the court

10 (9) THE PROVISIONS OF THIS SECTION REGARDING PRISONERS
11 SUBJECT TO DISCIPLINARY TIME TAKE EFFECT BEGINNING ON THE EFFEC-
12 TIVE DATE OF ACT NO 217 OF THE PUBLIC ACTS OF 1994, AS PRE-
13 SCRIBED IN ENACTING SECTION 2 OF THAT AMENDATORY ACT

14 Sec 38 (1) Each prisoner on parole shall remain in the
15 legal custody and under the control of the department The
16 deputy director of the bureau of field services, upon a showing
17 of probable violation of parole may issue a warrant for the
18 return of any paroled prisoner Pending a hearing upon any
19 charge of parole violation, the prisoner shall remain
20 incarcerated

21 (2) A prisoner violating the provisions of his or her parole
22 and for whose return a warrant has been issued by the deputy
23 director of the bureau of field services is treated as an escaped
24 prisoner and is liable, when arrested, to serve out the unexpired
25 portion of his or her maximum imprisonment The time from the
26 date of the declared violation to the date of the prisoner's
27 availability for return to an institution shall not be counted as

1 time served The warrant of the deputy director of the bureau of
2 field services is a sufficient warrant authorizing all officers
3 named in the warrant to detain the paroled prisoner in any jail
4 of the state until his or her return to the state penal
5 institution

6 (3) If a paroled prisoner fails to return to prison when
7 required by the deputy director of the bureau of field services
8 or if the paroled prisoner escapes while on parole, the paroled
9 prisoner shall be treated in all respects as if he or she had
10 escaped from prison and is subject to be retaken as provided by
11 the laws of this state

12 (4) The parole board, in its discretion, may cause the for-
13 feiture of all good time to the date of the declared violation

14 ~~-(5) A prisoner committing a crime while at large on parole~~
15 ~~and being convicted and sentenced for the crime shall be treated~~
16 ~~as to the last incurred term as provided under section 34~~

17 (5) ~~-(6)-~~ A parole shall be construed as a permit to the
18 prisoner to leave the prison, and not as a release While at
19 large the paroled prisoner shall be considered to be serving out
20 the sentence imposed by the court and, if he or she is eligible
21 for good time, shall be entitled to good time the same as if con-
22 fined in a state correctional facility

23 Section 2 This amendatory act applies to prisoners sen-
24 tenced after January 6, 1993 for felonies committed while on
25 parole

1 Section 3 This amendatory act shall not take effect unless
2 Senate Bill No 1241
3 of the 87th Legislature is enacted into law