

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 281

A bill to amend 1953 PA 232, entitled

"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 allow for the operation of certain facilities by private entities; 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,"

by amending sections 34 and 36 (MCL 791.234 and 791.236), section 34 as amended by 1994 PA 345 and section 36 as amended by 1996 PA 554.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

9           (2) Except as provided in section 34a, a prisoner subject to  
10 disciplinary time sentenced to an indeterminate sentence and con-  
11 fined in a state correctional facility with a minimum in terms of  
12 years is subject to the jurisdiction of the parole board when the  
13 prisoner has served a period of time equal to the minimum sen-  
14 tence imposed by the court for the crime of which he or she was  
15 convicted, plus any disciplinary time accumulated pursuant to  
16 section 34 of ~~Act No. 118 of the Public Acts of 1893, being sec-~~  
17 ~~tion 800.34 of the Michigan Compiled Laws 1893 PA 118, MCL~~  
18 800.34.

19           (3) If a prisoner other than a prisoner subject to disci-  
20 plinary time is sentenced for consecutive terms, whether received  
21 at the same time or at any time during the life of the original  
22 sentence, the parole board has jurisdiction over the prisoner for  
23 purposes of parole when the prisoner has served the total time of  
24 the added minimum terms, less the good time and disciplinary  
25 credits allowed by statute. The maximum terms of the sentences  
26 shall be added to compute the new maximum term under this

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1 subsection, and discharge shall be issued only after the total of  
2 the maximum sentences has been served less good time and disci-  
3 plinary credits, unless the prisoner is paroled and discharged  
4 upon satisfactory completion of the parole.

5       (4) If a prisoner subject to disciplinary time is sentenced  
6 for consecutive terms, whether received at the same time or at  
7 any time during the life of the original sentence, the parole  
8 board has jurisdiction over the prisoner for purposes of parole  
9 when the prisoner has served the total time of the added minimum  
10 terms, plus any disciplinary time. The maximum terms of the sen-  
11 tences shall be added to compute the new maximum term under this  
12 subsection, and discharge shall be issued only after the total of  
13 the maximum sentences has been served, unless the prisoner is  
14 paroled and discharged upon satisfactory completion of the  
15 parole.

16       (5) If a prisoner other than a prisoner subject to disci-  
17 plinary time has 1 or more consecutive terms remaining to serve  
18 in addition to the term he or she is serving, the parole board  
19 may terminate the sentence the prisoner is presently serving at  
20 any time after the minimum term of the sentence has been served.

21       (6) A prisoner under sentence for life or for a term of  
22 years, other than a prisoner sentenced for life for murder in the  
23 first degree, ~~or sentenced for life or for a minimum term of~~  
24 ~~imprisonment for a major controlled substance offense,~~ OR SEN-  
25 TENCED FOR LIFE FOR A VIOLATION OF CHAPTER XXXIII OF THE MICHIGAN  
26 PENAL CODE, 1931 PA 328, MCL 750.200 TO 750.212A, who has served  
27 10 calendar years of the sentence in the case of a prisoner

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1 sentenced for a crime committed before October 1, 1992, or who  
2 has served 15 calendar years of the sentence in the case of a  
3 prisoner SENTENCED FOR A VIOLATION OF SECTION 7401(2)(A)(i) OF  
4 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401, OR sentenced  
5 for ~~a~~ ANY OTHER crime committed on or after October 1, 1992, is  
6 subject to the jurisdiction of the parole board and may be  
7 released on parole by the parole board, subject to the following  
8 conditions:

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

17       (b) A parole shall not be granted a prisoner so sentenced  
18 until after a public hearing held in the manner prescribed for  
19 pardons and commutations in sections 44(2)(f) to (h) and 45.  
20 Notice of the public hearing shall be given to the sentencing  
21 judge, or the judge's successor in office, and parole shall not  
22 be granted if the sentencing judge, or the judge's successor in  
23 office, files written objections to the granting of the parole  
24 within 30 days of receipt of the notice of hearing. The written  
25 objections shall be made part of the prisoner's file.

26       (c) A parole granted under this subsection shall be for a  
27 period of not less than 4 years and subject to the usual rules

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1 pertaining to paroles granted by the parole board. A parole  
2 ordered under this subsection is not valid until the transcript  
3 of the record is filed with the attorney general whose certifica-  
4 tion of receipt of the transcript shall be returnable to the  
5 office of the parole board within 5 days. Except for medical  
6 records protected under section 2157 of the revised judicature  
7 act of 1961, ~~Act No. 236 of the Public Acts of 1961, being sec-~~  
8 ~~tion 600.2157 of the Michigan Compiled Laws~~ 1961 PA 236, MCL  
9 600.2157, the file of a prisoner granted a parole under this sub-  
10 section is a public record.

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

15 (7) IN DETERMINING WHETHER A PRISONER CONVICTED OF VIOLATING  
16 OR CONSPIRING TO VIOLATE SECTION 7401(2)(A)(i) OF THE PUBLIC  
17 HEALTH CODE, 1978 PA 368, MCL 333.7401, AND SENTENCED TO IMPRIS-  
18 ONMENT FOR LIFE BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT  
19 THAT ADDED THIS SUBSECTION IS TO BE RELEASED ON PAROLE, THE  
20 PAROLE BOARD SHALL CONSIDER ALL OF THE FOLLOWING:

21 (A) WHETHER THE VIOLATION WAS PART OF A CONTINUING SERIES OF  
22 VIOLATIONS OF SECTION 7401 OR 7403 OF THE PUBLIC HEALTH CODE,  
23 1978 PA 368, MCL 333.7401 AND 333.7403, BY THAT INDIVIDUAL.

24 (B) WHETHER THE VIOLATION WAS COMMITTED BY THE INDIVIDUAL IN  
25 CONCERT WITH 5 OR MORE OTHER INDIVIDUALS.

26 (C) [ANY ] OF THE FOLLOWING:

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1           (i) WHETHER THE INDIVIDUAL WAS A PRINCIPAL ADMINISTRATOR,  
2 ORGANIZER, OR LEADER OF AN ENTITY THAT THE INDIVIDUAL KNEW OR HAD  
3 REASON TO KNOW WAS ORGANIZED, IN WHOLE OR IN PART, TO COMMIT VIO-  
4 LATIONS OF SECTION 7401 OR 7403 OF THE PUBLIC HEALTH CODE, 1978  
5 PA 368, MCL 333.7401 AND 333.7403, AND WHETHER THE VIOLATION FOR  
6 WHICH THE INDIVIDUAL WAS CONVICTED WAS COMMITTED TO FURTHER THE  
7 INTERESTS OF THAT ENTITY.

8           (ii) WHETHER THE INDIVIDUAL WAS A PRINCIPAL ADMINISTRATOR,  
9 ORGANIZER, OR LEADER OF AN ENTITY THAT THE INDIVIDUAL KNEW OR HAD  
10 REASON TO KNOW COMMITTED VIOLATIONS OF SECTION 7401 OR 7403 OF  
11 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401 AND 333.7403,  
12 AND WHETHER THE VIOLATION FOR WHICH THE INDIVIDUAL WAS CONVICTED  
13 WAS COMMITTED TO FURTHER THE INTERESTS OF THAT ENTITY.

          [(iii) WHETHER THE VIOLATION WAS COMMITTED IN A DRUG-FREE  
SCHOOL ZONE.]

          [(iv) WHETHER THE VIOLATION INVOLVED THE DELIVERY OF A  
CONTROLLED SUBSTANCE TO AN INDIVIDUAL LESS THAN 17 YEARS OF AGE OR  
POSSESSION WITH INTENT TO DELIVER A CONTROLLED SUBSTANCE TO AN  
INDIVIDUAL LESS THAN 17 YEARS OF AGE.]

14           (8) ~~-(7)-~~ Except as provided in section 34a, a prisoner's  
15 release on parole is discretionary with the parole board. The  
16 action of the parole board in granting or denying a parole is  
17 appealable by the prisoner, the prosecutor of the county from  
18 which the prisoner was committed, or the victim of the crime for  
19 which the prisoner was convicted. The appeal shall be to the  
20 circuit court in the county from which the prisoner was commit-  
21 ted, by leave of the court.

22           (9) ~~-(8)-~~ The provisions of this section regarding prisoners  
23 subject to disciplinary time take effect beginning on the effec-  
24 tive date of ~~Act No. 217 of the Public Acts of 1994~~ 1994 PA  
25 217, as prescribed in enacting section 2 of that amendatory act.

26           Sec. 36. (1) All paroles shall be ordered by the parole  
27 board and shall be signed by the chairperson. Written notice of

1 the order shall be given to the sheriff or other police officer

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2 of the municipality or county in which the prisoner was con-  
3 victed, and to the sheriff or other local police officer of the  
4 municipality or county to which the paroled prisoner is sent.

5       (2) ~~An order of~~ A parole ORDER may be amended or rescinded  
6 at the discretion of the parole board for cause. If a paroled  
7 prisoner who is required to register pursuant to the sex offend-  
8 ers registration act, ~~Act No. 295 of the Public Acts of 1994,~~  
9 ~~being sections 28.721 to 28.732 of the Michigan Compiled Laws~~  
10 1994 PA 295, MCL 28.721 TO 28.732, willfully violates that act,  
11 the parole board shall rescind the parole. IF A PRISONER CON-  
12 VICTED OF VIOLATING OR CONSPIRING TO VIOLATE SECTION  
13 7401(2)(A)(i) OR (ii) OR 7403(2)(A)(i) OR (ii) OF THE PUBLIC  
14 HEALTH CODE, 1978 PA 368, MCL 333.7401 AND 333.7403, IS RELEASED  
15 ON PAROLE AND VIOLATES OR CONSPIRES TO VIOLATE ARTICLE 7 OF THE  
16 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401 TO 333.7545, AND  
17 THAT VIOLATION OR CONSPIRACY TO VIOLATE IS PUNISHABLE BY IMPRIS-  
18 ONMENT FOR 4 OR MORE YEARS, OR COMMITS A VIOLENT FELONY DURING  
19 HIS OR HER RELEASE ON PAROLE, PAROLE SHALL BE REVOKED.

20       (3) A parole shall not be rescinded unless an interview is  
21 conducted by 1 member of the parole board. The purpose of the  
22 interview is to consider and act upon information received by the  
23 board after the original parole release decision. A rescission  
24 interview shall be conducted within 45 days after receiving the  
25 new information. At least 10 days before the interview, the  
26 parolee shall receive a copy or summary of the new evidence that  
27 is the basis for the interview. An amendment to a parole order

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1 shall be in writing and is not effective until notice of the  
2 amendment is given to the parolee.

3       (4) ~~(3)~~ When ~~an order for~~ A parole ORDER is issued, the  
4 order shall contain the conditions of the parole and shall spe-  
5 cifically provide proper means of supervision of the paroled  
6 prisoner in accordance with the rules of the bureau of field  
7 services.

8       (5) ~~(4)~~ The ~~order of~~ parole ORDER shall contain a condi-  
9 tion to pay restitution to the victim of the prisoner's crime or  
10 the victim's estate if the prisoner was ordered to make restitui-  
11 tion pursuant to the crime victim's rights act, ~~Act No. 87 of~~  
12 ~~the Public Acts of 1985, being sections 780.751 to 780.834 of the~~  
13 ~~Michigan Compiled Laws~~ 1985 PA 87, MCL 780.751 TO 780.834, or  
14 the code of criminal procedure, ~~Act No. 175 of the Public Acts~~  
15 ~~of 1927, being sections 760.1 to 776.21 of the Michigan Compiled~~  
16 ~~Laws~~ 1927 PA 175, MCL 760.1 TO 776.22.

17       (6) ~~(5)~~ The ~~order of~~ parole ORDER shall contain a condi-  
18 tion requiring the parolee to pay a parole supervision fee as  
19 prescribed in section 36a.

20       (7) ~~(6)~~ The ~~order of~~ parole ORDER shall contain a condi-  
21 tion requiring the parolee to pay any assessment the prisoner was  
22 ordered to pay pursuant to section 5 of ~~Act No. 196 of the~~  
23 ~~Public Acts of 1989, being section 780.905 of the Michigan~~  
24 ~~Compiled Laws~~ 1989 PA 196, MCL 780.905.

25       (8) ~~(7)~~ If the parolee is required to be registered under  
26 ~~Act No. 295 of the Public Acts of 1994~~ THE SEX OFFENDERS  
27 REGISTRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732, the ~~order~~

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1 of parole ORDER shall contain a condition requiring the parolee  
2 to comply with that act.

3 (9) IF A PRISONER CONVICTED OF VIOLATING OR CONSPIRING TO  
4 VIOLATE SECTION 7401(2)(A)(i) OR (ii) OR 7403(2)(A)(i) OR (ii) OF  
5 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401 AND 333.7403,  
6 IS RELEASED ON PAROLE, THE PAROLE ORDER SHALL CONTAIN A NOTICE  
7 THAT IF THE PAROLEE VIOLATES OR CONSPIRES TO VIOLATE ARTICLE 7 OF  
8 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401 TO 333.7545,  
9 AND THAT VIOLATION OR CONSPIRACY TO VIOLATE IS PUNISHABLE BY  
10 IMPRISONMENT FOR 4 OR MORE YEARS, OR COMMITS A VIOLENT FELONY  
11 DURING HIS OR HER RELEASE ON PAROLE, PAROLE SHALL BE REVOKED.

12 (10) ~~(8) An order of~~ A parole ORDER issued for a prisoner  
13 subject to disciplinary time shall contain a condition requiring  
14 the parolee to be housed in a community corrections center or a  
15 community residential home for not less than the first 30 days  
16 but not more than the first 180 days of his or her term of  
17 parole. As used in this subsection, "community corrections  
18 center" and "community residential home" mean those terms as  
19 defined in section 65a. This subsection applies beginning on the  
20 date that sentencing guidelines are enacted into law after the  
21 sentencing commission submits recommended sentencing guidelines  
22 to the secretary of the senate and the clerk of the house of rep-  
23 resentatives pursuant to section 33 of chapter IX of the code of  
24 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~  
25 ~~being section 769.33 of the Michigan Compiled Laws~~ 1927 PA 175,  
26 MCL 769.33.

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1       (11) ~~(9)~~ The ~~order of~~ parole ORDER shall contain a  
2 condition requiring the parolee to pay the following amounts owed  
3 by the prisoner, if applicable:

4       (a) The balance of filing fees and costs ordered to be paid  
5 under section 2963 of the revised judicature act of 1961, ~~Act~~  
6 ~~No. 236 of the Public Acts of 1961, being section 600.2963 of the~~  
7 ~~Michigan Compiled Laws~~ 1961 PA 236, MCL 600.2963.

8       (b) The balance of any filing fee ordered to be paid by a  
9 federal court under section 1915 of title 28 of the United States  
10 Code, 28 U.S.C. 1915 and any unpaid order of costs assessed  
11 against the prisoner.

12       (12) ~~(10)~~ In each case in which payment of restitution is  
13 ordered as a condition of parole, a parole officer assigned to a  
14 case shall review the case not less than twice yearly to ensure  
15 that restitution is being paid as ordered. The final review  
16 shall be conducted not less than 60 days before the expiration of  
17 the parole period. If the parole officer determines that resti-  
18 tution is not being paid as ordered, the parole officer shall  
19 file a written report of the violation with the parole board on a  
20 form prescribed by the parole board. The report shall include a  
21 statement of the amount of arrearage and any reasons for the  
22 arrearage known by the parole officer. The parole board shall  
23 immediately provide a copy of the report to the court, the prose-  
24 cuting attorney, and the victim.

25       (13) ~~(11)~~ If a parolee is required to register pursuant to  
26 ~~Act No. 295 of the Public Acts of 1994~~ THE SEX OFFENDERS

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1 REGISTRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732, the parole  
2 officer shall register the parolee as provided in that act.

3       (14) AS USED IN THIS SECTION, "VIOLENT FELONY" MEANS AN  
4 OFFENSE AGAINST A PERSON DESCRIBED IN SECTION 82, 83, 84, 86, 87,  
5 88, 89, 316, 317, 321, 349, 349A, 350, 397, 520B, 520C, 520D,  
6 520E, 520G, 529, 529A, OR 530 OF THE MICHIGAN PENAL CODE, 1931 PA  
7 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,  
8 750.316, 750.317, 750.321, 750.349, 750.349A, 750.350, 750.397,  
9 750.520B, 750.520C, 750.520D, 750.520E, 750.520G, 750.529,  
10 750.529A, AND 750.530.

11       Enacting section 1. This amendatory act takes effect  
12 October 1, 1998.