

SENATE SUBSTITUTE FOR 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 1998 PA 209 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 1893 PA 118, MCL 800.34.

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

SB 281, As Passed Senate, July 2, 1998

SB 281 as amended July 2, 1998

3

1 disciplinary credits, unless the prisoner is paroled and
2 discharged upon satisfactory completion of the parole.

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

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

19 (6) A prisoner under sentence for life or for a term of
20 years, other than a prisoner sentenced for life for murder in the
21 first degree ~~or sentenced for life or for a minimum term of~~
22 ~~imprisonment for a major controlled substance offense~~, or sen-
23 tenced for life for a violation of chapter XXXIII of the Michigan
24 penal code, 1931 PA 328, MCL 750.200 to ~~750.212~~ 750.212A, who
25 has served 10 calendar years of the sentence in the case of a
26 prisoner sentenced for ~~a~~ ANY OTHER crime committed before
27 October 1, 1992, OR, EXCEPT AS PROVIDED IN SUBSECTION (10), WHO

SB 281, As Passed Senate, July 2, 1998

SB 281 as amended July 2, 1998

4

1 HAS SERVED 20 CALENDAR YEARS OF THE SENTENCE IN THE CASE OF A
2 PRISONER SENTENCED TO IMPRISONMENT FOR LIFE FOR VIOLATING OR
3 CONSPIRING TO VIOLATE SECTION 7401(2)(A)(i) OF
4 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401, WHO HAS
5 ANOTHER CONVICTION FOR A SERIOUS CRIME, OR, EXCEPT AS PROVIDED IN
6 SUBSECTION (10), WHO HAS SERVED 17-1/2 CALENDAR YEARS OF THE SEN-
7 TENCE IN THE CASE OF A PRISONER SENTENCED TO IMPRISONMENT FOR LIFE
8 FOR VIOLATING OR CONSPIRING TO VIOLATE SEC-
9 TION 7401(2)(A)(i) OF THE PUBLIC HEALTH CODE, 1978 PA 368,
10 MCL 333.7401, WHO DOES NOT HAVE ANOTHER CONVICTION FOR A SERIOUS
11 CRIME, or who has served 15 calendar years of the sentence in the
12 case of a prisoner sentenced for a ANY OTHER crime committed on or
13 after
14 October 1, 1992, is subject to the jurisdiction of the parole
15 board and may be released on parole by the parole board, subject
16 to the following conditions:

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

26 (b) A parole shall not be granted a prisoner so sentenced
27 until after a public hearing held in the manner prescribed for
28 pardons and commutations in sections ~~44(2)(f) to (h)~~ 44 and
29 45. Notice of the public hearing shall be given to the
30 sentencing judge, or the judge's successor in office, and parole

SB 281, As Passed Senate, July 2, 1998

Senate Bill No. 281

5

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 is not valid until the transcript
10 of the record is filed with the attorney general whose certifica-
11 tion of receipt of the transcript shall be returnable to the
12 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, 1961 PA 236, MCL 600.2157, the file of a prisoner
15 granted a parole under this subsection is a public record.

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

20 (7) IN DETERMINING WHETHER A PRISONER CONVICTED OF VIOLATING
21 OR CONSPIRING TO VIOLATE SECTION 7401(2)(A)(i) OF THE PUBLIC
22 HEALTH CODE, 1978 PA 368, MCL 333.7401, AND SENTENCED TO IMPRIS-
23 ONMENT FOR LIFE BEFORE OCTOBER 1, 1998 IS TO BE RELEASED ON
24 PAROLE, THE PAROLE BOARD SHALL CONSIDER ALL OF THE FOLLOWING:

25 (A) WHETHER THE VIOLATION WAS PART OF A CONTINUING SERIES OF
26 VIOLATIONS OF SECTION 7401 OR 7403 OF THE PUBLIC HEALTH CODE,
27 1978 PA 368, MCL 333.7401 AND 333.7403, BY THAT INDIVIDUAL.

SB 281, As Passed Senate, July 2, 1998

Senate Bill No. 281

6

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

3 (C) ANY OF THE FOLLOWING:

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

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

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

19 (iv) WHETHER THE VIOLATION INVOLVED THE DELIVERY OF A CON-
20 TROLLED SUBSTANCE TO AN INDIVIDUAL LESS THAN 17 YEARS OF AGE OR
21 POSSESSION WITH INTENT TO DELIVER A CONTROLLED SUBSTANCE TO AN
22 INDIVIDUAL LESS THAN 17 YEARS OF AGE.

23 (8) ~~-(7)-~~ Except as provided in section 34a, a prisoner's
24 release on parole is discretionary with the parole board. The
25 action of the parole board in granting or denying a parole is
26 appealable by the prisoner, the prosecutor of the county from
27 which the prisoner was committed, or the victim of the crime for

SB 281, As Passed Senate, July 2, 1998

SB 281 as amended July 2, 1998

7

1 which the prisoner was convicted. The appeal shall be to the
2 circuit court in the county from which the prisoner was commit-
3 ted, by leave of the court.

4 (9) ~~-(8)-~~ The provisions of this section regarding prisoners
5 subject to disciplinary time take effect beginning on the effec-
6 tive date of 1994 PA 217, as prescribed in enacting section 2 of
7 that amendatory act.

8 (10) IF THE SENTENCING JUDGE, OR HIS OR HER SUCCESSOR IN
9 OFFICE, DETERMINES ON THE RECORD THAT A PRISONER DESCRIBED IN
10 SUBSECTION (6) SENTENCED TO IMPRISONMENT FOR LIFE FOR VIOLATING OR
11 CONSPIRING TO VIOLATE SECTION 7401(2)(A)(i)
12 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401, HAS COOPER-
13 ATED WITH LAW ENFORCEMENT, THE PRISONER IS SUBJECT TO THE JURIS-
14 DICTION OF THE PAROLE BOARD AND MAY BE RELEASED ON PAROLE AS PRO-
15 VIDED IN SUBSECTION (6), 2-1/2 YEARS EARLIER THAN THE TIME OTHER-
16 WISE INDICATED IN SUBSECTION (6). THE PRISONER IS CONSIDERED TO
17 HAVE COOPERATED WITH LAW ENFORCEMENT IF THE COURT DETERMINES ON
18 THE RECORD THAT THE PRISONER HAD NO RELEVANT OR USEFUL INFORMA-
19 TION TO PROVIDE. THE COURT SHALL NOT MAKE A DETERMINATION THAT
20 THE PRISONER FAILED OR REFUSED TO COOPERATE WITH LAW ENFORCEMENT
21 ON GROUNDS THAT THE DEFENDANT EXERCISED HIS OR HER CONSTITUTIONAL
22 RIGHT TO TRIAL BY JURY. IF THE COURT DETERMINES AT SENTENCING
23 THAT THE DEFENDANT COOPERATED WITH LAW ENFORCEMENT, THE COURT
24 SHALL INCLUDE ITS DETERMINATION IN THE JUDGMENT OF SENTENCE.

25 (11) AS USED IN THIS SECTION, "SERIOUS CRIME" MEANS VIOLATING
26 OR CONSPIRING TO VIOLATE ARTICLE 7 OF THE PUBLIC HEALTH CODE, 1978
27 PA 368,
MCL 333.7101 TO 333.7545, THAT IS PUNISHABLE BY IMPRISONMENT FOR
MORE THAN 4 YEARS, OR AN OFFENSE AGAINST A PERSON IN VIOLATION OF

SB 281, As Passed Senate, July 2, 1998

Senate Bill No. 281

8

1 SECTION 83, 84, 86, 87, 88, 89, 316, 317, 321, 349, 349A, 350,
2 397, 520B, 520C, 520D, 520G, 529, 529A, OR 530 OF THE MICHIGAN
3 PENAL CODE, 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.87,
4 750.88, 750.89, 750.316, 750.317, 750.321, 750.349, 750.349A,
5 750.350, 750.397, 750.520B, 750.520C, 750.520D, 750.520G,
6 750.529, 750.529A, AND 750.530.

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

13 (2) ~~An order of~~ A parole ORDER may be amended or rescinded
14 at the discretion of the parole board for cause. If a paroled
15 prisoner who is required to register pursuant to the sex offend-
16 ers registration act, ~~Act No. 295 of the Public Acts of 1994,~~
17 ~~being sections 28.721 to 28.732 of the Michigan Compiled Laws~~
18 1994 PA 295, MCL 28.721 TO 28.732, willfully violates that act,
19 the parole board shall rescind the parole. IF A PRISONER CON-
20 VICTED OF VIOLATING OR CONSPIRING TO VIOLATE SECTION
21 7401(2)(A)(i) OR (ii) OR 7403(2)(A)(i) OR (ii) OF THE PUBLIC
22 HEALTH CODE, 1978 PA 368, MCL 333.7401 AND 333.7403, IS RELEASED
23 ON PAROLE AND VIOLATES OR CONSPIRES TO VIOLATE ARTICLE 7 OF THE
24 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401 TO 333.7545, AND
25 THAT VIOLATION OR CONSPIRACY TO VIOLATE IS PUNISHABLE BY IMPRIS-
26 ONMENT FOR 4 OR MORE YEARS, OR COMMITS A VIOLENT FELONY DURING
27 HIS OR HER RELEASE ON PAROLE, PAROLE SHALL BE REVOKED.

SB 281, As Passed Senate, July 2, 1998

Senate Bill No. 281

9

1 (3) A parole shall not be rescinded unless an interview is
2 conducted by 1 member of the parole board. The purpose of the
3 interview is to consider and act upon information received by the
4 board after the original parole release decision. A rescission
5 interview shall be conducted within 45 days after receiving the
6 new information. At least 10 days before the interview, the
7 parolee shall receive a copy or summary of the new evidence that
8 is the basis for the interview. An amendment to a parole order
9 shall be in writing and is not effective until notice of the
10 amendment is given to the parolee.

11 (4) ~~(3)~~ When ~~an order for~~ A parole ORDER is issued, the
12 order shall contain the conditions of the parole and shall spe-
13 cifically provide proper means of supervision of the paroled
14 prisoner in accordance with the rules of the bureau of field
15 services.

16 (5) ~~(4)~~ The ~~order of~~ parole ORDER shall contain a condi-
17 tion to pay restitution to the victim of the prisoner's crime or
18 the victim's estate if the prisoner was ordered to make restitu-
19 tion pursuant to the crime victim's rights act, ~~Act No. 87 of~~
20 ~~the Public Acts of 1985, being sections 780.751 to 780.834 of the~~
21 ~~Michigan Compiled Laws~~ 1985 PA 87, MCL 780.751 TO 780.834, or
22 the code of criminal procedure, ~~Act No. 175 of the Public Acts~~
23 ~~of 1927, being sections 760.1 to 776.21 of the Michigan Compiled~~
24 ~~Laws~~ 1927 PA 175, MCL 760.1 TO 776.22.

25 (6) ~~(5)~~ The ~~order of~~ parole ORDER shall contain a condi-
26 tion requiring the parolee to pay a parole supervision fee as
27 prescribed in section 36a.

SB 281, As Passed Senate, July 2, 1998

Senate Bill No. 281

10

1 (7) ~~(6)~~ The ~~order of~~ parole ORDER shall contain a
2 condition requiring the parolee to pay any assessment the pris-
3 oner was ordered to pay pursuant to section 5 of ~~Act No. 196 of~~
4 ~~the Public Acts of 1989, being section 780.905 of the Michigan~~
5 ~~Compiled Laws~~ 1989 PA 196, MCL 780.905.

6 (8) ~~(7)~~ If the parolee is required to be registered under
7 ~~Act No. 295 of the Public Acts of 1994~~ THE SEX OFFENDERS REGIS-
8 TRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732, the ~~order of~~
9 parole ORDER shall contain a condition requiring the parolee to
10 comply with that act.

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

20 (10) ~~(8) An order of~~ A parole ORDER issued for a prisoner
21 subject to disciplinary time shall contain a condition requiring
22 the parolee to be housed in a community corrections center or a
23 community residential home for not less than the first 30 days
24 but not more than the first 180 days of his or her term of
25 parole. As used in this subsection, "community corrections
26 center" and "community residential home" mean those terms as
27 defined in section 65a. This subsection applies beginning on the

SB 281, As Passed Senate, July 2, 1998

Senate Bill No. 281

11

1 date that sentencing guidelines are enacted into law after the
2 sentencing commission submits recommended sentencing guidelines
3 to the secretary of the senate and the clerk of the house of rep-
4 resentatives pursuant to section 33 of chapter IX of the code of
5 criminal procedure, ~~Act No. 175 of the Public Acts of 1927,~~
6 ~~being section 769.33 of the Michigan Compiled Laws~~ 1927 PA 175,
7 MCL 769.33.

8 (11) ~~(9)~~ The ~~order of~~ parole ORDER shall contain a con-
9 dition requiring the parolee to pay the following amounts owed by
10 the prisoner, if applicable:

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

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

19 (12) ~~(10)~~ In each case in which payment of restitution is
20 ordered as a condition of parole, a parole officer assigned to a
21 case shall review the case not less than twice yearly to ensure
22 that restitution is being paid as ordered. The final review
23 shall be conducted not less than 60 days before the expiration of
24 the parole period. If the parole officer determines that resti-
25 tution is not being paid as ordered, the parole officer shall
26 file a written report of the violation with the parole board on a
27 form prescribed by the parole board. The report shall include a

SB 281, As Passed Senate, July 2, 1998

Senate Bill No. 281

12

1 statement of the amount of arrearage and any reasons for the
2 arrearage known by the parole officer. The parole board shall
3 immediately provide a copy of the report to the court, the prose-
4 cutting attorney, and the victim.

5 (13) ~~(11)~~ If a parolee is required to register pursuant to
6 ~~Act No. 295 of the Public Acts of 1994~~ THE SEX OFFENDERS REGIS-
7 TRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732, the parole offi-
8 cer shall register the parolee as provided in that act.

9 (14) AS USED IN THIS SECTION, "VIOLENT FELONY" MEANS AN
10 OFFENSE AGAINST A PERSON IN VIOLATION OF SECTION 82, 83, 84, 86,
11 87, 88, 89, 316, 317, 321, 349, 349A, 350, 397, 520B, 520C, 520D,
12 520E, 520G, 529, 529A, OR 530 OF THE MICHIGAN PENAL CODE, 1931
13 PA 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88,
14 750.89, 750.316, 750.317, 750.321, 750.349, 750.349A, 750.350,
15 750.397, 750.520B, 750.520C, 750.520D, 750.520E, 750.520G,
16 750.529, 750.529A, AND 750.530.

17 Enacting section 1. This amendatory act takes effect
18 October 1, 1998.