

PRISONER ID CARD: USE TO OBTAIN DRIVER LICENSE OR STATE ID CARD UPON RELEASE

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4074 (Substitute H-2)
Sponsor: Rep. Margaret O'Brien

House Bill 4076 (Substitute H-1)
Sponsor: Rep. Kurt Damrow

House Bill 4075 (Substitute H-1)
Sponsor: Rep. Mike Shirkey

House Bill 4077 (Substitute H-2)
Sponsor: Rep. Ben Glardon

Committee: Judiciary
First Analysis (10-4-11)

BRIEF SUMMARY: The bills would amend various acts to ease the ability of prisoners, after release upon parole or completion of their sentences, to obtain driver's licenses and state personal identification (ID) cards. Similar legislation was passed by the House in the previous two sessions.

FISCAL IMPACT: The bills would have state and local fiscal implications, as discussed in more detail later in the analysis.

THE APPARENT PROBLEM:

In today's world, such simple tasks as cashing a check, opening a bank account, applying for a job, or renting an apartment all have one thing in common – the need to show a valid driver's license or state personal ID card. The inability to produce a valid ID can, conversely, strip a person of the ability to complete one or all of those transactions. For a person recently released from prison, whether on parole or at the end of a maximum sentence, obtaining the necessary documentation to apply for a driver's license or state personal ID can be a daunting, if not impossible task.

Many prisoners do not have a valid ID at the time of release. If a person was incarcerated for a long period of time, and no longer has contact with family members (or their relatives are now deceased), copies of a birth certificate may have been lost. Other than the ID card used in prison, an ex-offender may have no picture ID. Yet, many of the forms of documentation acceptable to the Secretary of State (SOS) require a picture ID to get additional copies, such as marriage licenses, birth certificates, and school records.

Further, there is a cost associated with ordering copies of documents. A person who can't get a job due to a lack of the required ID often can't afford the fees to order the documents needed to get the ID in order to get a job! A person who gets caught in such a revolving door has a harder time reintegrating into society and becomes at higher risk for reoffending. Some feel a fund should be established that could provide assistance to low-income ex-prisoners in obtaining the documents necessary in obtaining a driver's license or state personal ID card. According to advocates who assist prisoners in obtaining the

necessary documents, the whole process can take about one to two months and cost about \$30 to \$60 for a person who does not have an active file (recently expired driver's license or state ID) at the SOS. During this time, the person may be unable to secure housing, find a job, or enroll in an educational institution.

For several years, advocates have requested that SOS accept, as one of the secondary pieces of documentation, the ID card issued to prisoners when incarcerated. Until recently, the SOS argued that the prison ID cards did not meet the standards it needed to verify the person's identity. More recently, the SOS and Department of Corrections (DOC) entered into a Memorandum of Understanding (MOU), under which the DOC will provide prisoners with an ID card upon release that addresses some of the concerns of the SOS. In addition, the DOC will provide the SOS with read-only access to its OMNI database for further verification of the prisoner ID cards. Though the MOU would seem to resolve the issue, some feel that corresponding provisions should be placed into statute to provide continuity in practice if or when there are changes in administration at the DOC and SOS.

THE CONTENT OF THE BILLS:

House Bill 4074 would require certain kinds of assistance be provided by the Department of Corrections to prisoners in obtaining the identification documents needed to obtain a state ID or driver's license and would prescribe the information to be contained on a prisoner's ID card.

House Bills 4075 and 4076 would allow a person to use a prison identification card as one of the required documents needed to obtain a state personal ID card or driver's license.

House Bill 4077 would require additional information to be included in a pre-sentence investigation report and require that certain information relating to the value of obtaining a driver's license and state personal identification card after release be provided to a person sentenced to prison.

The bills are tie-barred to each other, meaning that no single bill can take effect unless all the bills in the package are enacted. A more detailed description of each bill follows.

House Bill 4074: The bill would add a new section to the Corrections Code and amend existing provisions (MCL 791.234c et al.). It would apply to all prisoners serving a sentence under the jurisdiction of the Department of Corrections (DOC) after the bill's effective date who are eligible to obtain a driver's license under the Michigan Vehicle Code or a state personal identification card under Public Act 222 of 1972. Under the bill, the DOC would be required, either by contract or otherwise, to assist prisoners with reentry into the community, including, but not limited to:

- Assisting them in obtaining the identification documents described in the bill; and,

- subject to the DOC's security needs, reasonably allowing prisoners to obtain the following identification documents before being released on parole or discharged upon completion of their maximum sentence: (1) a Social Security card or Social Security number verification (if possible to obtain); and, (2) any of the identification documents that, in combination with the prisoner identification card issued under the bill, would satisfy the application requirements for obtaining a driver's license or state personal identification card as established by the Secretary of State under Section 307 of the Michigan Vehicle Code or Section 1 of Public Act 222 of 1972, the state personal identification card act. (These documents include a certified birth certificate, marriage license or divorce decree, a photo U.S. military identification card, and school records.)

The DOC would have to allow the Secretary of State to have electronic access to prisoner information for the purpose of verifying the identity of prisoners who applied for driver licenses or state personal identification cards.

Written information. The DOC would be required to include in writing to each prisoner certain information (as described in a provision that would be added by House Bill 4077) about information that must be included in a presentence investigation report. The written information would also have to list the personal identification documents needed to obtain a state driver's license or personal ID card. For any prisoner who begins to serve a sentence under the DOC's jurisdiction after the bill's effective date, the written information would be provided during Reception Center processing. For prisoners under the DOC's jurisdiction on the bill's effective date, the written information would be given as follows:

- Within 90 days after the bill's effective date for a prisoner with less than one year remaining before parole eligibility.
- For any other prisoner, at the time the parole eligibility report is prepared.

Parole eligibility report. As part of the determination to parole a prisoner, the parole board reviews pertinent information contained in a parole eligibility report. In general, the report is prepared by appropriate institutional staff at least 90 days before the expiration of the prisoner's minimum sentence and prior to a prisoner's interview with a parole board member. The bill would add two things in relation to the parole eligibility report:

- Include, as a required item in the eligibility report, whether the prisoner refused to attempt to obtain identification documents described in the bill, if applicable.
- Allow as part of the eligibility report a prisoner's refusal to obtain or attempt to obtain the documents identified in the bill.

Prisoner identification card. The DOC would have to provide a prisoner identification card to each prisoner when released on parole or released upon completion of the maximum sentence. The prisoner ID card would include the following based upon all available information:

- The prisoner's photograph, taken every three years or upon significant appearance change, whichever occurs first.
- The prisoner's legal name as identified on a birth certificate or on any one of the other citizenship identification documents specified by the SOS as being necessary to obtain a state driver's license or personal ID card, if those documents are available.
- The prisoner's date of birth.
- A statement as to whether the prisoner had been placed on parole or discharged upon completion of his or her sentence.

The Reentry Success Fund. The Reentry Success Fund would be created within the state treasury. The State Treasurer could receive money or other assets from any source for deposit into the fund and would direct the fund's investments and credit to the fund interest and earnings from those investments. Money in the fund at the close of a fiscal year would remain in the fund and not lapse to the General Fund. The DOC could expend money from the fund, upon appropriation, only for the expense of obtaining the documents needed to obtain a state driver's license or personal ID card for prisoners who are indigent.

House Bills 4075 and 4076: The bills would amend two different acts to require the Secretary of State to accept an identification card issued by the Department of Corrections (DOC) to prisoners placed on parole or released from a correctional facility as one of the required identification documents needed to apply for a state personal ID card or driver's license. The prisoner ID card would have to contain the prisoner's legal name, photograph, and other information identifying the prisoner as required under a provision proposed by House Bill 4074. Further, electronic access to prisoner information maintained by the DOC would have to be provided to the Secretary of State for the purpose of verifying the identity of a prisoner applying for an operator's or chauffeur's license under the Michigan Vehicle Code or for an official state identification card under the state ID act. House Bill 4075 would amend the state personal ID act, Public Act 222 of 1972 (MCL 28.291). House Bill 4076 would amend the Michigan Vehicle Code (MCL 257.307).

House Bill 4077: The bill would amend the Code of Criminal Procedure (MCL 771.14) to require additional information to be included in a presentence investigation report and to require certain information to be provided to a person committed to a state correctional facility about the value of obtaining a driver's license and state personal identification card upon release.

Generally speaking, before a court imposes a sentence, a probation officer must make inquiries as to the person's character and circumstances and prepare a written report for the court. This presentence investigation report must include certain information, such as an evaluation of and a prognosis for the person's adjustment in the community based on factual information in the report.

The bill would require the presentence report to also include a statement as to whether the person had provided identification documents necessary for obtaining a driver's license or state personal ID card (as described in House Bill 4074). These documents include a certified birth certificate, marriage license or divorce decree, a photo U.S. military identification card, and school records.

The bill would also require that a person being committed to a state correctional facility be provided notification explaining the importance of obtaining a driver's license or state personal ID card upon release. The notification would also have to list the personal identification documents described in House Bill 4074 needed to obtain a driver's license or state personal ID card.

The notification would also have to contain a request that the person obtain and provide those documents to the DOC and would state that the DOC must retain the documents in the person's file until release from secure confinement. Any identification documents previously provided by the person would have to accompany the commitment papers.

BACKGROUND INFORMATION:

Similar legislation was introduced in the 2007-2008 and 2009-2010 legislative sessions (House Bills 4525-4528 and 5568 and House Bills 5176-5180, respectively.) Both bill packages were passed by the House of Representatives and both contained a bill to create a debit card by which former prisoners could access money left in their prisoner accounts.

FISCAL INFORMATION:

Secretary of State: To the extent that the bills increase the ID card or operator license purchases above what they would otherwise be, there would be a positive fiscal impact to the state General Fund. Moreover, under statute, \$4 of each original license or renewal must be deposited in the Traffic Law Enforcement and Safety Fund. To the extent that the bill increases operator license applications above what they would otherwise be, the fund would realize an increase in revenue.

Corrections: House Bill 4075 would have an indeterminate effect on state and local government. The bill would make state ID cards more accessible to those who are on parole or released from corrections facilities, which could result in an increase in state ID purchases. However, providing access to Department of Corrections data could require investments in either technology or training for Secretary of State employees.

In addition, House Bills 4074 and 4077 are largely consistent with a memorandum of understanding (MOU) between the Department of State and the Department of Corrections; however, it appears that the department could incur modest costs in complying with requirements to provide prisoners with copies of forms and to include certain information in parole eligibility reports.

ARGUMENTS:

For:

For years, ex-prisoners and advocates providing services to ex-prisoners have complained about the difficulty ex-prisoners encounter when trying to obtain a Michigan driver's license or state personal ID card after release from prison. Without a license or ID card, it is virtually impossible for these people to obtain housing, secure employment, or even open a bank account. One barrier to obtaining a driver's license or ID card is lack of sufficient documents required by the Secretary of State (SOS). However, many ex-prisoners find themselves in a "Catch-22" situation, whereby they cannot get a driver's license without certain documentation, but cannot obtain those documents without a driver's license or ID card.

For several years, some believed a viable solution was to enact legislation to require the SOS to accept a prison ID card as one of the three pieces of documentation needed to obtain a license or state ID. Several times legislation has been offered to do so, but has been opposed by the SOS on grounds that SOS employees would have no way to verify the authenticity of a prison ID card, or to ensure that it was a trustworthy way to verify the identity of the person presenting it. After all, some prisoners have been convicted and incarcerated under an alias.

More recently, the SOS and Department of Corrections have resolved many of these concerns via a Memorandum of Understanding between the two departments. Though some feel the Memorandum obviates the need for this legislative package, others feel strongly that placing complementary language in statute will ensure that the policy goes forward, surviving changes in administration (which can precipitate changes in policy). Not only will the Memorandum (and the legislation) be of benefit to persons already released from prison, the bills would encourage and educate newly committed persons to the need for having current ID before release and establish a fund that can help indigent persons obtain the necessary documents while in prison. Also, documenting a prisoner's efforts to obtain personal identification documents while incarcerated on a prisoner's parole eligibility report, will motivate prisoners to secure needed personal identification documents prior to release (which will also positively impact their reintegration into society).

Many advocates believe that enactment of the bill package, and continuance of the new program to allow prisoners and ex-prisoners to use a prison ID as one form of documentation to obtain a driver's license or state personal ID card, will facilitate a person's reentry into the community, which has been documented to reduce the risk of reoffending. In that sense, the bills are a win-win proposal for all concerned.

Response:

The bills only benefit prisoners being released from DOC-operated correctional facilities. Those who work with people being released from jail – which include parolees who violate their parole conditions and are sent to jail instead of back to prison – say that this population also struggles with obtaining the ID necessary to find housing, employment, or public assistance. Apparently, it is not uncommon for IDs to be lost during

incarceration in a county jail, so even if a person had a valid ID going in, he or she may not have one when released. Moreover, many of those released from jail or prison live very transient lives, making it difficult to hang onto the documents needed to get an ID, especially if the individual suffers from a mental illness. Once those documents are lost, the person is back to square one. It would be helpful, therefore, if the documents (or a record of the documents) used by these individuals to obtain an ID were able to be retained by the Secretary of State or another governmental entity in order to reissue an ID in a timely manner – taking into consideration that some controls to prevent abuse or the potential of obtaining multiple IDs for use by other people may need to be adopted.

Against:

Though the Memorandum (and the legislation) addresses many concerns that the SOS has raised for the past several years, the long-held belief of the SOS is that addressing the issue through departmental policy is a better approach than legislation. As technology advances, as problems with the new program surface, as unforeseen needs arise, the Memorandum of Understanding between the two departments can be more quickly amended (and more cost effectively) than amending statutes.

POSITIONS:

The Prosecuting Attorneys Association indicated support for the bill. (9-22-11)

The Michigan Catholic Conference indicated support for the bill. (9-15-11)

The Michigan Judges Association indicated support for the bill. (9-15-11)

The State Bar of Michigan indicated support for the bill. (9-15-11)

A representative of A.R.R.O. (Advocacy, Re-entry, Resources, Outreach) offered testimony and indicated a position of neutrality. (9-15-11)

The Office of Secretary of State is neutral on the bill. (10-3-11)

The Michigan Department of Corrections indicated a position of neutrality. (9-15-11)

The Michigan Judges Association indicated a position of neutrality. (9-15-11)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Ben Gielczyk
Erik Jonasson
Bob Schneider

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.