

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5234

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(MCL 760.1 to 777.69) by adding sections 3g and 3h to chapter XI.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XI

SEC. 3G. (1) A COUNTY SHERIFF MAY NOTIFY THE COURT IN WRITING
THAT A PRISONER MAY BE ELIGIBLE FOR MEDICAL PROBATION IF THE COUNTY
SHERIFF HAS CONSULTED WITH A PHYSICIAN AND THE PHYSICIAN DETERMINED
EITHER OF THE FOLLOWING:

(A) THE PRISONER IS PHYSICALLY OR MENTALLY INCAPACITATED DUE
TO A MEDICAL CONDITION THAT RENDERS THE PRISONER UNABLE TO PERFORM
ACTIVITIES OF BASIC DAILY LIVING, AND THE PRISONER REQUIRES 24-HOUR
CARE. THE PHYSICIAN SHALL EVALUATE WHEN THE PHYSICAL OR MENTAL
INCAPACITATION AROSE.

1 (B) THE PRISONER REQUIRES ACUTE LONG-TERM MEDICAL TREATMENT OR
2 SERVICES.

3 (2) A COUNTY SHERIFF'S NOTIFICATION SUBMITTED TO THE COURT
4 UNDER SUBSECTION (1) MUST BE ACCOMPANIED WITH THE EVIDENCE THE
5 PHYSICIAN CONSIDERED IN MAKING A DETERMINATION UNDER SUBSECTION
6 (1) (A) OR (B) .

7 (3) SUBJECT TO SUBSECTION (4), A COURT MAY ENTER AN ORDER OF
8 PROBATION PLACING A PRISONER ON MEDICAL PROBATION UNDER THE CHARGE
9 AND SUPERVISION OF A PROBATION OFFICER IF THE COURT FINDS THAT THE
10 PRISONER REQUIRES ACUTE LONG-TERM MEDICAL TREATMENT OR SERVICES, OR
11 THAT THE PRISONER IS PHYSICALLY OR MENTALLY INCAPACITATED WITH A
12 MEDICAL CONDITION THAT RENDERS THE PRISONER UNABLE TO PERFORM
13 ACTIVITIES OF BASIC DAILY LIVING AND THE PRISONER REQUIRES 24-HOUR
14 CARE.

15 (4) A COURT SHALL NOT PLACE A PRISONER ON MEDICAL PROBATION
16 UNLESS ALL OF THE FOLLOWING APPLY:

17 (A) A PLACEMENT OPTION HAS BEEN SECURED FOR THE PRISONER IN
18 THE COMMUNITY. A PLACEMENT OPTION MAY INCLUDE, BUT IS NOT LIMITED
19 TO, HOME CONFINEMENT OR A MEDICAL FACILITY.

20 (B) THE COUNTY SHERIFF HAS MADE A REASONABLE EFFORT TO
21 DETERMINE WHETHER EXPENSES RELATED TO THE PRISONER'S PLACEMENT
22 SECURED UNDER SUBDIVISION (A) ARE COVERED BY MEDICAID, A HEALTH
23 CARE POLICY, A CERTIFICATE OF INSURANCE, OR ANOTHER SOURCE FOR THE
24 PAYMENT OF MEDICAL EXPENSES OR WHETHER THE PRISONER HAS SUFFICIENT
25 INCOME OR ASSETS TO PAY FOR EXPENSES RELATED TO THE PLACEMENT.

26 (C) THE COURT CONDUCTED A PUBLIC HEARING IN WHICH THE
27 PROSECUTING ATTORNEY OF THE COUNTY AND EACH VICTIM WHO REQUESTS

1 NOTICE IN THE MANNER PROVIDED IN THE WILLIAM VAN REGENMORTER CRIME
2 VICTIM'S RIGHTS ACT, 1985 PA 87, MCL 780.751 TO 780.834, ARE
3 PROVIDED ADEQUATE NOTICE OF THE HEARING AND AN OPPORTUNITY TO BE
4 HEARD DURING THE HEARING.

5 (5) IF A COURT'S PLACEMENT OF A PRISONER ON MEDICAL PROBATION
6 RESULTS IN EXPENSES INCURRED BY THE COUNTY THAT ARE NOT COVERED BY
7 A PAYMENT SOURCE IDENTIFIED UNDER SUBSECTION (4) (B), TO THE EXTENT
8 PERMITTED UNDER APPLICABLE LAW, THE COUNTY MAY SEEK REIMBURSEMENT
9 FOR THOSE EXPENSES.

10 (6) AN ORDER OF MEDICAL PROBATION ENTERED UNDER SUBSECTION (3)
11 MAY INCLUDE AS A CONDITION OF THE MEDICAL PROBATION THAT THE
12 PRISONER SUBMIT TO REEXAMINATION BY A PHYSICIAN TO ASSESS WHETHER
13 THE PRISONER CONTINUES TO MEET THE REQUIREMENTS FOR MEDICAL
14 PROBATION UNDER SUBSECTION (3). AT ANY TIME WHILE THE PRISONER IS
15 PLACED ON MEDICAL PROBATION, THE COURT OR PROBATION OFFICER MAY
16 REQUIRE THE PRISONER TO SUBMIT TO A REEXAMINATION. IF, AFTER THE
17 PRISONER IS REEXAMINED, THE COURT FINDS THAT THE REQUIREMENTS FOR
18 MEDICAL PROBATION UNDER SUBSECTION (3) ARE NO LONGER MET, THE COURT
19 SHALL REVOKE MEDICAL PROBATION AND ORDER THE PRISONER COMMITTED TO
20 THE COUNTY JAIL FOR A TERM OF IMPRISONMENT THAT DOES NOT EXCEED THE
21 PENALTY THAT WAS IMPOSED, LESS TIME SERVED, FOR THE OFFENSE FOR
22 WHICH THE PRISONER WAS ORIGINALLY CONVICTED AND PLACED ON MEDICAL
23 PROBATION.

24 (7) AS USED IN THIS SECTION AND SECTION 3H OF THIS CHAPTER:

25 (A) "COUNTY SHERIFF" INCLUDES THE SHERIFF OF A COUNTY IN THIS
26 STATE OR THE SHERIFF'S DESIGNEE.

27 (B) "PHYSICIAN" MEANS THAT TERM AS DEFINED IN SECTION 17001 OF

1 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.17001.

2 (C) "PRISONER" MEANS AN INDIVIDUAL COMMITTED OR SENTENCED TO
3 IMPRISONMENT UNDER SECTION 28 OF CHAPTER IX.

4 SEC. 3H. (1) A COUNTY SHERIFF MAY NOTIFY THE COURT IN WRITING
5 THAT A PRISONER MAY BE ELIGIBLE FOR COMPASSIONATE RELEASE IF THE
6 COUNTY SHERIFF HAS CONSULTED WITH A PHYSICIAN AND THE PHYSICIAN
7 DETERMINED THAT THE PRISONER HAS A LIFE EXPECTANCY OF NOT MORE THAN
8 6 MONTHS. THE NOTIFICATION MUST BE ACCOMPANIED WITH THE EVIDENCE
9 THE PHYSICIAN CONSIDERED IN MAKING THE DETERMINATION REGARDING THE
10 PRISONER'S LIFE EXPECTANCY.

11 (2) SUBJECT TO SUBSECTION (3), A COURT MAY GRANT COMPASSIONATE
12 RELEASE TO A PRISONER IF THE COURT FINDS THAT THE PRISONER HAS A
13 LIFE EXPECTANCY OF NOT MORE THAN 6 MONTHS AND THAT THE RELEASE OF
14 THE PRISONER WOULD NOT REASONABLY POSE A THREAT TO PUBLIC SAFETY OR
15 THE PRISONER. IF A COURT GRANTS A PRISONER COMPASSIONATE RELEASE,
16 THE COURT SHALL ENTER AN AMENDED JUDGMENT OF SENTENCE SPECIFYING
17 THAT THE PRISONER IS RELEASED FROM THE TERM OF IMPRISONMENT IMPOSED
18 FOR THE OFFENSE FOR WHICH THE PRISONER WAS ORIGINALLY CONVICTED.

19 (3) A COURT SHALL NOT GRANT A PRISONER COMPASSIONATE RELEASE
20 UNLESS ALL OF THE FOLLOWING APPLY:

21 (A) A PLACEMENT OPTION HAS BEEN SECURED FOR THE PRISONER IN
22 THE COMMUNITY. A PLACEMENT OPTION MAY INCLUDE, BUT IS NOT LIMITED
23 TO, PLACEMENT IN THE PRISONER'S HOME OR A MEDICAL FACILITY.

24 (B) THE SHERIFF HAS MADE A REASONABLE EFFORT TO DETERMINE
25 WHETHER EXPENSES RELATED TO THE PRISONER'S PLACEMENT SECURED UNDER
26 SUBDIVISION (A) ARE COVERED BY MEDICAID, A HEALTH CARE POLICY, A
27 CERTIFICATE OF INSURANCE, OR ANOTHER SOURCE FOR THE PAYMENT OF

1 MEDICAL EXPENSES OR WHETHER THE PRISONER HAS SUFFICIENT INCOME OR
2 ASSETS TO PAY FOR EXPENSES RELATED TO THE PLACEMENT.

3 (C) THE COURT CONDUCTED A PUBLIC HEARING IN WHICH THE
4 PROSECUTING ATTORNEY OF THE COUNTY AND EACH VICTIM WHO REQUESTS
5 NOTICE IN THE MANNER PROVIDED IN THE WILLIAM VAN REGENMORTER CRIME
6 VICTIM'S RIGHTS ACT, 1985 PA 87, MCL 780.751 TO 780.834, ARE
7 PROVIDED ADEQUATE NOTICE OF THE HEARING AND AN OPPORTUNITY TO BE
8 HEARD DURING THE HEARING.

9 (4) IF A COURT'S GRANT OF COMPASSIONATE RELEASE TO A PRISONER
10 RESULTS IN EXPENSES INCURRED BY THE COUNTY THAT ARE NOT COVERED BY
11 A PAYMENT SOURCE IDENTIFIED UNDER SUBSECTION (3)(B), TO THE EXTENT
12 PERMITTED UNDER APPLICABLE LAW, THE COUNTY MAY SEEK REIMBURSEMENT
13 FOR THOSE EXPENSES.

14 Enacting section 1. This amendatory act takes effect 90 days
15 after the date it is enacted into law.