

Act No. 8
Public Acts of 2017
Approved by the Governor
March 30, 2017
Filed with the Secretary of State
March 31, 2017
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

**Introduced by Senators Jones, O'Brien, Proos, Colbeck, Knollenberg, Booher, Horn, Schuitmaker,
Brandenburg, Hansen, Kowall, Gregory, Johnson and Warren**

ENROLLED SENATE BILL No. 12

AN ACT 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 provide for a lifetime electronic monitoring program; 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 section 44 (MCL 791.244), as amended by 1999 PA 191, and by adding section 44a.

The People of the State of Michigan enact:

Sec. 44. (1) Subject to the constitutional authority of the governor to grant reprieves, commutations, and pardons, 1 member of the parole board shall interview a prisoner serving a sentence for murder in the first degree or a sentence of imprisonment for life without parole at the conclusion of 10 calendar years and thereafter as determined appropriate by the parole board, until such time as the prisoner is granted a reprieve, commutation, or pardon by the governor, or is deceased. The interview schedule prescribed in this subsection applies to all prisoners to whom this section or section 44a applies, regardless of when they were sentenced.

(2) Except in cases in which a commutation is requested based in part on a prisoner's medical condition and in which the governor has requested that the parole board expedite its review and hearing process under section 44a, upon its own initiation of, or upon receipt of an application for, a reprieve, commutation, or pardon, the parole board shall do all of the following, as applicable:

(a) Not more than 60 days after receipt of an application, conduct a review to determine whether the application for a reprieve, commutation, or pardon has merit.

(b) Deliver either the written documentation of the initiation or the original application with the parole board's determination regarding merit, to the governor and retain a copy of each in its file, pending an investigation and hearing.

(c) Within 10 days after initiation, or after determining that an application has merit, forward to the sentencing judge and to the prosecuting attorney of the county having original jurisdiction of the case, or their successors in office, a written notice of the filing of the application or initiation, together with copies of the application or initiation, any

supporting affidavits, and a brief summary of the case. Not more than 30 days after receipt of notice of the filing of any application or initiation, the sentencing judge and the prosecuting attorney, or their successors in office, may file information at their disposal, together with any objections, in writing. If the sentencing judge and the prosecuting attorney, or their successors in office, do not respond after not more than 30 days, the parole board shall proceed on the application or initiation.

(d) If an application or initiation for commutation is based on physical or mental incapacity, direct the bureau of health care services to evaluate the condition of the prisoner and report on that condition. If the bureau of health care services determines that the prisoner is physically or mentally incapacitated, the bureau shall appoint a specialist in the appropriate field of medicine who is not employed by the department to evaluate the condition of the prisoner and to report on that condition. These reports are protected by the doctor-patient privilege of confidentiality, except that these reports shall be provided to the governor for his or her review.

(e) Within 270 days after initiation by the parole board or receipt of an application that the parole board has determined to have merit under subdivision (a), make a full investigation and determination on whether or not to proceed to a public hearing.

(f) Conduct a public hearing not later than 90 days after making a decision to proceed with consideration of a recommendation for the granting of a reprieve, commutation, or pardon. The public hearing must be held before a formal recommendation is transmitted to the governor. One member of the parole board who will be involved in the formal recommendation may conduct the hearing, and the public must be represented by the attorney general or a member of the attorney general's staff.

(g) Not fewer than 30 days before conducting the public hearing, provide written notice of the public hearing by mail to the attorney general, the sentencing trial judge, and the prosecuting attorney, or their successors in office, and each victim who requests notice under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(h) Conduct the public hearing under the rules promulgated by the department. Except as otherwise provided in this subdivision, a person having information in connection with the pardon, commutation, or reprieve must be sworn as a witness. A person who is a victim must be given an opportunity to address and be questioned by the parole board at the hearing or to submit written testimony for the hearing. In hearing testimony, the parole board shall give liberal construction to any technical rules of evidence.

(i) Transmit its formal recommendation to the governor.

(j) Make all data in its files available to the governor if the parole board recommends the granting of a reprieve, commutation, or pardon.

(3) Except for medical records protected by the doctor-patient privilege of confidentiality, the files of the parole board in cases under this section are matters of public record.

Sec. 44a. (1) Upon a request from the governor under this section to expedite the review and hearing process for a reprieve, commutation, or pardon based in part on a prisoner's medical condition, the parole board shall do all of the following, as applicable:

(a) Not more than 10 days after receipt of an application, conduct a review to determine whether the application for a reprieve, commutation, or pardon has merit.

(b) Deliver either the written documentation of the initiation or the original application with the parole board's determination regarding merit to the governor and retain a copy of each in its file, pending an investigation and hearing.

(c) Within 5 days after initiation, or after determining that an application has merit, forward to the sentencing judge and to the prosecuting attorney of the county having original jurisdiction of the case, or their successors in office, a written notice of the filing of the application or initiation, together with copies of the application or initiation, any supporting affidavits, and a brief summary of the case. Not more than 30 days after receipt of notice of the filing of any application or initiation, the sentencing judge and the prosecuting attorney, or their successors in office, may file information at their disposal, together with any objections, in writing. If the sentencing judge and the prosecuting attorney, or their successors in office, do not respond after not more than 30 days, the parole board shall proceed on the application or initiation.

(d) Direct the bureau of health care services to evaluate the physical and mental condition of the prisoner and report on that condition. If the bureau of health care services determines that the prisoner is physically or mentally incapacitated, the bureau shall appoint a specialist in the appropriate field of medicine who is not employed by the department to evaluate the condition of the prisoner and to report on that condition. These reports are protected by the doctor-patient privilege of confidentiality, except that they shall be provided to the governor for his or her review.

(e) Not more than 90 days after initiation by the parole board or receipt of an application that the parole board has determined to have merit under subdivision (a), make a full investigation and determination on whether or not to proceed to a public hearing.

(f) Conduct a public hearing not later than 90 days after making a decision to proceed with consideration of a recommendation for the granting of a reprieve, commutation, or pardon. The public hearing shall be held before a formal recommendation is transmitted to the governor. One member of the parole board who will be involved in the formal recommendation may conduct the hearing, and the public must be represented by the attorney general or a member of the attorney general's staff.

(g) Not fewer than 30 days before conducting the public hearing, provide written notice of the public hearing by mail to the attorney general, the sentencing judge, and the prosecuting attorney, or their successors in office, and each victim who requests notice under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(h) Conduct the public hearing under the rules promulgated by the department. Except as otherwise provided in this subdivision, any person having information in connection with the pardon, commutation, or reprieve must be sworn as a witness. A person who is a victim must be given an opportunity to address and be questioned by the parole board at the hearing or to submit written testimony for the hearing. In hearing testimony, the parole board shall give liberal construction to any rules of evidence.

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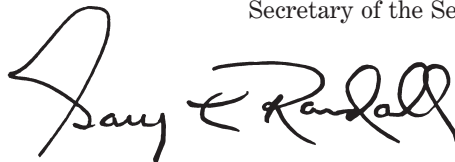
(2) Except for medical records protected by the doctor-patient privilege of confidentiality, the files of the parole board in cases under this section are matters of public record.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor