

Act No. 149  
Public Acts of 2018  
Approved by the Governor  
May 15, 2018  
Filed with the Secretary of State  
May 16, 2018  
EFFECTIVE DATE: August 14, 2018

**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2018**

**Introduced by Reps. Howrylak, LaGrand, Pagel, Lucido, Chang, Schor, Robinson, McCready, Gay-Dagnogo, Reilly, Crawford, Kesto, Graves, Webber and Inman**

# **ENROLLED HOUSE BILL No. 5234**

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” (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.

(b) The prisoner requires acute long-term medical treatment or services.

(2) A county sheriff's notification submitted to the court under subsection (1) must be accompanied with the evidence the physician considered in making a determination under subsection (1)(a) or (b).

(3) Subject to subsection (4), a court may enter an order of probation placing a prisoner on medical probation under the charge and supervision of a probation officer if the court finds that the prisoner requires acute long-term medical treatment or services, or that the prisoner is physically or mentally incapacitated with a medical condition that renders the prisoner unable to perform activities of basic daily living and the prisoner requires 24-hour care.

(4) A court shall not place a prisoner on medical probation unless all of the following apply:

(a) A placement option has been secured for the prisoner in the community. A placement option may include, but is not limited to, home confinement or a medical facility.

(b) The county sheriff has made a reasonable effort to determine whether expenses related to the prisoner's placement secured under subdivision (a) are covered by Medicaid, a health care policy, a certificate of insurance, or another source for the payment of medical expenses or whether the prisoner has sufficient income or assets to pay for expenses related to the placement.

(c) The court conducted a public hearing in which the prosecuting attorney of the county and each victim who requests notice in the manner provided in the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, are provided adequate notice of the hearing and an opportunity to be heard during the hearing.

(5) If a court's placement of a prisoner on medical probation results in expenses incurred by the county that are not covered by a payment source identified under subsection (4)(b), to the extent permitted under applicable law, the county may seek reimbursement for those expenses.

(6) An order of medical probation entered under subsection (3) may include as a condition of the medical probation that the prisoner submit to reexamination by a physician to assess whether the prisoner continues to meet the requirements for medical probation under subsection (3). At any time while the prisoner is placed on medical probation, the court or probation officer may require the prisoner to submit to a reexamination. If, after the prisoner is reexamined, the court finds that the requirements for medical probation under subsection (3) are no longer met, the court shall revoke medical probation and order the prisoner committed to the county jail for a term of imprisonment that does not exceed the penalty that was imposed, less time served, for the offense for which the prisoner was originally convicted and placed on medical probation.

(7) As used in this section and section 3h of this chapter:

(a) "County sheriff" includes the sheriff of a county in this state or the sheriff's designee.

(b) "Physician" means that term as defined in section 17001 of the public health code, 1978 PA 368, MCL 333.17001.

(c) "Prisoner" means an individual committed or sentenced to imprisonment under section 28 of chapter IX.

Sec. 3h. (1) A county sheriff may notify the court in writing that a prisoner may be eligible for compassionate release if the county sheriff has consulted with a physician and the physician determined that the prisoner has a life expectancy of not more than 6 months. The notification must be accompanied with the evidence the physician considered in making the determination regarding the prisoner's life expectancy.

(2) Subject to subsection (3), a court may grant compassionate release to a prisoner if the court finds that the prisoner has a life expectancy of not more than 6 months and that the release of the prisoner would not reasonably pose a threat to public safety or the prisoner. If a court grants a prisoner compassionate release, the court shall enter an amended judgment of sentence specifying that the prisoner is released from the term of imprisonment imposed for the offense for which the prisoner was originally convicted.

(3) A court shall not grant a prisoner compassionate release unless all of the following apply:

(a) A placement option has been secured for the prisoner in the community. A placement option may include, but is not limited to, placement in the prisoner's home or a medical facility.

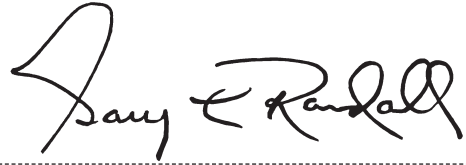
(b) The sheriff has made a reasonable effort to determine whether expenses related to the prisoner's placement secured under subdivision (a) are covered by Medicaid, a health care policy, a certificate of insurance, or another source for the payment of medical expenses or whether the prisoner has sufficient income or assets to pay for expenses related to the placement.

(c) The court conducted a public hearing in which the prosecuting attorney of the county and each victim who requests notice in the manner provided in the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, are provided adequate notice of the hearing and an opportunity to be heard during the hearing.

(4) If a court's grant of compassionate release to a prisoner results in expenses incurred by the county that are not covered by a payment source identified under subsection (3)(b), to the extent permitted under applicable law, the county may seek reimbursement for those expenses.

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.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor