

SENATE BILL NO. 1184

October 08, 2020, Introduced by Senators VANDERWALL, IRWIN, BAYER, WOJNO, GEISS and BULLOCK and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 38 and 42 (MCL 791.238 and 791.242), section
38 as amended by 1994 PA 217 and section 42 as amended by 2006 PA
170, and by adding section 42a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 38. (1) Each prisoner on parole ~~shall~~**must** remain in the
2 legal custody and under the control of the department. The deputy
3 director of the ~~bureau of field services,~~**operations**

1 **administration**, upon a showing of probable violation of parole, may
2 issue a warrant for the return of any paroled prisoner. Pending a
3 hearing upon any charge of parole violation, the prisoner ~~shall~~
4 **must** remain incarcerated.

5 (2) A prisoner violating the provisions of his or her parole
6 and for whose return a warrant has been issued by the deputy
7 director of the ~~bureau of field services~~ **operations administration**
8 is treated as an escaped prisoner and is liable, when arrested, to
9 serve out the unexpired portion of his or her maximum imprisonment.
10 The time from the date of the declared violation to the date of the
11 prisoner's availability for return to an institution ~~shall is~~ not
12 ~~be~~ counted as time served. The warrant of the deputy director of
13 the ~~bureau of field services~~ **operations administration** is a
14 sufficient warrant authorizing all officers named in the warrant to
15 detain the paroled prisoner in any jail of the state until his or
16 her return to the state penal institution.

17 (3) If a paroled prisoner fails to return to prison when
18 required by the deputy director of the ~~bureau of field services~~
19 **operations administration** or if the paroled prisoner escapes while
20 on parole, the paroled prisoner ~~shall must~~ be treated in all
21 respects as if he or she had escaped from prison and is subject to
22 be retaken as provided by the laws of this state.

23 (4) The parole board, in its discretion, may cause the
24 forfeiture of all good time to the date of the declared violation.

25 (5) A prisoner committing a crime while at large on parole and
26 being convicted and sentenced for the crime ~~shall must~~ be treated
27 as to the last incurred term as provided under section 34.

28 (6) A parole ~~shall be construed as is~~ a permit to the prisoner
29 to leave the prison, and **is** not ~~as a release. While~~ **Subject to**

1 **section 42a, while** at large, the paroled prisoner ~~shall be~~
 2 ~~considered to be~~ **is** serving out the sentence imposed by the court
 3 and, if he or she is eligible for good time, ~~shall be~~ **is** entitled
 4 to good time the same as if confined in a state correctional
 5 facility.

6 Sec. 42. (1) ~~If~~ **Subject to section 42a, if** a paroled prisoner
 7 has faithfully performed all of the conditions and obligations of
 8 parole for the period of time fixed in the order of parole, and has
 9 obeyed all of the rules and regulations adopted by the parole
 10 board, the prisoner has served the full sentence required. The
 11 parole board shall enter a final order of discharge and issue the
 12 paroled prisoner a certificate of discharge.

13 (2) Parole ~~shall~~ **must** not be granted for a period less than 2
 14 years in a case of murder, actual forcible rape, **armed** robbery,
 15 ~~armed,~~ kidnapping, extortion, or breaking and entering an occupied
 16 dwelling in the nighttime unless the maximum time remaining to be
 17 served on the sentence is less than 2 years.

18 (3) Parole ~~shall~~ **must** only be granted for life for a prisoner
 19 sentenced under section 520b(2)(b) of the Michigan penal code, 1931
 20 PA 328, MCL 750.520b.

21 **Sec. 42a. (1) Except for a parole granted as described under**
 22 **section 42(2) and (3) and subject to this section, a term of parole**
 23 **must be reduced by 45 days for every 6 months that a qualified**
 24 **parolee complies with the requirements of a medication-assisted**
 25 **program for the treatment of an alcohol use disorder or opioid use**
 26 **disorder approved by the department.**

27 (2) If a term of parole is reduced under this section, the
 28 parole order must be amended in writing to reflect the reduction.

29 (3) The reduction in the term of parole under subsection (1)

1 does not apply to a qualified parolee who commits either of the
2 following during his or her term of parole regardless of his or her
3 compliance with a medication-assisted program for the treatment of
4 an alcohol use disorder or opioid use disorder:

5 (a) An act that directly threatens, endangers, or injures
6 another person.

7 (b) A violation of a law of this state, a political
8 subdivision of this state, another state, or the United States or
9 of tribal law, that is not a law related to the use or possession
10 of a controlled substance, unless the parole board determines the
11 primary cause of the violation was the parolee's identified
12 substance use disorder and another person was not threatened,
13 endangered, or injured by the conduct giving rise to the violation.

14 (4) A parole order must indicate if the individual is a
15 qualified parolee.

16 (5) As used in this section:

17 (a) "Nonviolent offense" means a crime that does not involve
18 the use of any force against or injury to another person.

19 (b) "Qualified parolee" means an individual granted parole for
20 1 or more convictions for a controlled substance offense or for a
21 nonviolent offense that the presentence investigation or parole
22 board interview indicates was primarily the result of controlled
23 substance or alcohol use.