

EXECUTIVE REORGANIZATION ORDER (EXCERPT)
E.R.O. No. 2011-3

791.305 Creation of Michigan parole board within department of corrections; transfer of powers and duties of Michigan parole and commutation board to Michigan parole board; abolishment of Michigan parole and commutation board.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration; and

WHEREAS, there is a continuing need to reorganize functions among state departments to ensure efficient administration and effectiveness of government; and

WHEREAS, abolishing the Michigan Parole and Commutation Board will lead to more effective implementation of corrections policy and greater administrative efficiencies in the Department of Corrections;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Civil Service Commission" means the Michigan Civil Service Commission created under Section 5 of Article XI of the Michigan Constitution of 1963.

B. "Department of Corrections" or "Department" means the principal department of state government created under Section 1 of the Corrections Code of 1953, 1953 PA 232, MCL 791.201 Section 275 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.375, and Executive Order 1991-12, MCL 791.302.

C. "Executive Clemency Advisory Council" means the Executive Clemency Advisory Council created by Section II of Executive Order 2007-2.

D. "Michigan Parole and Commutation Board" means the Michigan Parole and Commutation Board established by executive order 2009-5 and amended by Executive Order 2009-20.

E. "Michigan Parole Board" or "Board" means the Parole Board established under Section III of this Order.

F. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of the Management and Budget Act, 1984 PA 431, MCL 18.1321.

II. ABOLISHMENT OF MICHIGAN PAROLE AND COMMUTATION BOARD

A. All of the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Michigan Parole and Commutation Board are transferred to the Michigan Parole Board created under Section III of this Order.

B. The Michigan Parole and Commutation Board is abolished.

III. CREATION OF THE MICHIGAN PAROLE BOARD

A. The Michigan Parole Board is established within the Department of Corrections. The Michigan Parole Board shall consist of 10 members appointed by the Director of the Department of Corrections. Members of the Board shall not be within the classified state civil service.

B. Members of the Board shall be appointed to terms of 4 years each, except that of the members first appointed, 4 shall serve for terms of 4 years each, 3 shall serve for terms of 3 years each, and 3 shall serve for terms of 2 year each. A member may be reappointed. The director may remove a member of the Board for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office.

C. A member of the Board shall continue to serve until a successor is appointed. If a vacancy occurs on the Board, the director shall make an appointment for the unexpired term in the same manner as an original appointment. At least 4 members of the Board shall be persons who, at the time of their initial appointment, have never been employed by the Department of Corrections, other than as a member of the Michigan Parole and Commutation Board or the Parole Board established under MCL 791.231a.

D. The chairperson of the Board shall be designated by the director. The chairperson of the Board shall be responsible for the administration and operation of the Board. The chairperson may conduct interviews, public hearings, and participate in the parole decision making process. The chairperson shall select secretaries and other assistants as the chairperson considers to be necessary.

E. Each member of the Board shall receive an annual salary as appropriated by law and shall be entitled to actual and necessary expenses incurred in the performance of official duties subject to the standardized travel regulations of the state.

IV. TRANSFERS FROM THE MICHIGAN PAROLE AND COMMUTATION BOARD TO THE MICHIGAN PAROLE BOARD

A. The authority, powers, duties, and functions of the Michigan Parole and Commutation Board transferred under this Order to the Michigan Parole Board, include, but are not limited to, the authority, powers, duties, and functions of the Michigan Parole and Commutation Board under any of the following:

1. Section 9 of the Sex Offenders Registration Act, 1994 PA 295, MCL 28.729.
2. Section 36 of Title VIII of The Code of Criminal Procedure, 1927 PA 175, MCL 768.36.
3. Sections 1a, 1f, and 1g of Title IX of The Code of Criminal Procedure, 1927 PA 175, MCL 769.1a, 769.1f, and 769.1g.
4. Section 22 of the Uniform Criminal Extradition Act, 1937 PA 144, MCL 780.22.
5. Section 1 of 1957 PA 177, MCL 780.131.
6. Sections 16, 19, 21, and 48 of the William Van Regenmorter Crime Victim's Rights Act, 1985 PA 87, MCL 780.766, 780.769, 780.771, and 780.798.
7. The Corrections Code of 1953, 1953 PA 232, MCL 791.201 to 791.285.
8. Section 5 of the Special Alternative Incarceration Act, 1988 PA 287, MCL 798.15.
9. Sections 33 to 35 of 1893 PA 118, MCL 800.33 to 800.35.

B. After the effective date of this Order, any statutory and other legal references to the "Michigan Parole Board" or the "Parole Board" shall be deemed references to the Michigan Parole Board created under this Order.

V. IMPLEMENTATION OF TRANSFER

A. The Director of the Department of Corrections shall provide executive direction and supervision for the implementation of the transfers under this Order and shall make internal organizational changes necessary to effectuate the transfers.

B. The authority, powers, duties, functions, and responsibilities transferred to the Michigan Parole Board under this Order shall be administered in such ways as to promote efficient administration.

C. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available for the activities, powers, duties, functions, and responsibilities transferred to the Michigan Parole Board under this Order are transferred to the Michigan Parole Board.

V. ABOLISHMENT OF THE EXECUTIVE CLEMENCY ADVISORY COUNCIL

Executive Order 2007-2 is rescinded in its entirety and the Executive Clemency Advisory Council is abolished.

V. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

B. All rules, orders, contracts, and agreements relating to the transfers under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

C. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

D. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

This Executive Order shall become effective on April 15, 2011, consistent with Section 2 of Article V of the Michigan Constitution of 1963.

History: 2011, E.R.O. No. 2011-3, Eff. Apr. 15, 2011.

Compiler's note: Executive Reorganization Order No. 2011-3 was promulgated February 7, 2011 as Executive Order No. 2011-3, Eff. Apr. 15, 2011.

Section "V. ABOLISHMENT OF THE EXECUTIVE CLEMENCY ADVISORY COUNCIL" evidently should be numbered "VI".

Section "V. MISCELLANEOUS" evidently should be numbered "VII".