



HOUSE BILL No. 5160

September 27, 1995, Introduced by Reps. McNutt, Geiger, Tesanovich, Walberg, Galloway and Price and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 34 and 38 of Act No. 232 of the Public Acts of 1953, entitled as amended

"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 prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; 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,"

section 34 as amended by Act No. 345 of the Public Acts of 1994 and section 38 as amended by Act No. 217 of the Public Acts of

1994, being sections 791.234 and 791.238 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 34 and 38 of Act No. 232 of the Public
2 Acts of 1953, section 34 as amended by Act No. 345 of the Public
3 Acts of 1994 and section 38 as amended by Act No. 217 of the
4 Public Acts of 1994, being sections 791.234 and 791.238 of the
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 34. (1) Except as provided in section 34a, a prisoner
7 sentenced to an indeterminate sentence and confined in a state
8 correctional facility with a minimum in terms of years other than
9 a prisoner subject to disciplinary time is subject to the juris-
10 diction of the parole board when the prisoner has served a period
11 of time equal to the minimum sentence imposed by the court for
12 the crime of which he or she was convicted, less good time and
13 disciplinary credits, if applicable.

14 (2) Except as provided in section 34a, a prisoner subject to
15 disciplinary time sentenced to an indeterminate sentence and con-
16 fined in a state correctional facility with a minimum in terms of
17 years is subject to the jurisdiction of the parole board when the
18 prisoner has served a period of time equal to the minimum sen-
19 tence imposed by the court for the crime of which he or she was
20 convicted, plus any disciplinary time accumulated pursuant to
21 section 34 of Act No. 118 of the Public Acts of 1893, being sec-
22 tion 800.34 of the Michigan Compiled Laws.

23 (3) ~~IF~~ EXCEPT AS PROVIDED IN SUBSECTION (5), IF a prisoner
24 other than a prisoner subject to disciplinary time is sentenced

1 for consecutive terms, whether received at the same time or at
2 any time during the life of the original sentence, the parole
3 board has jurisdiction over the prisoner for purposes of parole
4 when the prisoner has served the total time of the added minimum
5 terms, less the good time and disciplinary credits allowed by
6 statute. The maximum terms of the sentences shall be added to
7 compute the new maximum term under this subsection, and discharge
8 shall be issued only after the total of the maximum sentences has
9 been served less good time and disciplinary credits, unless the
10 prisoner is paroled and discharged upon satisfactory completion
11 of the parole.

12 (4) ~~If~~ EXCEPT AS PROVIDED IN SUBSECTION (5), IF a prisoner
13 subject to disciplinary time is sentenced for consecutive terms,
14 whether received at the same time or at any time during the life
15 of the original sentence, the parole board has jurisdiction over
16 the prisoner for purposes of parole when the prisoner has served
17 the total time of the added minimum terms, plus any disciplinary
18 time. The maximum terms of the sentences shall be added to com-
19 pute the new maximum term under this subsection, and discharge
20 shall be issued only after the total of the maximum sentences has
21 been served, unless the prisoner is paroled and discharged upon
22 satisfactory completion of the parole.

23 (5) NOTWITHSTANDING SUBSECTIONS (3) AND (4), IF A PRISONER,
24 WHETHER OR NOT HE OR SHE IS A PRISONER SUBJECT TO DISCIPLINARY
25 TIME, IS SENTENCED FOR CONSECUTIVE TERMS FOR COMMISSION OF A
26 FELONY WHILE ON PAROLE FROM A SENTENCE FOR A PREVIOUS OFFENSE,
27 THE PAROLE BOARD HAS JURISDICTION OVER THE PRISONER WHEN HE OR

1 SHE HAS SERVED THE MINIMUM TERM IMPOSED FOR THE PREVIOUS OFFENSE
2 OR 1 YEAR, WHICHEVER IS LONGER, PLUS THE MINIMUM TERM IMPOSED FOR
3 THE SUBSEQUENT OFFENSE, LESS GOOD TIME OR DISCIPLINARY CREDITS,
4 IF APPLICABLE, OR PLUS ANY DISCIPLINARY TIME, IF APPLICABLE.

5 (6) ~~-(5)-~~ If a prisoner other than a prisoner subject to
6 disciplinary time has 1 or more consecutive terms remaining to
7 serve in addition to the term he or she is serving, the parole
8 board may terminate the sentence the prisoner is presently serv-
9 ing at any time after the minimum term of the sentence has been
10 served.

11 (7) ~~-(6)-~~ A prisoner under sentence for life or for a term
12 of years, other than a prisoner sentenced for life for murder in
13 the first degree or sentenced for life or for a minimum term of
14 imprisonment for a major controlled substance offense, who has
15 served 10 calendar years of the sentence in the case of a pris-
16 oner sentenced for a crime committed before October 1, 1992, or
17 who has served 15 calendar years of the sentence in the case of a
18 prisoner sentenced for a crime committed on or after October 1,
19 1992, is subject to the jurisdiction of the parole board and may
20 be released on parole by the parole board, subject to the follow-
21 ing conditions:

22 (a) One member of the parole board shall interview the pris-
23 oner at the conclusion of 10 calendar years of the sentence and
24 every 5 years thereafter until such time as the prisoner is
25 paroled, discharged, or deceased. The interview schedule pre-
26 scribed in this subdivision applies to all prisoners to whom this
27 subsection is applicable, whether sentenced before, on, or after

1 the effective date of the 1992 amendatory act that amended this
2 subdivision.

3 (b) A parole shall not be granted a prisoner so sentenced
4 until after a public hearing held in the manner prescribed for
5 pardons and commutations in sections 44(2)(f) to (h) and 45.
6 Notice of the public hearing shall be given to the sentencing
7 judge, or the judge's successor in office, and parole shall not
8 be granted if the sentencing judge, or the judge's successor in
9 office, files written objections to the granting of the parole
10 within 30 days of receipt of the notice of hearing. The written
11 objections shall be made part of the prisoner's file.

12 (c) A parole granted under this subsection shall be for a
13 period of not less than 4 years and subject to the usual rules
14 pertaining to paroles granted by the parole board. A parole
15 ordered under this subsection is not valid until the transcript
16 of the record is filed with the attorney general whose certifica-
17 tion of receipt of the transcript shall be returnable to the
18 office of the parole board within 5 days. Except for medical
19 records protected under section 2157 of the revised judicature
20 act of 1961, Act No. 236 of the Public Acts of 1961, being sec-
21 tion 600.2157 of the Michigan Compiled Laws, the file of a pris-
22 oner granted a parole under this subsection is a public record.

23 (d) A parole shall not be granted under this subsection in
24 the case of a prisoner who is otherwise prohibited by law from
25 parole consideration. In such cases the interview procedures in
26 section 44 shall be followed.

1 (8) ~~-(7)-~~ Except as provided in section 34a, a prisoner's
2 release on parole is discretionary with the parole board. The
3 action of the parole board in granting or denying a parole is
4 appealable by the prisoner, the prosecutor of the county from
5 which the prisoner was committed, or the victim of the crime for
6 which the prisoner was convicted. The appeal shall be to the
7 circuit court in the county from which the prisoner was commit-
8 ted, by leave of the court.

9 (9) ~~-(8)-~~ The provisions of this section regarding prisoners
10 subject to disciplinary time take effect beginning on the effec-
11 tive date of Act No. 217 of the Public Acts of 1994, as pre-
12 scribed in enacting section 2 of that amendatory act.

13 Sec. 38. (1) Each prisoner on parole shall remain in the
14 legal custody and under the control of the department. The
15 deputy director of the bureau of field services, upon a showing
16 of probable violation of parole, may issue a warrant for the
17 return of any paroled prisoner. Pending a hearing upon any
18 charge of parole violation, the prisoner shall remain
19 incarcerated.

20 (2) A prisoner violating the provisions of his or her parole
21 and for whose return a warrant has been issued by the deputy
22 director of the bureau of field services is treated as an escaped
23 prisoner and is liable, when arrested, to serve out the unexpired
24 portion of his or her maximum imprisonment. The time from the
25 date of the declared violation to the date of the prisoner's
26 availability for return to an institution shall not be counted as
27 time served. The warrant of the deputy director of the bureau of

1 field services is a sufficient warrant authorizing all officers
2 named in the warrant to detain the paroled prisoner in any jail
3 of the state until his or her return to the state penal
4 institution.

5 (3) If a paroled prisoner fails to return to prison when
6 required by the deputy director of the bureau of field services
7 or if the paroled prisoner escapes while on parole, the paroled
8 prisoner shall be treated in all respects as if he or she had
9 escaped from prison and is subject to be retaken as provided by
10 the laws of this state.

11 (4) The parole board, in its discretion, may cause the for-
12 feiture of all good time to the date of the declared violation.

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

16 (5) ~~(6)~~ A parole shall be construed as a permit to the
17 prisoner to leave the prison, and not as a release. While at
18 large, the paroled prisoner shall be considered to be serving out
19 the sentence imposed by the court and, if he or she is eligible
20 for good time, shall be entitled to good time the same as if con-
21 fined in a state correctional facility.

22 Section 2. This amendatory act applies to prisoners sen-
23 tenced after January 6, 1993 for felonies committed while on
24 parole.

25 Section 3. This amendatory act shall not take effect unless
26 Senate Bill No. _____ or House Bill No. 5161 (request
27 no. 01635'95 *) of the 88th Legislature is enacted into law.