

HOUSE BILL No. 5557

January 18, 2006, Introduced by Reps. Sheltroun and Sak and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending the title and sections 4 and 6 (MCL 791.204 and
791.206), the title as amended by 1996 PA 164 and section 6 as
amended by 1996 PA 104, and by adding section 85.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to revise, consolidate, and codify the laws relating to
3 probationers and probation officers, to pardons, reprieves,
4 commutations, and paroles, to the administration of correctional
5 institutions, correctional farms, and probation recovery camps, to
6 prisoner labor and correctional industries, and to the supervision
7 and inspection of local jails and houses of correction; to provide
8 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.

Sec. 4. Subject to constitutional powers vested in the
 executive and judicial departments of the state, the department
 shall have exclusive jurisdiction over **ALL OF** the following:

(a) Probation officers of this state, and the administration
 of all orders of probation. —

(b) ~~pardons~~ **PARDONS**, reprieves, commutations, and paroles.
~~—and~~

(c) ~~penal~~ **PENAL** institutions, correctional farms, probation
 recovery camps, prison labor and industry, wayward minor programs,
 and youthful trainee institutions and programs for the care and
 supervision of youthful trainees.

(D) THE LIFETIME ELECTRONIC MONITORING PROGRAM ESTABLISHED
UNDER SECTION 85.

1 Sec. 6. (1) The director may promulgate rules pursuant to the
2 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
3 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
4 ~~Compiled Laws 1969 PA 306, MCL 24.201 TO 24.328, which may TO~~
5 provide for all of the following:

6 (a) The control, management, and operation of the general
7 affairs of the department.

8 (b) Supervision and control of probationers and probation
9 officers throughout this state.

10 (c) The manner in which applications for pardon, reprieve,
11 medical commutation, or commutation shall be made to the governor;
12 the procedures for handling applications and recommendations by the
13 parole board; the manner in which paroles shall be considered, the
14 criteria to be used to reach release decisions, the procedures for
15 medical and special paroles, and the duties of the parole board in
16 those matters; interviews on paroles and for the notice of intent
17 to conduct an interview; the entering of appropriate orders
18 granting or denying paroles; the supervision and control of paroled
19 prisoners; and the revocation of parole.

20 (d) The management and control of state penal institutions,
21 correctional farms, probation recovery camps, and programs for the
22 care and supervision of youthful trainees separate and apart from
23 persons convicted of crimes within the jurisdiction of the
24 department. Except as provided for in section 62(3), this
25 subdivision ~~shall~~ **DOES** not apply to detention facilities operated
26 by local units of government used to detain persons less than 72
27 hours. The rules may permit the use of portions of penal

1 institutions in which persons convicted of crimes are detained. The
2 rules shall provide that decisions as to the removal of a youth
3 from the youthful trainee facility or the release of a youth from
4 the supervision of the department shall be made by the department
5 and shall assign responsibility for those decisions to a committee.

6 (e) The management and control of prison labor and industry.

7 (2) The director may promulgate rules providing for a parole
8 board structure consisting of 3-member panels.

9 (3) The director may promulgate further rules with respect to
10 the affairs of the department as the director considers necessary
11 or expedient for the proper administration of this act. The
12 director may modify, amend, supplement, or rescind a rule.

13 (4) The director and the corrections commission shall not
14 promulgate a rule or adopt a guideline that does either of the
15 following:

16 (a) Prohibits a probation officer or parole officer from
17 carrying a firearm while on duty.

18 (b) Allows a prisoner to have his or her name changed. If the
19 Michigan supreme court rules that subsection 4(b) is violative of
20 constitutional provisions under the first and fourteenth amendments
21 to the United States constitution and article I, sections 2 and 4
22 of the Michigan constitution of 1963, the remaining provisions of
23 the code shall remain in effect.

24 (5) If the Michigan supreme court rules that sections 45 and
25 46 of the administrative procedures act of 1969, ~~Act No. 306 of~~
26 ~~the Public Acts of 1969, being sections 24.245 and 24.246 of the~~
27 ~~Michigan Compiled Laws, 1969 PA 306, MCL 24.245 AND 24.246, are~~

1 unconstitutional, and a statute requiring legislative review of
2 administrative rules is not enacted within 90 days after the
3 Michigan supreme court ruling, the department shall not promulgate
4 rules under this section.

5 (6) THE DIRECTOR MAY PROMULGATE RULES PROVIDING FOR THE
6 CREATION AND OPERATION OF A LIFETIME ELECTRONIC MONITORING PROGRAM
7 TO CONDUCT ELECTRONIC MONITORING OF INDIVIDUALS, WHO HAVE SERVED
8 SENTENCES IMPOSED FOR CERTAIN CRIMES, FOLLOWING THEIR RELEASE FROM
9 PAROLE, PRISON, OR BOTH PAROLE AND PRISON.

10 SEC. 85. (1) THE LIFETIME ELECTRONIC MONITORING PROGRAM IS
11 ESTABLISHED IN THE DEPARTMENT. THE LIFETIME ELECTRONIC MONITORING
12 PROGRAM SHALL IMPLEMENT A SYSTEM OF MONITORING INDIVIDUALS RELEASED
13 FROM PRISON OR PAROLE, WHO ARE SENTENCED BY THE COURT TO LIFETIME
14 ELECTRONIC MONITORING. THE LIFETIME ELECTRONIC MONITORING PROGRAM
15 SHALL ACCOMPLISH ALL OF THE FOLLOWING:

16 (A) BY ELECTRONIC MEANS, TRACK THE MOVEMENT AND LOCATION OF
17 EACH INDIVIDUAL FROM THE TIME THE INDIVIDUAL IS RELEASED ON PAROLE
18 OR PRISON UNTIL THE TIME OF THE INDIVIDUAL'S DEATH.

19 (B) DEVELOP METHODS BY WHICH THE INDIVIDUAL'S MOVEMENT AND
20 LOCATION MAY BE DETERMINED, BOTH IN REAL TIME AND RECORDED, AND
21 RECORDED INFORMATION RETRIEVED UPON REQUEST BY THE COURT OR A LAW
22 ENFORCEMENT AGENCY.

23 (2) AN INDIVIDUAL WHO IS SENTENCED TO LIFETIME ELECTRONIC
24 MONITORING SHALL WEAR OR OTHERWISE CARRY AN ELECTRONIC MONITORING
25 DEVICE AS DETERMINED BY THE DEPARTMENT UNDER THE LIFETIME
26 ELECTRONIC MONITORING PROGRAM IN THE MANNER PRESCRIBED BY THAT
27 PROGRAM AND SHALL REIMBURSE THE DEPARTMENT OR ITS AGENT FOR THE

1 ACTUAL COST OF ELECTRONICALLY MONITORING THE INDIVIDUAL.

2 (3) AS USED IN THIS SECTION, "ELECTRONIC MONITORING" MEANS A
3 DEVICE BY WHICH, THROUGH GLOBAL POSITIONING SYSTEM SATELLITE OR
4 OTHER MEANS, AN INDIVIDUAL'S MOVEMENT AND LOCATION ARE TRACKED AND
5 RECORDED.

6 Enacting section 1. This amendatory act does not take effect
7 unless Senate Bill No.____ or House Bill No. 5558(request no.
8 04642'05) of the 93rd Legislature is enacted into law.