

HOUSE BILL No. 5234

November 8, 2017, Introduced by Reps. Howrylak, LaGrand, Pagel, Lucido, Chang, Schor, Robinson, McCready, Gay-Dagnogo, Reilly, Crawford, Kesto, Graves, Webber and Inman and referred to the Committee on Law and Justice.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
(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

1 CARE. THE PHYSICIAN SHALL EVALUATE WHEN THE PHYSICAL OR MENTAL
2 INCAPACITATION AROSE.

3 (B) THE PRISONER REQUIRES ACUTE LONG-TERM MEDICAL TREATMENT OR
4 SERVICES.

5 (2) A COUNTY SHERIFF'S NOTIFICATION SUBMITTED TO THE COURT
6 UNDER SUBSECTION (1) MUST BE ACCOMPANIED WITH THE EVIDENCE THE
7 PHYSICIAN CONSIDERED IN MAKING A DETERMINATION UNDER SUBSECTION
8 (1) (A) OR (B).

9 (3) SUBJECT TO SUBSECTION (4), A COURT MAY ENTER AN ORDER OF
10 PROBATION PLACING A PRISONER ON MEDICAL PROBATION UNDER THE CHARGE
11 AND SUPERVISION OF A PROBATION OFFICER IF THE COURT FINDS THAT THE
12 PRISONER REQUIRES ACUTE LONG-TERM MEDICAL TREATMENT OR SERVICES, OR
13 THAT THE PRISONER IS PHYSICALLY OR MENTALLY INCAPACITATED WITH A
14 MEDICAL CONDITION THAT RENDERS THE PRISONER UNABLE TO PERFORM
15 ACTIVITIES OF BASIC DAILY LIVING AND THE PRISONER REQUIRES 24-HOUR
16 CARE.

17 (4) A COURT SHALL NOT PLACE A PRISONER ON MEDICAL PROBATION
18 UNLESS ALL OF THE FOLLOWING APPLY:

19 (A) A PLACEMENT OPTION HAS BEEN SECURED FOR THE PRISONER IN
20 THE COMMUNITY. A PLACEMENT OPTION MAY INCLUDE, BUT IS NOT LIMITED
21 TO, HOME CONFINEMENT OR A MEDICAL FACILITY.

22 (B) THE COUNTY SHERIFF HAS MADE A REASONABLE EFFORT TO
23 DETERMINE WHETHER EXPENSES RELATED TO THE PRISONER'S PLACEMENT
24 SECURED UNDER SUBDIVISION (A) ARE COVERED BY MEDICAID, A HEALTH
25 CARE POLICY, A CERTIFICATE OF INSURANCE, OR ANOTHER SOURCE FOR THE
26 PAYMENT OF MEDICAL EXPENSES OR WHETHER THE PRISONER HAS SUFFICIENT
27 INCOME OR ASSETS TO PAY FOR EXPENSES RELATED TO THE PLACEMENT.

1 (C) THE COURT CONDUCTED A PUBLIC HEARING IN WHICH THE
2 PROSECUTING ATTORNEY OF THE COUNTY AND EACH VICTIM WHO REQUESTS AND
3 IS ENTITLED TO NOTICE UNDER THE WILLIAM VAN REGENMORTER CRIME
4 VICTIM'S RIGHTS ACT, 1985 PA 87, MCL 780.751 TO 780.834, ARE
5 PROVIDED ADEQUATE NOTICE OF THE HEARING AND AN OPPORTUNITY TO BE
6 HEARD DURING THE HEARING.

7 (5) IF A COURT'S PLACEMENT OF A PRISONER ON MEDICAL PROBATION
8 RESULTS IN EXPENSES INCURRED BY THE COUNTY THAT ARE NOT COVERED BY
9 A PAYMENT SOURCE IDENTIFIED UNDER SUBSECTION (4) (B) , TO THE EXTENT
10 PERMITTED UNDER APPLICABLE LAW, THE COUNTY MAY SEEK REIMBURSEMENT
11 FOR THOSE EXPENSES.

12 (6) AN ORDER OF MEDICAL PROBATION ENTERED UNDER SUBSECTION (3)
13 MAY INCLUDE AS A CONDITION OF THE MEDICAL PROBATION THAT THE
14 PRISONER SUBMIT TO REEXAMINATION BY A PHYSICIAN TO ASSESS WHETHER
15 THE PRISONER CONTINUES TO MEET THE REQUIREMENTS FOR MEDICAL
16 PROBATION UNDER SUBSECTION (3). AT ANY TIME WHILE THE PRISONER IS
17 PLACED ON MEDICAL PROBATION, THE COURT OR PROBATION OFFICER MAY
18 REQUIRE THE PRISONER TO SUBMIT TO A REEXAMINATION. IF, AFTER THE
19 PRISONER IS REEXAMINED, THE COURT FINDS THAT THE REQUIREMENTS FOR
20 MEDICAL PROBATION UNDER SUBSECTION (3) ARE NO LONGER MET, THE COURT
21 SHALL REVOKE MEDICAL PROBATION AND ORDER THE PRISONER COMMITTED TO
22 THE COUNTY JAIL FOR A TERM OF IMPRISONMENT THAT DOES NOT EXCEED THE
23 PENALTY THAT WAS IMPOSED, LESS TIME SERVED, FOR THE OFFENSE FOR
24 WHICH THE PRISONER WAS ORIGINALLY CONVICTED AND PLACED ON MEDICAL
25 PROBATION.

26 (7) AS USED IN THIS SECTION AND SECTION 3H OF THIS CHAPTER:

27 (A) "COUNTY SHERIFF" INCLUDES THE SHERIFF OF A COUNTY IN THIS

1 STATE OR THE SHERIFF'S DESIGNEE.

2 (B) "PHYSICIAN" MEANS THAT TERM AS DEFINED IN SECTION 17001 OF
3 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.17001.

4 (C) "PRISONER" MEANS AN INDIVIDUAL COMMITTED OR SENTENCED TO
5 IMPRISONMENT UNDER SECTION 28 OF CHAPTER IX.

6 SEC. 3H. (1) A COUNTY SHERIFF MAY NOTIFY THE COURT IN WRITING
7 THAT A PRISONER MAY BE ELIGIBLE FOR COMPASSIONATE RELEASE IF THE
8 COUNTY SHERIFF HAS CONSULTED WITH A PHYSICIAN AND THE PHYSICIAN
9 DETERMINED THAT THE PRISONER HAS A LIFE EXPECTANCY OF NOT MORE THAN
10 6 MONTHS. THE NOTIFICATION MUST BE ACCOMPANIED WITH THE EVIDENCE
11 THE PHYSICIAN CONSIDERED IN MAKING THE DETERMINATION REGARDING THE
12 PRISONER'S LIFE EXPECTANCY.

13 (2) SUBJECT TO SUBSECTION (3), A COURT MAY GRANT COMPASSIONATE
14 RELEASE TO A PRISONER IF THE COURT FINDS THAT THE PRISONER HAS A
15 LIFE EXPECTANCY OF NOT MORE THAN 6 MONTHS AND THAT THE RELEASE OF
16 THE PRISONER WOULD NOT REASONABLY POSE A THREAT TO PUBLIC SAFETY OR
17 THE PRISONER. IF A COURT GRANTS A PRISONER COMPASSIONATE RELEASE,
18 THE COURT SHALL ENTER AN AMENDED JUDGMENT OF SENTENCE SPECIFYING
19 THAT THE PRISONER IS RELEASED FROM THE TERM OF IMPRISONMENT IMPOSED
20 FOR THE OFFENSE FOR WHICH THE PRISONER WAS ORIGINALLY CONVICTED.

21 (3) A COURT SHALL NOT GRANT A PRISONER COMPASSIONATE RELEASE
22 UNLESS ALL OF THE FOLLOWING APPLY:

23 (A) A PLACEMENT OPTION HAS BEEN SECURED FOR THE PRISONER IN
24 THE COMMUNITY. A PLACEMENT OPTION MAY INCLUDE, BUT IS NOT LIMITED
25 TO, PLACEMENT IN THE PRISONER'S HOME OR A MEDICAL FACILITY.

26 (B) THE SHERIFF HAS MADE A REASONABLE EFFORT TO DETERMINE
27 WHETHER EXPENSES RELATED TO THE PRISONER'S PLACEMENT SECURED UNDER

1 SUBDIVISION (A) ARE COVERED BY MEDICAID, A HEALTH CARE POLICY, A
2 CERTIFICATE OF INSURANCE, OR ANOTHER SOURCE FOR THE PAYMENT OF
3 MEDICAL EXPENSES OR WHETHER THE PRISONER HAS SUFFICIENT INCOME OR
4 ASSETS TO PAY FOR EXPENSES RELATED TO THE PLACEMENT.

5 (C) THE COURT CONDUCTED A PUBLIC HEARING IN WHICH THE
6 PROSECUTING ATTORNEY OF THE COUNTY AND EACH VICTIM WHO REQUESTS AND
7 IS ENTITLED TO NOTICE UNDER THE WILLIAM VAN REGENMORTER CRIME
8 VICTIM'S RIGHTS ACT, 1985 PA 87, MCL 780.751 TO 780.834, ARE
9 PROVIDED ADEQUATE NOTICE OF THE HEARING AND AN OPPORTUNITY TO BE
10 HEARD DURING THE HEARING.

11 (4) IF A COURT'S GRANT OF COMPASSIONATE RELEASE TO A PRISONER
12 RESULTS IN EXPENSES INCURRED BY THE COUNTY THAT ARE NOT COVERED BY
13 A PAYMENT SOURCE IDENTIFIED UNDER SUBSECTION (3) (B), TO THE EXTENT
14 PERMITTED UNDER APPLICABLE LAW, THE COUNTY MAY SEEK REIMBURSEMENT
15 FOR THOSE EXPENSES.

16 Enacting section 1. This amendatory act takes effect 90 days
17 after the date it is enacted into law.