

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 2009-3

791.304 Establishment of Michigan parole and commutation board within department of corrections; transfer of powers and duties of parole board to Michigan parole and commutation board; abolishment of parole 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;

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;

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

WHEREAS, expansion and reorganization of the Michigan Parole Board will lead to more effective implementation of corrections policy, greater administrative efficiencies in the Department of Corrections, enhanced accountability to elected officials, increased consideration of parole and commutation requests, and reductions in corrections expenditures;

NOW, THEREFORE, I, Jennifer M. Granholm, 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. "Michigan Parole and Commutation Board" or "Board" means the Michigan Parole and Commutation Board established by this Order.

D. "Parole Board" means the Parole Board established in the Department of Corrections beginning on October 1, 1992, by Section 31a of the Corrections Code of 1953, 1953 PA 232, MCL 791.231a, and abolished by this Order.

E. "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. CREATION OF MICHIGAN PAROLE AND COMMUTATION BOARD

A. The Michigan Parole and Commutation Board is established within the Department of Corrections. Except as provided in Section II.B or II.C, the Michigan Parole and Commutation Board shall consist of 15 members appointed by the Governor. Members of the Board shall not be within the classified state civil service. Not less than 6 members of the Board shall be individuals who, at the time of the member's original appointment, had not previously been employed or appointed to a position in the Department of Corrections other than a position as a member of the Board or the Parole Board.

B. Of the members of the Michigan Parole and Commutation Board initially appointed by the Governor under this Order, 4 members shall be appointed for a term expiring on November 30, 2009, 4 members shall be appointed for a term expiring on November 30, 2010, 4 members shall be appointed for a term expiring on November 30, 2011, and 3 members shall be appointed for a term expiring on November 30, 2012. After the initial appointments under this paragraph, members of the Board shall be appointed for a term of 4 years. After September 30, 2012 and before November 30, 2015, if the Board consists of more than 10 members, a vacancy on the Board occurring other than by expiration of a term shall not be filled and the Board shall consist of 1 less member for each vacancy not filled. Effective December 1, 2015, the Board shall consist of 10 members. For terms of office beginning on December 1, 2015, the Governor shall appoint only the number of Board members necessary to assure that the Board consists of 10 members.

C. Except as provided in Section II.B, a member of the Michigan Parole and Commutation Board shall continue to serve until a successor is appointed and qualified. Except as provided in Section II.B, a vacancy on the Board occurring other than by expiration of a term shall be filled by the Governor in the same manner as the original appointment for the balance of the unexpired term.

D. The Governor shall designate a member of the Michigan Parole and Commutation Board as the Chairperson of the Board to serve as Chairperson at the pleasure of the Governor. The Chairperson of the Board shall be responsible for the administration and operation of the functions of the Board consistent with this Order. The Chairperson may conduct interviews, public hearings, and participate in the parole decision-making process. The Chairperson shall serve as the appointing authority for secretaries, assistants, clerks, and other employees of the Board as the Chairperson considers necessary, consistent with applicable rules and regulations of the Civil Service Commission.

E. Each member of the Michigan Parole and Commutation Board shall receive an annual salary as appropriated by law and shall be entitled to actual and necessary expenses while on the business of the Board consistent with standard state travel regulations.

F. A member of the Michigan Parole and Commutation Board shall be subject to removal by the Governor for incompetency, dereliction of duty, and as provided under Section 10 of Article V of the Michigan Constitution of 1963.

G. The Director of the Department of Corrections shall report to the Governor monthly on the productivity and caseload of the Michigan Parole and Commutation Board. Based upon these reports, the Director shall recommend to the Governor in writing any reduction or increase in the number of Board members necessary in the opinion of the Director.

III. ABOLITION OF PAROLE BOARD

A. All of the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Parole Board are transferred to the Michigan Parole and Commutation Board. The authority, powers, duties, and functions of the Parole Board transferred under this Order to the Michigan Parole and Commutation Board, include, but are not limited to, authority, powers, duties, and functions of the Parole 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.
10. Executive Order 2007-2.

B. After the effective date of this Order, any statutory and other references to the Parole Board shall be deemed references to the Michigan Parole and Commutation Board.

C. The Parole Board is abolished.

IV. IMPLEMENTATION OF TRANSFER

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

B. The authority, powers, duties, functions, and responsibilities transferred to the Michigan Parole and Commutation 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 and Commutation Board under this Order are transferred to the Michigan Parole and Commutation Board.

V. MISCELLANEOUS

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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.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are April 19, 2009 at 12:01 a.m.

History: 2009, E.R.O. No. 2009-3, Eff. Apr. 19, 2009 ;-- Am. 2009, E.R.O. No. 2009-15, Eff. June 2, 2009

Compiler's Notes: Section II.A., B., and C. of MCL 791.304, as enacted by E.R.O. No. 2009-3, was amended by E.R.O. No. 2009-15. The text of section II.A., B., and C. reflects these amendments; all other text remains as originally enacted. For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.