

HOUSE BILL No. 4192

February 15, 1989, Introduced by Reps. Ciaramitaro, Perry Bullard, Power, Kilpatrick, Murphy, Scott, DeMars, Jondahl, Clack, Nye, Van Regenmorter, Stabenow and Honigman and referred to the Committee on Corrections.

A bill to amend the title and sections 31, 37, 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 as herein defined, to pardons, reprieves, commutations, and paroles, to the administration of penal institutions, correctional farms, and probation recovery camps, to prison labor and prison industries, and 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 hereby transferred; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

as amended by Act No. 314 of the Public Acts of 1982, being sections 791.231, 791.237, and 791.238 of the Michigan Compiled Laws; to add sections 32a, 37a, 38a, 39b, and 40b; and to repeal certain parts of the act on specific dates.

1 Section 1. The title and sections 31, 37, and 38 of Act
2 No. 232 of the Public Acts of 1953, as amended by Act No. 314 of
3 the Public Acts of 1982, being sections 791.231, 791.237, and
4 791.238 of the Michigan Compiled Laws, are amended and sections
5 32a, 37a, 38a, 39b, and 40b are added to read as follows:

7 An act to revise, consolidate, and codify the laws relating
8 to probationers and probation officers, ~~as herein defined,~~ to
9 pardons, reprieves, commutations, and paroles, to the administra-
0 tion of penal institutions, STATE CORRECTIONAL FACILITIES, cor-
1 rectional farms, and probation recovery camps, to prison labor
2 and prison industries, and TO the supervision and inspection of
3 local jails and houses of correction; to provide for the siting
4 of correctional facilities; to create a state department of cor-
5 rections, and to prescribe its powers and duties; to provide for
6 the transfer to and vesting in ~~said~~ THE department of
7 CORRECTIONS CERTAIN powers and duties vested by law in certain
8 other state boards, commissions, and officers, and to abolish
9 certain boards, commissions, and offices the powers and duties of
0 which are hereby transferred; TO PROVIDE FOR COMMUNITY REENTRY
1 STATUS AND CERTAIN PROCEDURES WITH REGARD THERETO; to provide for
2 the creation of a local lockup advisory board; to prescribe pen-
3 alties for the violation of the provisions of this act; provide
4 for the creation of a local lockup advisory board; to prescribe
5 penalties for the violation of the provisions of this act; and to

1 repeal all acts and parts of acts inconsistent with the
2 provisions of this act.

3 Sec. 31. There is established within the department a
4 bureau of field services, under the direction and supervision of
5 a deputy director in charge of field services, who shall be
6 appointed by the director and who shall be within the state civil
7 service. The deputy director shall direct and supervise the work
8 of the bureau of field services and shall formulate methods of
9 investigation and supervision and develop various processes in
10 the technique of supervision by the parole STAFF AND THE COMMU-
11 NITY REENTRY STATUS staff. The deputy director is responsible
12 for all investigations of persons eligible for release from state
13 ~~penal institutions,~~ CORRECTIONAL FACILITIES and for the general
14 supervision of persons released from ~~penal institutions~~ THE
15 CORRECTIONAL FACILITIES. The deputy director in charge of the
16 bureau of field services is responsible for the collection and
17 preservation of records and statistics with respect to PRISONERS
18 ON COMMUNITY REENTRY STATUS AS REQUIRED BY THE DIRECTOR AS WELL
19 AS paroled prisoners as ~~may be~~ required by the director and the
20 chairperson of the parole board. The deputy director shall
21 employ ~~parole~~ officers and assistants as may be necessary,
22 subject to the approval of the director. The deputy director
23 shall select secretarial and other assistants ~~as may be~~
24 ~~necessary~~ and may obtain ~~permanent quarters~~ OFFICE SPACE for
25 the staff as may be necessary.

26 SEC. 32A. UPON THE REPEAL OF SECTION 32 PURSUANT TO THE
27 AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPUTY DIRECTOR IN

1 CHARGE OF THE BUREAU OF FIELD SERVICES SHALL ASSUME THE DUTIES OF
2 THE PAROLE BOARD PRESCRIBED BY THIS ACT.

3 Sec. 37. (1) When a prisoner is ~~released upon parole~~
4 PAROLED OR PLACED ON COMMUNITY REENTRY STATUS, the department
5 shall provide the prisoner with clothing and a nontransferable
6 ticket to the place in which the ~~paroled~~ prisoner is to
7 reside. At the discretion of the deputy director in charge of
8 the bureau of field services, the ~~paroled~~ prisoner may be
9 advanced the expense of the transportation to the place of resi-
10 dence and a sum of money necessary for reasonable maintenance and
11 subsistence for a 2-week period, as determined by the deputy
12 director. A sum of money given under this section shall be
13 repaid to the state by the ~~paroled~~ prisoner within 180 days
14 after the money is received by the ~~paroled~~ prisoner.

15 (2) If a prisoner who is discharged on his or her maximum
16 sentence less good time OR DISCIPLINARY CREDITS has less than
17 \$75.00 in his or her immediate possession, has no visible means
18 of support, and has conserved personal funds in a reasonable
19 manner, the department shall furnish to that prisoner the
20 following:

21 (a) Clothing which is appropriate for the season.

22 (b) A sum of \$75.00 including that amount already in the
23 prisoner's possession.

24 (c) Transportation to a place in this state where the pris-
25 oner will reside or work or to the place where the prisoner was
26 convicted or sentenced.

1 (3) When providing for transportation, the department
2 shall:

3 (a) Use the most economical available public
4 transportation.

5 (b) Arrange for and purchase the prisoner's transportation
6 ticket.

7 (c) Assume responsibility for delivering that prisoner to
8 the site of departure and confirming the prisoner's departure
9 from the site.

10 (4) The cost of implementing this section shall be paid out
11 of the general fund of the state.

12 SEC. 37A. (1) A PRISONER PLACED ON COMMUNITY REENTRY STATUS
13 SHALL COMPLY WITH ALL OF THE FOLLOWING CONDITIONS:

14 (A) REPORT PERSONALLY TO A DESIGNATED REPRESENTATIVE OF THE
15 BUREAU OF FIELD SERVICES WEEKLY AND AS OTHERWISE REQUIRED BY THAT
16 DESIGNATED REPRESENTATIVE OR THE DEPUTY DIRECTOR IN CHARGE OF THE
17 BUREAU OF FIELD SERVICES.

18 (B) REPORT TO A DESIGNATED REPRESENTATIVE OF THE BUREAU OF
19 FIELD SERVICES, WITHIN 24 HOURS OF ITS OCCURRENCE, ANY OF THE
20 FOLLOWING:

21 (i) ARREST.

22 (ii) LOSS OF EMPLOYMENT.

23 (iii) CHANGE OF RESIDENCE.

24 (C) NOT LEAVE THIS STATE WITHOUT THE PRIOR WRITTEN APPROVAL
25 OF THE DEPUTY DIRECTOR IN CHARGE OF THE BUREAU OF FIELD
26 SERVICES.

1 (D) NOT CONDUCT HIMSELF OR HERSELF SO THAT HIS OR HER
2 BEHAVIOR WOULD CONSTITUTE A MISDEMEANOR OR FELONY UNDER STATE OR
3 FEDERAL LAW.

4 (E) MAKE AN EARNEST EFFORT TO FIND SUITABLE EMPLOYMENT
5 UNLESS THE PRISONER IS IN AN APPROVED ALTERNATIVE PROGRAM.

6 (F) NOT ASSOCIATE WITH ANY PERSON KNOWN TO THE PRISONER TO
7 HAVE A FELONY CONVICTION RECORD WITHOUT THE PERMISSION OF A REP-
8 RESENTATIVE OF THE BUREAU OF FIELD SERVICES.

9 (G) NOT OWN OR POSSESS A DEADLY WEAPON OR KNOWINGLY BE IN
10 THE PRESENCE OF A PERSON WHO POSSESSES ONE.

11 (H) COMPLY WITH ANY SPECIAL CONDITIONS IMPOSED BY THE DEPUTY
12 DIRECTOR IN CHARGE OF THE BUREAU OF FIELD SERVICES.

13 (2) THE ORDER PLACING A PRISONER ON COMMUNITY REENTRY STATUS
14 SHALL CONTAIN A CONDITION TO PAY RESTITUTION TO, OR PERFORM SERV-
15 ICES FOR, THE VICTIM OF THE PRISONER'S CRIME OR THE VICTIM'S
16 ESTATE IF THE PRISONER HAS BEEN SENTENCED TO MAKE RESTITUTION
17 PURSUANT TO THE CRIME VICTIM'S RIGHTS ACT, ACT NO. 87 OF THE
18 PUBLIC ACTS OF 1985, BEING SECTIONS 780.751 TO 780.834 OF THE
19 MICHIGAN COMPILED LAWS, OR CHAPTER IX OF THE CODE OF CRIMINAL
20 PROCEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING SECTIONS
21 769.1 TO 769.38 OF THE MICHIGAN COMPILED LAWS.

22 Sec. 38. (1) Each prisoner on parole OR COMMUNITY REENTRY
23 STATUS shall remain in the legal custody and under the control of
24 the ~~commission~~ DEPARTMENT. The deputy director of the bureau
25 of field services, upon a showing of probable violation of THE
26 CONDITIONS OF parole OR COMMUNITY REENTRY STATUS, may issue a
27 warrant for the return of ~~any-paroled~~ THE prisoner. Pending a

1 hearing upon any charge of ~~parole~~ A violation, the prisoner
2 shall remain incarcerated.

3 (2) A prisoner violating ~~the provisions~~ A CONDITION OR
4 CONDITIONS of his or her parole OR COMMUNITY REENTRY STATUS and
5 for whose return a warrant has been issued by the deputy director
6 of the bureau of field services shall be treated as an escaped
7 prisoner. ~~and~~ A PRISONER VIOLATING A CONDITION OF HIS OR HER
8 PAROLE shall be liable, when arrested, to serve out the unexpired
9 portion of his or her maximum imprisonment. The time from the
10 date of the declared violation to the date of the prisoner's
11 availability for return to ~~an institution~~ A CORRECTIONAL
12 FACILITY shall not be counted as time served. The warrant of the
13 deputy director of the bureau of field services shall be a suffi-
14 cient warrant authorizing all officers named in the warrant to
15 detain the ~~paroled~~ prisoner in any jail of the state until his
16 or her return to ~~the state penal institution~~ A SECURE STATE
17 CORRECTIONAL FACILITY.

18 (3) If a ~~paroled~~ prisoner ON PAROLE OR COMMUNITY REENTRY
19 STATUS fails to return to prison when required by the deputy
20 director of the bureau of field services or if the ~~paroled~~
21 prisoner escapes while on parole OR COMMUNITY REENTRY STATUS, the
22 ~~paroled~~ prisoner shall be treated in all respects as if he or
23 she had escaped from prison and shall be subject to be retaken as
24 provided by the laws of this state.

25 (4) The parole board ~~, in its discretion,~~ may cause the
26 forfeiture of all ACCUMULATED good time OR DISCIPLINARY CREDITS
27 OF A PRISONER ON PAROLE WHO HAS VIOLATED A CONDITION OF HIS OR

1 HER PAROLE to the date of the declared violation. THE DEPUTY
2 DIRECTOR OF THE BUREAU OF FIELD SERVICES MAY CAUSE THE FORFEITURE
3 OF ALL DISCIPLINARY CREDITS OF A PRISONER ON COMMUNITY REENTRY
4 STATUS WHO HAS VIOLATED A CONDITION OF HIS OR HER COMMUNITY REEN-
5 TRY STATUS TO THE DATE OF THE DECLARED VIOLATION.

6 (5) A prisoner ~~committing~~ WHO COMMITS a crime while ~~at~~
7 ~~large~~ on parole and ~~being~~ IS convicted and sentenced for the
8 crime shall be treated as to the last incurred term as provided
9 under section 34, AND IF THE CRIME IS A FELONY, THE SENTENCE
10 SHALL BE CONSECUTIVE AS PROVIDED IN SECTION 7A OF CHAPTER VIII OF
11 THE CODE OF CRIMINAL PROCEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF
12 1927, BEING SECTION 768.7A OF THE MICHIGAN COMPILED LAWS.

13 (6) ~~A parole~~ PAROLE OR PLACEMENT ON COMMUNITY REENTRY
14 STATUS shall be construed as a permit to the prisoner to leave
15 the ~~prison~~ CORRECTIONAL FACILITY, and not as a release. While
16 ~~at large~~ ON PAROLE OR COMMUNITY REENTRY STATUS, the ~~paroled~~
17 prisoner shall be considered to be serving out the sentence
18 imposed by the court and shall be entitled to good time OR DISCI-
19 PLINARY CREDITS, AS APPLICABLE, the same as if confined in
20 ~~prison~~ A CORRECTIONAL FACILITY.

21 SEC. 38A. A PROBATION OFFICER, AN OFFICER OF THE BUREAU OF
22 FIELD SERVICES, OR A PEACE OFFICER OF THIS STATE MAY ARREST WITH-
23 OUT A WARRANT AND DETAIN IN ANY JAIL OF THIS STATE A PRISONER ON
24 COMMUNITY REENTRY STATUS, IF THE OFFICER HAS REASONABLE GROUNDS
25 TO BELIEVE THAT THE PRISONER HAS VIOLATED A CONDITION OF THAT
26 STATUS OR A WARRANT HAS BEEN ISSUED FOR HIS OR HER RETURN UNDER
27 SECTION 38.

1 SEC. 39B. (1) WITHIN 10 DAYS AFTER AN ARREST FOR AN ALLEGED
2 VIOLATION OF A CONDITION OF COMMUNITY REENTRY STATUS, THE PRIS-
3 ONER SHALL BE ENTITLED EITHER TO A PRELIMINARY HEARING TO DETER-
4 MINE WHETHER THERE IS PROBABLE CAUSE TO BELIEVE THAT A CONDITION
5 OR CONDITIONS OF THAT STATUS HAVE BEEN VIOLATED OR TO A
6 FACT-FINDING HEARING HELD PURSUANT TO SECTION 40B.

7 (2) PRIOR TO THE PRELIMINARY HEARING, THE ACCUSED PRISONER
8 SHALL BE GIVEN WRITTEN NOTICE OF THE CHARGES, AND THE TIME,
9 PLACE, AND PURPOSE OF THE PRELIMINARY HEARING.

10 (3) AT THE PRELIMINARY HEARING, THE ACCUSED PRISONER IS
11 ENTITLED TO THE FOLLOWING RIGHTS:

12 (A) DISCLOSURE OF THE EVIDENCE AGAINST HIM OR HER.

13 (B) THE RIGHT TO TESTIFY AND PRESENT RELEVANT WITNESSES AND
14 DOCUMENTARY EVIDENCE.

15 (C) THE RIGHT TO CONFRONT AND CROSS-EXAMINE ADVERSE WIT-
16 NESSES UNLESS THE PERSON CONDUCTING THE PRELIMINARY HEARING FINDS
17 ON THE RECORD THAT A WITNESS MAY BE SUBJECTED TO RISK OF HARM IF
18 HIS OR HER IDENTITY IS REVEALED.

19 (4) A PRELIMINARY HEARING MAY BE POSTPONED BEYOND THE 10-DAY
20 TIME LIMIT ON THE WRITTEN REQUEST OF THE PRISONER, BUT SHALL NOT
21 BE POSTPONED BY THE DEPARTMENT.

22 (5) IF A PRELIMINARY HEARING IS NOT HELD PURSUANT TO SUBSEC-
23 TION (1), AN ACCUSED PRISONER SHALL BE GIVEN WRITTEN NOTICE OF
24 THE CHARGES AGAINST HIM OR HER, THE TIME, PLACE, AND PURPOSE OF
25 THE FACT-FINDING HEARING, AND A WRITTEN SUMMARY OF THE EVIDENCE
26 TO BE PRESENTED AGAINST HIM OR HER.

1 (6) IF A PRELIMINARY HEARING IS NOT HELD PURSUANT TO
2 SUBSECTION (1), AN ACCUSED PRISONER MAY NOT BE FOUND GUILTY OF A
3 VIOLATION BASED ON EVIDENCE THAT WAS NOT SUMMARIZED IN THE NOTICE
4 PROVIDED PURSUANT TO SUBSECTION (5) EXCEPT FOR GOOD CAUSE STATED
5 ON THE RECORD AND INCLUDED IN THE WRITTEN FINDINGS OF FACT PRO-
6 VIDED TO THE PRISONER.

7 SEC. 40B. (1) WITHIN 45 DAYS AFTER A PRISONER HAS BEEN
8 RETURNED OR IS AVAILABLE FOR RETURN TO A SECURE STATE CORREC-
9 TIONAL FACILITY UNDER ACCUSATION OF A VIOLATION OF A CONDITION OF
10 COMMUNITY REENTRY STATUS, OTHER THAN THE CONVICTION FOR A FELONY
11 OR MISDEMEANOR PUNISHABLE BY IMPRISONMENT UNDER THE LAWS OF THIS
12 STATE, THE UNITED STATES, OR ANY OTHER STATE OR TERRITORY OF THE
13 UNITED STATES, THE PRISONER IS ENTITLED TO A FACT-FINDING HEARING
14 ON THE CHARGES BEFORE THE DEPUTY DIRECTOR IN CHARGE OF THE BUREAU
15 OF FIELD SERVICES OR AN ATTORNEY HEARINGS OFFICER DESIGNATED BY
16 THE DEPUTY DIRECTOR IN CHARGE OF THE BUREAU OF FIELD SERVICES.
17 THE FACT-FINDING HEARING SHALL BE CONDUCTED ONLY AFTER THE
18 ACCUSED PRISONER HAS HAD A REASONABLE AMOUNT OF TIME TO PREPARE A
19 DEFENSE. THE FACT-FINDING HEARING MAY BE HELD AT A STATE CORREC-
20 TIONAL FACILITY OR AT OR NEAR THE LOCATION OF THE ALLEGED
21 VIOLATION.

22 (2) AN ACCUSED PRISONER SHALL BE GIVEN WRITTEN NOTICE OF THE
23 CHARGES AGAINST HIM OR HER, AND THE TIME, PLACE, AND PURPOSE OF
24 THE FACT-FINDING HEARING. AT THE FACT-FINDING HEARING THE
25 ACCUSED PRISONER MAY BE REPRESENTED BY AN APPOINTED OR RETAINED
26 ATTORNEY AND IS ENTITLED TO THE FOLLOWING RIGHTS:

1 (A) FULL DISCLOSURE OF THE EVIDENCE AGAINST HIM OR HER.

2 (B) TO TESTIFY AND PRESENT RELEVANT WITNESSES AND
3 DOCUMENTARY EVIDENCE.

4 (C) TO CONFRONT AND CROSS-EXAMINE ADVERSE WITNESSES UNLESS
5 THE PERSON CONDUCTING THE FACT-FINDING HEARING FINDS ON THE
6 RECORD THAT A WITNESS MAY BE SUBJECTED TO RISK OF HARM IF HIS OR
7 HER IDENTITY IS REVEALED.

8 (D) TO PRESENT OTHER RELEVANT EVIDENCE IN MITIGATION OF THE
9 CHARGES.

10 (3) A FACT-FINDING HEARING MAY BE POSTPONED FOR CAUSE BEYOND
11 THE 45-DAY TIME LIMIT ON THE WRITTEN REQUEST OF THE PRISONER, THE
12 PRISONER'S ATTORNEY, OR, IF A POSTPONEMENT OF THE PRELIMINARY
13 HEARING HAS BEEN GRANTED BEYOND THE 10-DAY TIME LIMIT, BY THE
14 DEPUTY DIRECTOR IN CHARGE OF THE BUREAU OF FIELD SERVICES.

15 (4) IF THE EVIDENCE PRESENTED IS INSUFFICIENT TO SUPPORT THE
16 ALLEGATION THAT A VIOLATION OF A CONDITION OF COMMUNITY REENTRY
17 STATUS OCCURRED, THE PRISONER SHALL BE REINSTATED TO COMMUNITY
18 REENTRY STATUS.

19 (5) IF THE HEARINGS OFFICER CONDUCTING THE FACT-FINDING
20 HEARING DETERMINES, BASED UPON A PREPONDERANCE OF THE EVIDENCE,
21 THAT A VIOLATION OF A CONDITION OF COMMUNITY REENTRY STATUS HAS
22 OCCURRED, THE HEARINGS OFFICER SHALL PRESENT THE RELEVANT FACTS
23 TO THE DEPUTY DIRECTOR IN CHARGE OF THE BUREAU OF FIELD SERVICES
24 AND MAKE A RECOMMENDATION AS TO THE DISPOSITION OF THE CHARGES.

25 (6) IF A PREPONDERANCE OF THE EVIDENCE SUPPORTS THE ALLEGA-
26 TION THAT A VIOLATION OF A CONDITION OF COMMUNITY REENTRY STATUS
27 HAS OCCURRED, THE DEPUTY DIRECTOR IN CHARGE OF THE BUREAU OF

1 FIELD SERVICES MAY REVOKE THAT STATUS, AND THE PRISONER SHALL BE
2 PROVIDED WITH A WRITTEN STATEMENT OF THE FINDINGS OF FACT AND THE
3 REASONS FOR THE DETERMINATION WITHIN 60 DAYS AFTER THE PRISONER
4 HAS BEEN RETURNED OR IS AVAILABLE FOR RETURN TO A SECURE STATE
5 CORRECTIONAL FACILITY.

6 (7) A PRISONER WHO IS ORDERED TO MAKE RESTITUTION AS A CON-
7 DITION OF COMMUNITY REENTRY STATUS MAY HAVE THAT STATUS REVOKED
8 BY THE DEPUTY DIRECTOR IN CHARGE OF THE BUREAU OF FIELD SERVICES
9 IF THE PRISONER FAILS TO COMPLY WITH THE ORDER AND IF THE PRIS-
10 ONER HAS NOT MADE A GOOD FAITH EFFORT TO COMPLY WITH THE ORDER.
11 IN DETERMINING WHETHER TO REVOKE COMMUNITY REENTRY STATUS, THE
12 DEPUTY DIRECTOR IN CHARGE OF THE BUREAU OF FIELD SERVICES SHALL
13 CONSIDER THE PRISONER'S EMPLOYMENT STATUS, EARNING ABILITY,
14 FINANCIAL RESOURCES, THE WILLFULNESS OF THE PRISONER'S FAILURE TO
15 COMPLY WITH THE ORDER, AND ANY OTHER SPECIAL CIRCUMSTANCES THAT
16 MAY HAVE A BEARING ON THE PRISONER'S ABILITY TO COMPLY WITH THE
17 ORDER.

18 (8) THE COMMUNITY REENTRY STATUS OF A PRISONER WHO IS CON-
19 VICTED OF HAVING COMMITTED A FELONY WHILE ON COMMUNITY REENTRY
20 STATUS SHALL BE REVOKED.

21 Section 2. Sections 32 and 46 of Act No. 232 of the Public
22 Acts of 1953, being sections 791.232 and 791.246 of the Michigan
23 Compiled Laws, are repealed upon the expiration of 5 years fol-
24 lowing the effective date of section 33 of chapter IX of Act
25 No. 175 of the Public Acts of 1927.

1 Section 3. This amendatory act shall not take effect unless
2 Senate Bill No. _____ or House Bill No. 4191 (request
3 no. 00665'89) of the 85th Legislature is enacted into law.