

HOUSE BILL No. 4690

April 24, 1989, Introduced by Reps. Gubow, Rocca, Clack, Hart, Stabenow, DeBeaussaert, Gnodtke, Spaniola, Weeks, Varga, Niederstadt, Middaugh, Ciaramitaro, Sofio, Matnard, Dutko, Webb, Stupak, Pitoniak, Kosteva, Hickner, DeMars, Palamara, Brown, Emerson, Gire, Miller, Krause, Willis Bullard, Stacey, Runco, Honigman, Bartnik, Hertel, Barns, Porreca, Martin, Gilmer, Johnson, Trim, Bennett, Hoffman, Nye, Sparks, Van Regenmorter, Law, London, Bankes, Munsell, Emmons, Camp, Dunaskiss, Hoekman, Crandall, DeLange, Ouwinga, Mathieu, Jaye and Profit and referred to the Committee on Judiciary.

A bill to amend sections 34 and 44 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 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; 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 791.234 and 791.244 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 34 and 44 of Act No. 232 of the Public
2 Acts of 1953, as amended by Act No. 314 of the Public Acts of
3 1982, being sections 791.234 and 791.244 of the Michigan Compiled
4 Laws, are amended to read as follows:

5 Sec. 34. (1) A prisoner sentenced to an indeterminate sen-
6 tence and confined in a state prison or reformatory with a mini-
7 mum in terms of years shall be subject to the jurisdiction of the
8 parole board when the prisoner has served a period of time equal
9 to the minimum sentence imposed by the court for the crime of
10 which he or she was convicted, less ALLOWANCES FOR good time
11 ~~allowances~~ OR DISCIPLINARY CREDITS, if applicable.

12 (2) If a prisoner is sentenced for consecutive terms,
13 whether received at the same time or at any time during the life
14 of the original sentence, the parole board shall have jurisdic-
15 tion over the prisoner for purposes of parole when the prisoner
16 has served the total time of the added minimum terms, less the
17 good time credit OR DISCIPLINARY CREDITS allowed by statute. The
18 maximum terms of the sentences shall be added to compute the new
19 maximum term under this subsection, and discharge shall be issued
20 only after the total of the maximum sentences has been served
21 less ALLOWANCES FOR good time ~~allowances~~ OR DISCIPLINARY
22 CREDITS, unless the prisoner is paroled and discharged upon sat-
23 isfactory completion of the parole.

24 (3) If a prisoner has 1 or more consecutive terms remaining
25 to serve in addition to the term he or she is serving, the parole
26 board may terminate the sentence the prisoner is presently

1 serving at any time after the minimum term of the sentence has
2 been served.

3 (4) A prisoner under sentence for life or for a term of
4 years, other than ~~prisoners~~ A PRISONER sentenced for life for
5 murder in the first degree, ~~and prisoners~~ A PRISONER sentenced
6 for life or for a minimum term of imprisonment for a major con-
7 trolled substance offense, OR A PRISONER SENTENCED FOR LIFE WITH-
8 OUT PAROLE UNDER SECTION 15 OF CHAPTER IX OF THE CODE OF CRIMINAL
9 PROCEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING SECTION
10 769.15 OF THE MICHIGAN COMPILED LAWS, who has served 10 calendar
11 years of the sentence is subject to the jurisdiction of the
12 parole board and may be released on parole by the parole board,
13 subject to the following conditions:

14 (a) One member of the parole board shall interview the pris-
15 oner at the conclusion of 4 calendar years of the sentence and
16 biennially thereafter until such time as the prisoner is paroled,
17 discharged, or deceased.

18 (b) A parole shall not be granted a prisoner so sentenced
19 until after a public hearing held in the manner prescribed for
20 pardons and commutations in sections 44(d) to 44(f) and 45.
21 Notice of the public hearing shall be given to the sentencing
22 judge, or the judge's successor in office, and parole shall not
23 be granted if the sentencing judge, or the judge's successor in
24 office, files written objections to the granting of the parole
25 within 30 days of receipt of the notice of hearing. The written
26 objections shall be made part of the prisoner's file.

1 (c) A parole granted under this subsection shall be for a
2 period of not less than 4 years and subject to the usual rules
3 pertaining to paroles granted by the parole board. A parole
4 ordered under this subsection shall not become valid until the
5 transcript of the record is filed with the attorney general whose
6 certification of receipt of the transcript shall be returnable to
7 the office of the parole board within 5 days. Except for medical
8 records protected by section 2157 of THE REVISED JUDICATURE ACT
9 OF 1961, Act No. 236 of the Public Acts of 1961, being section
10 600.2157 of the Michigan Compiled Laws, the file of a prisoner
11 granted a parole under this subsection shall be a public record.

12 (d) A parole shall not be granted under this subsection in
13 the case of a prisoner who is otherwise prohibited by law from
14 parole consideration. In such ~~cases~~ A CASE the interview pro-
15 cedures in section 44 shall be followed.

16 (5) The time of a prisoner's release on parole shall be dis-
17 cretionary with the parole board. The action of the parole board
18 in granting or denying a parole shall be appealable to the cir-
19 cuit court by leave of the court.

20 Sec. 44. Subject to the constitutional authority of the
21 governor to grant reprieves, commutations, and pardons, 1 member
22 of the parole board shall interview a prisoner serving a sentence
23 for murder in the first degree OR A SENTENCE OF LIFE WITHOUT
24 PAROLE IMPOSED UNDER SECTION 15 OF CHAPTER IX OF THE CODE OF
25 CRIMINAL PROCEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING
26 SECTION 769.15 OF THE MICHIGAN COMPILED LAWS, at the conclusion
27 of 4 calendar years and biennially thereafter until such time as

1 the prisoner is granted a reprieve, commutation, or pardon by the
2 governor, or is deceased. Upon receipt of any application for
3 reprieve, commutation, or pardon, the parole board shall:

4 (a) Deliver the original application to the governor and
5 retain a copy in its file, pending investigation and hearing.

6 (b) Within 10 days after receipt of any application, forward
7 to the sentencing judge and to the prosecuting attorney of the
8 county having original jurisdiction of the case, or their succes-
9 sors in office, a written notice of the filing of the applica-
10 tion, together with copies of the application, the supporting
11 affidavits, and a brief summary of the case. Within 30 days
12 after receipt of notice of the filing of any application, the
13 sentencing judge and the prosecuting attorney, or their succes-
14 sors in office, may file information at their disposal, together
15 with any objections, in writing, which they may desire to
16 interpose. If the sentencing judge and the prosecuting attorney,
17 or their successors in office, do not respond within 30 days, the
18 parole board shall proceed on the application.

19 (c) In all cases where a commutation application is based on
20 physical or mental incapacity, direct the office of health care
21 to evaluate the condition of the prisoner and report on that
22 condition. If the office of health care determines that the
23 applicant is physically or mentally incapacitated, the office
24 shall appoint a specialist in the appropriate field of medicine,
25 who is not employed by the department, to evaluate the condition
26 of the prisoner and to report on that condition. These reports
27 are protected by the doctor-patient privilege of confidentiality,

1 except that the reports shall be provided to the governor for
2 review.

3 (d) In all cases where the parole board initiates or the
4 applicant applies for a reprieve, commutation, or pardon, the
5 parole board shall conduct a public hearing not later than 90
6 days after making a decision to proceed with consideration of a
7 recommendation for executive clemency. The public hearing must
8 be held before a formal recommendation of executive clemency is
9 made. One member of the parole board may conduct the hearing,
10 and the public shall be represented by the attorney general or a
11 member of the attorney general's staff.

12 (e) At least 5 days before a public hearing, written notice
13 of the public hearing shall be transmitted by mail to the attor-
14 ney general, the sentencing trial judge, and the prosecuting
15 attorney, or their successors in office.

16 (f) A public hearing shall be conducted pursuant to the
17 rules promulgated by the department. Any person having informa-
18 tion in connection with any application for pardon, commutation,
19 or reprieve, shall be sworn as a witness. In hearing testimony,
20 the parole board shall give liberal construction to any technical
21 rules of evidence.

22 (g) If an application has been made for executive clemency,
23 the parole board shall make a full investigation and determina-
24 tion on whether or not to proceed to a public hearing within 270
25 days of receipt of the application. If the parole board recom-
26 mends executive clemency, it shall make all data in its files
27 available to the governor. Except for medical records protected

1 by the doctor-patient privilege of confidentiality, the files of
2 the parole board in these cases shall be matters of public
3 record.

4 Section 2. This amendatory act shall not take effect unless
5 Senate Bill No. ____ or House Bill No. ____ (request
6 no. 02253'89) of the 85th Legislature is enacted into law.