

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5532

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
2
3
4
5
6
7

TITLE

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

1 for the siting of correctional facilities; to create a state
2 department of corrections, and to prescribe its powers and duties;
3 to provide for the transfer to and vesting in said department of
4 powers and duties vested by law in certain other state boards,
5 commissions, and officers, and to abolish certain boards,
6 commissions, and offices the powers and duties of which are
7 transferred by this act; to allow for the operation of certain
8 facilities by private entities; to prescribe the powers and duties
9 of certain other state departments and agencies; to provide for the
10 creation of a local lockup advisory board; **TO PROVIDE FOR A**
11 **LIFETIME ELECTRONIC MONITORING PROGRAM**; to prescribe penalties for
12 the violation of the provisions of this act; to make certain
13 appropriations; to repeal certain parts of this act on specific
14 dates; and to repeal all acts and parts of acts inconsistent with
15 the provisions of this act.

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

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

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

22 ~~and~~

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

27 **(D) THE LIFETIME ELECTRONIC MONITORING PROGRAM ESTABLISHED**

1 UNDER SECTION 85.

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

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

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

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

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

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

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

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

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

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

19 (4) The director and the corrections commission shall not
20 promulgate a rule or adopt a guideline that does either of the
21 following:

22 (a) Prohibits a probation officer or parole officer from
23 carrying a firearm while on duty.

24 (b) Allows a prisoner to have his or her name changed. If the
25 Michigan supreme court rules that ~~subsection 4(b)~~ **THIS**
26 **SUBDIVISION** is violative of constitutional provisions under the
27 first and fourteenth amendments to the United States constitution

1 and article I, sections 2 and 4 of the ~~Michigan~~ **STATE**
2 constitution of 1963, the remaining provisions of the code shall
3 remain in effect.

4 ~~—— (5) If the Michigan supreme court rules that sections 45 and~~
5 ~~46 of the administrative procedures act of 1969, Act No. 306 of the~~
6 ~~Public Acts of 1969, being sections 24.245 and 24.246 of the~~
7 ~~Michigan Compiled Laws, are unconstitutional, and a statute~~
8 ~~requiring legislative review of administrative rules is not enacted~~
9 ~~within 90 days after the Michigan supreme court ruling, the~~
10 ~~department shall not promulgate rules under this section.~~

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

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

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

25 **(2) AN INDIVIDUAL WHO IS SENTENCED TO LIFETIME ELECTRONIC**
26 **MONITORING SHALL WEAR OR OTHERWISE CARRY AN ELECTRONIC MONITORING**
27 **DEVICE AS DETERMINED BY THE DEPARTMENT UNDER THE LIFETIME**

1 ELECTRONIC MONITORING PROGRAM IN THE MANNER PRESCRIBED BY THAT
2 PROGRAM AND SHALL REIMBURSE THE DEPARTMENT OR ITS AGENT FOR THE
3 ACTUAL COST OF ELECTRONICALLY MONITORING THE INDIVIDUAL.

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

8 Enacting section 1. This amendatory act takes effect 90 days
9 after the date it is enacted.

10 Enacting section 2. This amendatory act does not take effect
11 unless all of the following bills of the 93rd Legislature are
12 enacted into law:

- 13 (a) Senate Bill No. 709.
- 14 (b) Senate Bill No. 717.
- 15 (c) Senate Bill No. 718.
- 16 (d) Senate Bill No. 1122.
- 17 (e) House Bill No. 5421.
- 18 (f) House Bill No. 5422.
- 19 (g) House Bill No. 5531.