

Chapter 798

CORRECTIONS

PROBATION RECOVERY CAMPS

Act 195 of 1935

798.1-798.6 Repealed. 2018, Act 316, Imd. Eff. June 29, 2018.

SPECIAL ALTERNATIVE INCARCERATION ACT

Act 287 of 1988

AN ACT to establish special alternative incarceration units; and to prescribe certain powers and duties of the department of corrections and county sheriffs.

History: 1988, Act 287, Imd. Eff. Aug. 1, 1988

The People of the State of Michigan enact:

798.11 Short title.

Sec. 1.

This act shall be known and may be cited as the "special alternative incarceration act".

History: 1988, Act 287, Imd. Eff. Aug. 1, 1988

798.12 Definitions.

Sec. 2.

As used in this act:

- (a) "Department" means the department of corrections.
- (b) "Prisoner" means a person serving a term of incarceration under the jurisdiction of the department.
- (c) "Probationer" means a person placed on probation pursuant to chapter XI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 771.1 to 771.14a of the Michigan Compiled Laws.
- (d) "Unit" means a special alternative incarceration unit.

History: 1988, Act 287, Imd. Eff. Aug. 1, 1988 ;-- Am. 1992, Act 23, Imd. Eff. Mar. 19, 1992

798.13 Special alternative incarceration units; establishment; purposes; transportation to unit; processing; transfer.

Sec. 3.

(1) The department shall establish special alternative incarceration units for the purpose of housing and training probationers eligible for special alternative incarceration pursuant to section 3b of chapter XI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 771.3b of the Michigan Compiled Laws. A probationer who is placed in a unit by a court shall be transported by the county sheriff directly to a unit and shall not be processed through the department's reception center for prisoners. The department may transfer a probationer from 1 unit to another unit at the department's discretion, during the probationer's incarceration in a unit.

(2) The department shall establish special alternative incarceration units for the purpose of housing and training prisoners eligible for special alternative incarceration pursuant to section 34a of Act No. 232 of the Public Acts of 1953, being section 791.234a of the Michigan Compiled Laws.

History: 1988, Act 287, Imd. Eff. Aug. 1, 1988 ;-- Am. 1992, Act 23, Imd. Eff. Mar. 19, 1992

798.14 Program of physically strenuous work and exercise; term; special alternative incarceration aftercare residential pilot program; purpose; construction of facility.

Sec. 4.

(1) The units shall provide a program of physically strenuous work and exercise, patterned after military basic training, and other programming as determined by the department. The term of any probationer's or prisoner's incarceration in a unit shall not exceed 120 days except that the probationer also shall be required to complete a period of not less than 120 days of probation under intensive supervision, and a prisoner also shall be required to complete a period of not less than 120 days of parole under intensive supervision. A probationer also may be required to complete a period of not more than 120 days in a residential program, if ordered by the sentencing court to do so under section 3b(9) of chapter XI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 771.3b of the Michigan Compiled Laws, or if required by the department to do so under section 3b(10) of chapter XI of Act No. 175 of the Public Acts of 1927.

(2) The department shall develop and operate a special alternative incarceration aftercare residential pilot program. The program shall be a residential program in which probationers may be required to participate pursuant to section 3b(10) of chapter XI of Act No. 175 of the Public Acts of 1927 and in which prisoners may be required to participate. The construction of the facility used for the purposes of the program shall be governed by a written agreement between the department, the department of management and budget, and the city, village, or township in which the program is operated.

History: 1988, Act 287, Imd. Eff. Aug. 1, 1988 ;-- Am. 1989, Act 303, Imd. Eff. Jan. 3, 1990 ;-- Am. 1992, Act 23, Imd. Eff. Mar. 19, 1992

798.15 Certification of satisfactory completion of course of training.

Sec. 5.

(1) At any time during a probationer's incarceration in a unit, but not less than 5 days before the probationer's expected date of release, the department shall certify to the sentencing court as to whether the probationer has satisfactorily completed the course of training at the unit.

(2) At least 10 days before the prisoner's expected date of release, the department shall certify to the parole board as to whether the prisoner has satisfactorily completed the course of training at the unit.

History: 1988, Act 287, Imd. Eff. Aug. 1, 1988 ;-- Am. 1992, Act 23, Imd. Eff. Mar. 19, 1992

Compiler's Notes: 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.

798.16 Failure of probationer or prisoner to work diligently and productively or to obey rules; applicability of disciplinary procedures required by MCL 791.251 to 791.255.

Sec. 6.

(1) A probationer who fails to work diligently and productively at the program of the unit, or who fails to obey the rules of behavior established for the unit, may be reported to the sentencing court for possible revocation of probation and may be housed in a county jail while awaiting a probation revocation determination.

(2) A prisoner who fails to work diligently and productively at the program of the unit, or who fails to obey the rules of behavior established for the unit, shall be returned to a state correctional facility and shall no longer be eligible for placement in the program. A prisoner removed from a unit for this purpose shall be credited for the time served in the unit except that all disciplinary credits accumulated in the unit may be forfeited.

(3) Disciplinary procedures required by sections 51 to 55 of Act No. 232 of the Public Acts of 1953, being sections 791.251 to 791.255 of the Michigan Compiled Laws, are not applicable in determining whether the rules of behavior established for the unit have been violated, except where the removal from the unit and the forfeiture of disciplinary credits are at issue.

History: 1988, Act 287, Imd. Eff. Aug. 1, 1988 ;-- Am. 1992, Act 23, Imd. Eff. Mar. 19, 1992

798.17 Effective date.

Sec. 7.

This act shall take effect July 1, 1988.

History: 1988, Act 287, Imd. Eff. Aug. 1, 1988

798.18 Conditional effective date.

Sec. 8.

This act shall not take effect unless Senate Bill No. 691 of the 84th Legislature is enacted into law.

History: 1988, Act 287, Imd. Eff. Aug. 1, 1988

Compiler's Notes: Senate Bill No. 691, referred to in this section, was filed with the Secretary of State August 1, 1988, and became P.A. 1988, No. 286, Imd. Eff. Aug. 1, 1988.

EVIDENCE-BASED PRACTICES FOR PROBATION AND PAROLE SUPERVISION

Act 5 of 2017

AN ACT to provide for the use of evidence-based supervision practices for probation and parole supervision; to prescribe the powers and duties of certain state departments and local agencies; to require the adoption of certain rules; to regulate the use of funds by certain state departments and local agencies; and to require certain reports.

History: 2017, Act 5, Eff. June 29, 2017

The People of the State of Michigan enact:

798.31 Definitions.

Sec. 1.

As used in this act:

- (a) "Agency" means both of the following:
 - (i) The department of corrections.
 - (ii) Any regional, local, or county governmental agency that receives state funding and that is responsible for supervising individuals who are placed on probation or who are serving a period of parole or postrelease supervision from a prison or jail. Agency does not include a district court probation department established under section 8314 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8314.
- (b) "Case plan" means an individualized accountability and behavior change strategy for supervised individuals that does all of the following:
 - (i) Targets and prioritizes the specific criminal risk factors of the offender.
 - (ii) Matches programs to the offender's individual characteristics, such as gender, culture, motivational stage, developmental stage, or learning style.
 - (iii) Establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations. A timetable established under this subparagraph for payment of victim restitution, child support, and other financial obligations is subject to an ability to pay determination.
 - (iv) Specifies positive and negative actions that will be taken in response to the supervised individual's behaviors.
- (c) "Community supervision" means the placement of an individual under supervision after release from prison or jail, with conditions imposed by the releasing authority for a specified period of time.
- (d) "Criminal risk factors" means characteristics and behaviors that when addressed or changed affect an individual's risk for committing crimes including antisocial attitudes, values, and beliefs, poor impulse control, criminal personality, substance abuse, criminal peers, dysfunctional family, or a lack of employment or education.
- (e) "Evidence-based practices" means supervision policies, procedures, programs, and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or postrelease supervision.
- (f) "Program" means an intervention, other than medical services, to which both of the following apply:
 - (i) It is intended to reduce recidivism by supervised individuals.
 - (ii) It is funded in whole or in part by this state or is administered by an agency of this state.
- (g) "Recidivism" means the rearrest, reconviction, or reincarceration in prison or jail for a felony or misdemeanor offense or a probation or parole violation, of an individual as measured first after 3 years and again after 5 years from the date of his or her release from incarceration, placement on probation, or conviction, whichever is later.
- (h) "Supervised individual" means an individual placed on probation or serving a period of parole.
- (i) "Supervising agent" means an individual appointed or employed by the agency to supervise individuals placed on community supervision.
- (j) "Technical parole violation" means a violation of the terms of a parolee's parole order that is not a violation of a law of this state, a political subdivision of this state, another state, or the United States or of tribal law.
- (k) "Technical probation violation" means a violation of the terms of a probationer's probation order that is not a violation of a law of this state, a political subdivision of this state, another state, or the United States or of tribal law.

History: 2017, Act 5, Eff. June 29, 2017

798.32 Adoption of policies, rules, and regulations; expenditures; elimination of certain supervision policies, procedures, programs, and practices; collection and maintenance of data.

Sec. 2.

(1) The agency shall adopt policies, rules, and regulations that within 4 years after the effective date of this act result in all supervised individuals being supervised in accordance with evidence-based practices, or practices developed based upon evidence-based practices, in order to improve the success rates of and to reduce recidivism rates for supervised individuals. The agency shall consult with and seek recommendations from local law enforcement agencies, including sheriff's departments, circuit courts, county prosecutor's offices, and community corrections programs, in adopting policies, rules, and regulations for evidence-based supervision practices.

- (2) The policies, rules, and regulations adopted under subsection (1) must include all of the following:
- (a) The adoption, validation, and utilization of an objective risk and needs assessment tool.
 - (b) The use of assessment scores and other objective criteria to determine the risk level and program needs of each supervised individual, prioritizing supervision and program resources for offenders who are at higher risk to reoffend.
 - (c) Definitions of low-, moderate-, and high-risk levels during the period of supervision.
 - (d) The development of a case plan, based on the assessment score, for each individual who is assessed to be moderate to high risk. The case plan developed under this subdivision must allow a supervised individual options for programming and is subject to conditions of supervision, if any, imposed by a court having jurisdiction over the supervised individual.
 - (e) The development of a case plan, based on the assessment score, for each individual who is assessed to be low risk. The case plan developed under this subdivision must allow a supervised individual options for programming and is subject to conditions of supervision, if any, imposed by a court having jurisdiction over the supervised individual.
 - (f) The identification of swift, certain, proportionate, and graduated responses that a supervising agent will apply in response to a supervised individual's compliant and noncompliant behaviors.
 - (g) The adoption of caseload guidelines that are based on offender risk levels and take into account agency resources and employee and supervising agent workload.
 - (h) The establishment of protocols and standards that assess the degree to which agency policies, procedures, programs, and practices relating to offender recidivism reduction are evidence-based.
- (3) Not more than 4 years after the effective date of this act, all state funds expended on programs must be for programs that are in accordance with evidence-based practices or are developed based upon evidence-based practices.
- (4) Not more than 4 years after the effective date of this act, the agency shall eliminate supervision policies, procedures, programs, and practices intended to reduce recidivism that scientific research demonstrates do not reduce recidivism.
- (5) Any data collected and maintained under this act regarding recidivism rates must be collected and maintained in a manner that separates the data regarding technical probation violations and technical parole violations from data on new felony and misdemeanor convictions.

History: 2017, Act 5, Eff. June 29, 2017

798.33 Crime victim satisfaction with criminal justice system; adoption of policies, rules, and regulations.

Sec. 3.

The agency shall adopt policies, rules, and regulations that improve crime victim satisfaction with the criminal justice system, including all of the following:

- (a) The payment by supervised individuals of victim restitution and child support.
- (b) The opportunity for victims to complete victim impact statements or provide input into presentence investigation reports.
- (c) Providing victims information about their rights and services, and referrals to access those rights and services.
- (d) Offering victims the opportunity to complete a "victim satisfaction survey" with data used to measure agency performance. The department of the attorney general shall develop a victim satisfaction survey for use by the agency under this subdivision.
- (e) Facilitating victim-offender dialogue if the victim is willing.

History: 2017, Act 5, Eff. June 29, 2017

798.34 Evidence-based practices; training and professional development services.

Sec. 4.

(1) The agency shall provide its employees and supervising agents with intensive initial and ongoing training and professional development services to support the implementation of evidence-based practices.

(2) The training and professional development services provided under subsection (1) must include assessment techniques, case planning, risk reduction and intervention strategies, effective communication skills, substance abuse intervention information, and other topics identified by the agency or its employees and supervising agents.

History: 2017, Act 5, Eff. June 29, 2017

798.35 Assistance with data collection, analysis, and research; partnerships; contracts.

Sec. 5.

The department of corrections may form partnerships or enter into contracts with institutions of higher education or other qualified organizations for assistance with data collection, analysis, and research.

History: 2017, Act 5, Eff. June 29, 2017

798.36 Report.

Sec. 6.

(1) Beginning in 2018, by March 1 of each year the agency shall submit to the governor, the secretary of the senate, the clerk of the house of representatives, and the supreme court administrative office a comprehensive report on its efforts to implement this act. The report must include all of the following:

(a) The percentage and number of supervised individuals being supervised in accordance with evidence-based practices.

(b) The amount of state funds expended for programs that are evidence-based.

(c) A list of all programs, including an identification of all programs that are evidence-based.

(d) An identification of all supervision policies, procedures, programs, and practices that were eliminated.

(e) The results of victim satisfaction surveys administered under section 3.

(f) The agency's recommendations for resource allocation, and any additional collaboration with other state, regional, or local public agencies, private entities, or faith-based or community organizations.

(2) The agency shall make the full report required under subsection (1) and an executive summary of that report available to the general public on its website.

History: 2017, Act 5, Eff. June 29, 2017

INTERSTATE COMPACT; PROBATION, PAROLE, PREVENTION OF CRIME, AND ENFORCEMENT OF PENAL LAWS

Act 89 of 1935

AN ACT providing that the state of Michigan may enter into a compact or compacts with any of the United States for mutual helpfulness in relation to persons convicted of crime or offenses or who are or may be at large on probation or parole, and providing that the state may enter into a compact or compacts with any of the United States that will provide for cooperative effort and mutual assistance amongst them in the prevention of crime and in the enforcement of their respective penal laws and policies and to establish such agencies, joint or otherwise, as said states may deem desirable for making effective such agreements and compacts.

History: 1935, Act 89, Imd. Eff. May 27, 1935

798.101 Interstate compact; probation and parole.

Sec. 1.

The governor of this state is hereby authorized and directed to enter into a compact on behalf of the state of Michigan with any of the United States legally joining therein in the form substantially as follows:

A COMPACT

Entered into by and among the contracting states, signatories hereto, with the consent of Congress of the United States of America, granted by an act entitled "An act granting the consent of Congress to any 2 or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes."

The contracting states solemnly agree:

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact, (herein called "sending state") to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact, (herein called "receiving state") while on probation or parole, if

(a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;

(b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person's being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than 1 year prior to his coming to the sending state and has not resided within the sending state for more than 6 continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition or fugitives from justice are hereby expressly waived. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state: Provided, however, That if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference.

(5) That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying. When ratified, it shall have the full force and effect of law within such state; the form of ratification to be in accordance with the laws of the ratifying state.

(7) That this compact shall continue in force and remain binding upon each ratifying state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which ratified it, by sending 6 months' notice in writing of its intention to withdraw from the compact.

History: 1935, Act 89, Imd. Eff. May 27, 1935 ;-- CL 1948, 798.101

Admin Rule: R 791.1101 et seq. of the Michigan Administrative Code.

798.102 Interstate compact; declaration of necessity.

Sec. 2.

Whereas an emergency exists for the immediate taking effect of this act, the same shall become effective immediately upon its passage and, when the governor of this state shall sign and seal this compact or any compact with any other state, pursuant to the provisions of this act. Such compact or compacts as between the state of Michigan and such other state so signing shall have the force and effect of law immediately upon the enactment by such other state of a law giving it similar effect.

History: 1935, Act 89, Imd. Eff. May 27, 1935 ;-- CL 1948, 798.102

798.103 Interstate compact; prevention of crime.

Sec. 3.

The governor of the state of Michigan is further authorized and empowered to enter into any other agreements or compacts with any of the United States not inconsistent with the laws of this state or of the United States, or the other agreeing states, for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of the penal laws and policies of the contracting states and to establish agencies, joint or otherwise, as may be deemed desirable for making effective such agreements and compacts. The intent and purpose of this act is to grant to the governor of the state of Michigan administrative power and authority if and when conditions of crime make it necessary to bind the state in a cooperative effort to reduce crime and to make the enforcement of the criminal laws of agreeing states more effective, all pursuant to the consent of the Congress of the United States heretofore granted.

History: 1935, Act 89, Imd. Eff. May 27, 1935 ;-- CL 1948, 798.103

DISCHARGE FROM PAROLE

Act 277 of 1945

798.201,798.202 Repealed. 1964, Act 256, Eff. Aug. 28, 1964.

FARMS AND STONE QUARRIES

Act 301 of 1931

798.301-798.303 Repealed. 1964, Act 256, Eff. Aug. 28, 1964.

PRISON CAMPS IN CONSERVATION AREAS

Act 274 of 1949

798.351-798.353 Repealed. 1964, Act 256, Eff. Aug. 28, 1964;—1981, Act 119, Imd. Eff. July 19, 1981.

JACKSON; SALE OF STATE LAND

Act 171 of 1939

798.401-798.405 Repealed. 1964, Act 256, Eff. Aug. 28, 1964.

SALE OF WATER TO LOCAL INDUSTRY

Act 386 of 1974

AN ACT to authorize the department of corrections to sell water to local industry; and to provide for the disposition of revenues derived therefrom.

History: 1974, Act 386, Imd. Eff. Dec. 23, 1974

The People of the State of Michigan enact:

798.411 Contract to supply water from southern Michigan prison to local industry; mandatory provisions.

Sec. 1.

(1) The director of the department of corrections may contract with the Jackson area industrial development corporation to supply water from southern Michigan prison to local industry.

(2) The contract shall provide:

(a) That the water shall be used solely for fire protection and fire extinguishing systems.

(b) That the water shall be sold at not less than its fair market value.

(c) That all water main and other installation and maintenance costs shall be paid by the corporation.

History: 1974, Act 386, Imd. Eff. Dec. 23, 1974

798.412 Approval of contract.

Sec. 2.

The contract authorized by this act shall be approved by the attorney general.

History: 1974, Act 386, Imd. Eff. Dec. 23, 1974

798.413 Disposition of revenues; liability for damages.

Sec. 3.

The revenues received under this act shall be deposited in the state treasury and credited to the general fund. The state of Michigan and the Michigan department of corrections and all personnel shall not be held liable for any damages which might result from the failure or inability of the prison water system to supply the private corporation with water under any circumstances.

History: 1974, Act 386, Imd. Eff. Dec. 23, 1974

JACKSON; SALE OF PROPERTY

Act 192 of 1939

798.421, 798.422 Repealed. 1964, Act 256, Eff. Aug. 28, 1964.