

Legislative Analysis



REVISE PROVISIONS ON PAROLEES

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6181 (Substitute H-1)
Sponsor: Rep. Daniel Acciavatti

House Bill 6182 (Substitute H-1)
Sponsor: Rep. David Law

House Bill 6275 (Substitute H-1)
Sponsor: Rep. David Robertson
Committee: Judiciary

First Analysis (9-14-06)

BRIEF SUMMARY: House Bills 6181 and 6182 would require that LEIN checks be done before an arrest warrant is issued and when a person is arrested, and that DOC be notified if the person named in the warrant or arrested is on parole. House Bill 6275 would require home visits, quarterly LEIN checks, and mandatory bi-monthly substance abuse testing of parolees convicted of a violent felony.

FISCAL IMPACT: House Bills 6181 and 6182 would have an indeterminate fiscal impact on the DOC. House Bill 6275 is not expected to have a fiscal impact on the DOC.

THE APPARENT PROBLEM:

When three people were murdered in February by a parolee, inquiries into the events surrounding the tragedy revealed multiple flaws in the criminal justice system. Patrick Selepak, serving time for armed robbery, was released on parole last summer. In October, he was arrested on a domestic violence charge after battering and choking his then girlfriend. According to state law and Department of Corrections policies, the assault charge constituted a parole violation sufficient to return him to prison to serve the remainder of his armed robbery sentence. However, through a series of missteps involving miscommunications between law enforcement agencies, the courts, and the DOC; failure to follow specific DOC policy directives on monitoring parolees; and a serious error by a DOC employee in misinterpreting a statute requiring a hearing on a parole violation to be held within 45 days, Patrick Selepak was released from custody. A little over a month later, Selepak murdered a pregnant Melissa Berels, her husband Scott, and Winfield (Fred) Johnson, crimes for which he has since pled guilty to and is now serving multiple life sentences without parole.

Investigations and inquiries into the events that led to Selepak being released after the domestic violence arrest have revealed numerous areas where statutory language should be tightened to increase clarity, amended to add stricter oversight of parolees convicted of violent felonies, and amended to require improved communications between police

officers, courts, and the DOC so that DOC is alerted when a parolee commits or is suspected of committing a new crime.

THE CONTENT OF THE BILLS:

House Bills 6181 and 6182

In general, the bills would require that (1) whenever an arrest warrant is issued or a person is arrested and taken into custody, a LEIN check must be performed to determine if the person is a parolee; and (2) that the Department of Corrections (DOC) be notified whenever a parolee is arrested or a warrant is issued for a parolee's arrest.

The notices required by both bills would have to contain the following information:

- The identity of the arrested person or the person named in the warrant.
- The fact that information in LEIN provides reason to believe that the person is a parolee.
- The charge or charges stated in the warrant.

Compliance with all notification requirements in both bills would be satisfied if the notice was transmitted to a parole agent serving the county where the arrest occurred (or his or her supervisor) or to the DOC by a central toll-free telephone number that was in operation 24 hours a day and had been posted in the DOC's database of information concerning the status of parolees.

House Bill 6181 would add a new section (MCL 764.15g) to the Code of Criminal Procedure. Under the bill, when a person is arrested and taken into custody, with or without a warrant, the peace officer who made the arrest, his or her employing law enforcement agency, or a central dispatch service for that law enforcement agency would be required to promptly use the Law Enforcement Information Network (LEIN) to determine whether the arrested person is a parolee under the jurisdiction of the DOC. If so, the peace officer, or law enforcement agency or dispatch service, is required to promptly notify the DOC of the parolee's arrest by telephonic or electronic means and of the charges in the warrant.

House Bill 6182 would add a new section (MCL 764.1g) to the Code of Criminal Procedure to require, before a warrant is issued for the arrest of a person who is not in custody, that the law enforcement agency investigating the crime use LEIN to determine whether the person was a parolee under the jurisdiction of the DOC. If the person is a parolee, and a magistrate issued a warrant for the arrest of that person, the investigating law enforcement agency or a court (if the court is entering arrest warrants into the LEIN) would have to promptly notify the DOC of the warrant as specified above.

In addition, if the court has assumed the responsibility for entering arrest warrants into the LEIN and delays issuance or entry of a warrant pending a court appearance by the person named in the warrant, the law enforcement agency submitting the sworn

complaint to the court would have to promptly give to the DOC, by telephonic or electronic means, notice of the following:

- The identity of the person named in the sworn complaint.
- The fact that a prosecuting attorney had authorized issuance of a warrant.
- The fact that information in DOC databases accessible by the LEIN provided reason to believe the person named in the sworn complaint was a parolee.
- The charge or charges stated in the sworn complaint.
- Whether, pending a court appearance by the person named in the complaint, the court had either issued the arrest warrant but delayed entry of the warrant into the LEIN or had delayed issuance of the warrant.

House Bill 6275

House Bill 6275 would add a new section to the Corrections Code of 1953 (MCL 791.240) to mandate that parole agents take certain steps to supervise parolees who were convicted of violent felonies or who have a history of substance abuse. In addition, the bill would require the Department of Corrections to prepare an annual report on the number of parolees returned to state correctional facilities for parole violations involving alcohol or drugs and a quarterly report on the number of absconders.

Violent felons. When a prisoner serving a sentence for conviction of a violent felony is placed on parole, his or her supervisory parole agent would be required to:

- Make a home call within the first 45 days after the prisoner is placed on parole.
- Do a LEIN check at least quarterly for that parolee and not later than one month before a parolee is discharged from parole. (LEIN means the Law Enforcement Information Network.)

A list of the crimes to which this section would apply appears at the end of the summary.

Substance abusers. The bill would require prisoners with a history of substance abuse assigned to intensive, maximum, or medium parole supervision to submit to substance abuse testing at least twice a month as a condition of parole. "Substance abuse" is defined in the bill as the "taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard or to the extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or while habitually under the influence of alcohol or drugs, endangers public health, morals, safety or welfare, or a combination thereof."

Annual report. The bill would require the Department of Corrections to make an annual report to the Legislature by April 1 of each year on the number of parolees who are returned to state correctional facilities during the preceding calendar year for parole violations involving the use of drugs or alcohol and the number of such violations each parolee had before being returned.

Quarterly report. The DOC would also have to report to the legislature on a quarterly basis the number of parolees who are absconders and the number who have been absconders for more than three months.

Violent felony. The bill incorporates by reference the definition of violent felony found in Section 36 of the Corrections Code (MCL 791.236), which specifies 22 crimes as violent felonies.

MCL 750.82 (felonious assault)
MCL 750.83 (assault with intent to commit murder)
MCL 750.84 (assault with intent to commit great bodily harm less than murder)
MCL 750.86 (assault with intent to maim)
MCL 750.87 (assault with intent to commit a felony not otherwise punished)
MCL 750.88 (unarmed assault with intent to rob and steal)
MCL 750.89 (armed assault with intent to rob and steal)
MCL 750.316 (first degree murder)
MCL 750.317 (second degree murder)
MCL 750.321 (manslaughter)
MCL 750.349 (kidnapping)
MCL 750.349a (prisoner taking person as hostage)
MCL 750.350 (leading, taking, or carrying away a child under the age of 14)
MCL 750.397 (mayhem)
MCL 750.520b (criminal sexual conduct, first degree)
MCL 750.520c (criminal sexual conduct, second degree)
MCL 750.520d (criminal sexual conduct, third degree)
MCL 750.520e (criminal sexual conduct, fourth degree)
MCL 750.520g (assault with intent to commit criminal sexual conduct)
MCL 750.529 (user or possession of a dangerous weapon)
MCL 750.529a (carjacking)
MCL 750.530 (using force or violence in course of committing a larceny)

FISCAL INFORMATION:

House Bills 6181 and 6182 would have an indeterminate fiscal impact on state and local governments. There may be some administrative costs involved with utilizing the LEIN system and with cross communication between state and local level peace officers, law enforcement agencies, courts, and the DOC, but these costs cannot be determined since it is unknown how many people will be arrested and taken into custody and how many of these will be parolees under the jurisdiction of the DOC.

The Department of Corrections estimates that any additional administrative costs presented by House Bill 6275 could be absorbed utilizing existing resources.

ARGUMENTS:

For:

The bills are part of a larger package of legislation to identify and close loopholes in law that led to the release of Patrick Selepak. House Bills 6181 and 6182 would address the problems incurred when the DOC (including parole officers) and the parole board do not receive timely notification that a parolee has committed a new crime. House Bill 6275 adds tighter scrutiny of parolees with a conviction of a violent felony including regular LEIN checks, home visits within 45 days of release on parole (currently the DOC does a home check within 90 days), substance abuse testing (which would include alcohol testing) as a condition of parole, and regular reports to the Legislature on the numbers of parolees who violate their parole by taking drugs or using alcohol and on the number of parolees who fail to report and disappear. Several other bills previously passed by the House have addressed some of the other concerns, such as clarifying in statute that a person returned to custody for a suspected parole violation is not to be released pending a hearing even if the hearing is not held within the required 45 day timeframe. These bills are not a guarantee that a similar incident will never happen again, but they would implement practices that should reduce the chance that such a tragedy would reoccur.

POSITIONS:

The Department of Corrections indicated support for House Bills 6181 and 6182 and neutrality on House Bill 6275. (9-13-06)

The Department of State Police indicated support for House Bills 6181 and 6182. (9-13-09)

The Prosecuting Attorneys Association of Michigan supports the concept of the bills. (9-13-06)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Jan Wisniewski
Marilyn Peterson

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.