

**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:**

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

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

14 (4) The director and the corrections commission shall not  
15 promulgate a rule or adopt a guideline that does either of the  
16 following:

17 (a) Prohibits a probation officer or parole officer from  
18 carrying a firearm while on duty.

19 (b) Allows a prisoner to have his or her name changed. If the  
20 Michigan supreme court rules that subsection 4(b) is violative of  
21 constitutional provisions under the first and fourteenth amendments  
22 to the United States constitution and article I, sections 2 and 4  
23 of the Michigan constitution of 1963, the remaining provisions of  
24 the code shall remain in effect.

25 (5) If the Michigan supreme court rules that sections 45 and  
26 46 of the administrative procedures act of 1969, ~~Act No. 306 of~~  
27 ~~the Public Acts of 1969, being sections 24.245 and 24.246 of the~~

1 ~~Michigan Compiled Laws, 1969 PA 306, MCL 24.201 TO 24.328,~~ are  
2 unconstitutional, and a statute requiring legislative review of  
3 administrative rules is not enacted within 90 days after the  
4 Michigan supreme court ruling, the department shall not promulgate  
5 rules under this section.

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

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 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, AND  
23 RECORDED INFORMATION RETRIEVED UPON REQUEST BY THE COURT OR A LAW  
24 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 House Bill No. 5531 of the 93rd Legislature is enacted into  
12 law.