

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5967

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 36 and 40a (MCL 791.236 and 791.240a), section
36 as amended by 2006 PA 168 and section 40a as amended by 1993 PA
346.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36. (1) All paroles shall be ordered by the parole board
2 and shall be signed by the chairperson. Written notice of the order
3 shall be given to the sheriff or other police officer of the
4 municipality or county in which the prisoner was convicted, and to
5 the sheriff or other local police officer of the municipality or
6 county to which the paroled prisoner is sent.

7 (2) A parole order may be ~~amended or~~ rescinded at the

1 discretion of the parole board for cause **BEFORE THE PRISONER IS**
2 **RELEASED ON PAROLE.** ~~If a paroled prisoner who is required to~~
3 ~~register pursuant to the sex offenders registration act, 1994 PA~~
4 ~~295, MCL 28.721 to 28.736, willfully violates that act, the parole~~
5 ~~board shall rescind the parole. If a prisoner convicted of~~
6 ~~violating or conspiring to violate section 7401(2)(a)(i) or (ii) or~~
7 ~~7403(2)(a)(i) or (ii) of the public health code, 1978 PA 368, MCL~~
8 ~~333.7401 and 333.7403, is released on parole and violates or~~
9 ~~conspires to violate article 7 of the public health code, 1978 PA~~
10 ~~368, MCL 333.7401 to 333.7545, and that violation or conspiracy to~~
11 ~~violate is punishable by imprisonment for 4 or more years, or~~
12 ~~commits a violent felony during his or her release on parole,~~
13 ~~parole shall be rescinded.~~

14 ~~——(3)——~~ A parole shall not be rescinded unless an interview **WITH**
15 **THE PRISONER** is conducted by 1 member of the parole board. The
16 purpose of the interview is to consider and act upon information
17 received by the board after the original parole release decision. A
18 rescission interview shall be conducted within 45 days after
19 receiving the new information. At least 10 days before the
20 interview, the parolee shall receive a copy or summary of the new
21 evidence that is the basis for the interview.

22 **(3) A PAROLE ORDER MAY BE AMENDED AT THE DISCRETION OF THE**
23 **PAROLE BOARD FOR CAUSE.** An amendment to a parole order shall be in
24 writing and is not effective until notice of the amendment is given
25 to the parolee.

26 (4) When a parole order is issued, the order shall contain the
27 conditions of the parole and shall specifically provide proper

1 means of supervision of the paroled prisoner in accordance with the
2 rules of the bureau of field services.

3 (5) The parole order shall contain a condition to pay
4 restitution to the victim of the prisoner's crime or the victim's
5 estate if the prisoner was ordered to make restitution pursuant to
6 the William Van Regenmorter crime victim's rights act, 1985 PA 87,
7 MCL 780.751 to 780.834, or the code of criminal procedure, 1927 PA
8 175, MCL 760.1 to 777.69.

9 (6) The parole order shall contain a condition requiring the
10 parolee to pay a parole supervision fee as prescribed in section
11 36a.

12 (7) The parole order shall contain a condition requiring the
13 parolee to pay any assessment the prisoner was ordered to pay
14 pursuant to section 5 of 1989 PA 196, MCL 780.905.

15 (8) The parole order shall contain a condition requiring the
16 parolee to pay the minimum state cost prescribed by section 1j of
17 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
18 769.1j, if the minimum state cost has not been paid.

19 (9) If the parolee is required to be registered under the sex
20 offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the
21 parole order shall contain a condition requiring the parolee to
22 comply with that act.

23 (10) If a prisoner convicted of violating or conspiring to
24 violate section 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii) of the
25 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is
26 released on parole, the parole order shall contain a notice that if
27 the parolee violates or conspires to violate article 7 of the

1 public health code, 1978 PA 368, MCL ~~333.7401~~ **333.7101** to
2 333.7545, and that violation or conspiracy to violate is punishable
3 by imprisonment for 4 or more years, or commits a violent felony
4 during his or her release on parole, parole shall be rescinded.

5 (11) A parole order issued for a prisoner subject to
6 disciplinary time may contain a condition requiring the parolee to
7 be housed in a community corrections center or a community
8 residential home for not less than the first 30 days but not more
9 than the first 180 days of his or her term of parole. As used in
10 this subsection, "community corrections center" and "community
11 residential home" mean those terms as defined in section 65a.

12 (12) The parole order shall contain a condition requiring the
13 parolee to pay the following amounts owed by the prisoner, if
14 applicable:

15 (a) The balance of filing fees and costs ordered to be paid
16 under section 2963 of the revised judicature act of 1961, 1961 PA
17 236, MCL 600.2963.

18 (b) The balance of any filing fee ordered to be paid by a
19 federal court under section 1915 of title 28 of the United States
20 Code, 28 USC 1915 and any unpaid order of costs assessed against
21 the prisoner.

22 (13) In each case in which payment of restitution is ordered
23 as a condition of parole, a parole officer assigned to a case shall
24 review the case not less than twice yearly to ensure that
25 restitution is being paid as ordered. The final review shall be
26 conducted not less than 60 days before the expiration of the parole
27 period. If the parole officer determines that restitution is not

1 being paid as ordered, the parole officer shall file a written
2 report of the violation with the parole board on a form prescribed
3 by the parole board. The report shall include a statement of the
4 amount of arrearage and any reasons for the arrearage known by the
5 parole officer. The parole board shall immediately provide a copy
6 of the report to the court, the prosecuting attorney, and the
7 victim.

8 (14) If a parolee is required to register pursuant to the sex
9 offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the
10 parole officer shall register the parolee as provided in that act.

11 (15) ~~If~~ **BEGINNING AUGUST 28, 2006, IF** a parolee convicted of
12 violating or conspiring to violate section 520b or 520c of the
13 Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, other
14 than a parolee who is subject to lifetime electronic monitoring
15 under section 85, is placed on parole, the parole board may require
16 that the parolee be subject to electronic monitoring. The
17 electronic monitoring required under this subsection shall be
18 conducted in the same manner, and shall be subject to the same
19 requirements, as is described in section 85 of this act and section
20 520n(2) of the Michigan penal code, 1931 PA 328, MCL 750.520n,
21 except as follows:

22 (a) The electronic monitoring shall continue only for the
23 duration of the term of parole.

24 (b) A violation by the parolee of any requirement prescribed
25 in section 520n(2) (a) to (c) is a violation of a condition of
26 parole, not a felony violation.

27 (16) If the parole order contains a condition intended to

1 protect 1 or more named persons, the department shall enter those
2 provisions of the parole order into the corrections management
3 information system, accessible by the law enforcement information
4 network. If the parole board rescinds a parole order described in
5 this subsection, the department within 3 business days shall remove
6 from the corrections management information system the provisions
7 of that parole order.

8 (17) As used in this section, "violent felony" means an
9 offense against a person in violation of section 82, 83, 84, 86,
10 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
11 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA
12 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,
13 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397,
14 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529,
15 750.529a, and 750.530.

16 Sec. 40a. (1) **AFTER A PRISONER IS RELEASED ON PAROLE, THE**
17 **PRISONER'S PAROLE ORDER IS SUBJECT TO REVOCATION AT THE DISCRETION**
18 **OF THE PAROLE BOARD FOR CAUSE AS PROVIDED IN THIS SECTION.**

19 (2) **IF A PAROLED PRISONER WHO IS REQUIRED TO REGISTER PURSUANT**
20 **TO THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.721 TO**
21 **28.736, WILLFULLY VIOLATES THAT ACT, THE PAROLE BOARD SHALL REVOKE**
22 **THE PAROLE. IF A PRISONER CONVICTED OF VIOLATING OR CONSPIRING TO**
23 **VIOLATE SECTION 7401(2) (A) (i) OR (ii) OR 7403(2) (A) (i) OR (ii) OF THE**
24 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401 AND 333.7403, IS**
25 **RELEASED ON PAROLE AND VIOLATES OR CONSPIRES TO VIOLATE ARTICLE 7**
26 **OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7101 TO 333.7545,**
27 **AND THAT VIOLATION OR CONSPIRACY TO VIOLATE IS PUNISHABLE BY**

1 **IMPRISONMENT FOR 4 OR MORE YEARS, OR COMMITS A VIOLENT FELONY**
2 **DURING HIS OR HER RELEASE ON PAROLE, PAROLE SHALL BE REVOKED.**

3 (3) ~~—(1)—~~ Within 45 days after a paroled prisoner has been
4 returned or is available for return to a state correctional
5 facility under accusation of a parole violation other than
6 conviction for a felony or misdemeanor punishable by imprisonment
7 under the laws of this state, the United States, or any other state
8 or territory of the United States, the prisoner is entitled to a
9 fact-finding hearing on the charges before 1 member of the parole
10 board or an attorney hearings officer designated by the chairperson
11 of the parole board. The fact-finding hearing shall be conducted
12 only after the accused parolee has had a reasonable amount of time
13 to prepare a defense. The fact-finding hearing may be held at a
14 state correctional facility or at or near the location of the
15 alleged violation.

16 (4) ~~—(2)—~~ An accused parolee shall be given written notice of
17 the charges against him or her and the time, place, and purpose of
18 the fact-finding hearing. At the fact-finding hearing, the accused
19 parolee may be represented by an appointed or retained attorney and
20 is entitled to the following rights:

21 (a) Full disclosure of the evidence against him or her.

22 (b) To testify and present relevant witnesses and documentary
23 evidence.

24 (c) To confront and cross-examine adverse witnesses unless the
25 person conducting the fact-finding hearing finds on the record that
26 a witness is subject to risk of harm if his or her identity is
27 revealed.

1 (d) To present other relevant evidence in mitigation of the
2 charges.

3 (5) ~~—(3)—~~ A fact-finding hearing may be postponed for cause
4 beyond the 45-day time limit on the written request of the parolee,
5 the parolee's attorney, or, if a postponement of the preliminary
6 ~~hearing~~ **PAROLE VIOLATION HEARING REQUIRED UNDER SECTION 39A** has
7 been granted beyond the 10-day time limit, by the parole board.

8 (6) **THE DIRECTOR OR A DEPUTY DIRECTOR DESIGNATED BY THE**
9 **DIRECTOR SHALL BE NOTIFIED IN WRITING IF THE PRELIMINARY PAROLE**
10 **VIOLATION HEARING IS NOT CONDUCTED WITHIN THE 10-DAY TIME LIMIT,**
11 **AND THE HEARING SHALL BE CONDUCTED AS SOON AS POSSIBLE. THE**
12 **DIRECTOR OR A DEPUTY DIRECTOR DESIGNATED BY THE DIRECTOR SHALL BE**
13 **NOTIFIED IN WRITING IF THE FACT-FINDING HEARING IS NOT CONDUCTED**
14 **WITHIN THE 45-DAY TIME LIMIT, AND THE HEARING SHALL BE CONDUCTED AS**
15 **SOON AS POSSIBLE. A PAROLEE HELD IN CUSTODY SHALL NOT BE RELEASED**
16 **PENDING DISPOSITION OF EITHER HEARING.**

17 (7) ~~—(4)—~~ If the evidence presented is insufficient to support
18 the allegation that a parole violation occurred, the parolee shall
19 be reinstated to parole status.

20 (8) ~~—(5)—~~ If the parole board member or hearings officer
21 conducting the fact-finding hearing determines from a preponderance
22 of the evidence that a parole violation has occurred, the member or
23 hearings officer shall present the relevant facts to the parole
24 board and make a recommendation as to the disposition of the
25 charges.

26 (9) ~~—(6)—~~ If a preponderance of the evidence supports the
27 allegation that a parole violation occurred, the parole board may

1 revoke parole, and the parolee shall be provided with a written
2 statement of the findings of fact and the reasons for the
3 determination within 60 days after the paroled prisoner has been
4 returned or is available for return to a state correctional
5 facility.

6 (10) ~~-(7)-~~ A parolee who is ordered to make restitution under
7 the **WILLIAM VAN REGENMORTER** crime victim's rights act, ~~Act No. 87~~
8 ~~of the Public Acts of 1985, being sections 780.751 to 780.834 of~~
9 ~~the Michigan Compiled Laws 1985 PA 87, MCL 780.751 TO 780.834, or~~
10 the code of criminal procedure, ~~Act No. 175 of the Public Acts of~~
11 ~~1927, being sections 760.1 to 776.21 of the Michigan Compiled Laws~~
12 **1927 PA 175, MCL 760.1 TO 777.69**, or to pay an assessment ordered
13 under section 5 of ~~Act No. 196 of the Public Acts of 1989, being~~
14 ~~section 780.905 of the Michigan Compiled Laws 1989 PA 196, MCL~~
15 **780.905**, as a condition of parole may have his or her parole
16 revoked by the parole board if the parolee fails to comply with the
17 order and if the parolee has not made a good faith effort to comply
18 with the order. In determining whether to revoke parole, the parole
19 board shall consider the parolee's employment status, earning
20 ability, and financial resources, the willfulness of the parolee's
21 failure to comply with the order, and any other special
22 circumstances that may have a bearing on the parolee's ability to
23 comply with the order.

24 (11) **AS USED IN THIS SECTION, "VIOLENT FELONY" MEANS THAT TERM**
25 **AS DEFINED IN SECTION 36.**

26 Enacting section 1. This amendatory act does not take effect
27 unless Senate Bill No. 1196 of the 93rd Legislature is enacted into

1 law.