

HOUSE BILL No. 5532

December 29, 2005, Introduced by Rep. David Law and referred to the Committee on
Judiciary.

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

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

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

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

22 (b) ~~pardons~~ **PARDONS**, reprieves, commutations, and paroles.
23 ~~—and~~

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

1 (D) THE LIFETIME ELECTRONIC MONITORING PROGRAM ESTABLISHED
2 UNDER SECTION 85.

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

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

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

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

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

1 by local units of government used to detain persons less than 72
2 hours. The rules may permit the use of portions of penal
3 institutions in which persons convicted of crimes are detained. The
4 rules shall provide that decisions as to the removal of a youth
5 from the youthful trainee facility or the release of a youth from
6 the supervision of the department shall be made by the department
7 and shall assign responsibility for those decisions to a committee.

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

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

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

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

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

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

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

1 ~~the Public Acts of 1969, being sections 24.245 and 24.246 of the~~
2 ~~Michigan Compiled Laws, 1969 PA 306, MCL 24.201 TO 24.328,~~ are
3 unconstitutional, and a statute requiring legislative review of
4 administrative rules is not enacted within 90 days after the
5 Michigan supreme court ruling, the department shall not promulgate
6 rules under this section.

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

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

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

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

26 (2) AN INDIVIDUAL WHO IS SENTENCED TO LIFETIME ELECTRONIC
27 MONITORING SHALL WEAR OR OTHERWISE CARRY AN ELECTRONIC MONITORING

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

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

9 Enacting section 1. This amendatory act does not take effect
10 unless Senate Bill No.____ or House Bill No. 5531(request no.
11 03288'05 *) of the 93rd Legislature is enacted into law.