

Act No. 172  
Public Acts of 2006  
Approved by the Governor  
May 29, 2006  
Filed with the Secretary of State  
May 30, 2006  
EFFECTIVE DATE: August 28, 2006

**STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 2006**

Introduced by Rep. David Law

# **ENROLLED HOUSE BILL No. 5532**

AN ACT to amend 1953 PA 232, entitled "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 for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act," 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:*

## 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 for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to provide for a lifetime electronic monitoring program; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

Sec. 4. Subject to constitutional powers vested in the executive and judicial departments of the state, the department shall have exclusive jurisdiction over all of the following:

- (a) Probation officers of this state, and the administration of all orders of probation.
- (b) Pardons, reprieves, commutations, and paroles.
- (c) Penal institutions, correctional farms, probation recovery camps, prison labor and industry, wayward minor programs, and youthful trainee institutions and programs for the care and supervision of youthful trainees.
- (d) The lifetime electronic monitoring program established under section 85.

Sec. 6. (1) The director may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for all of the following:

- (a) The control, management, and operation of the general affairs of the department.
- (b) Supervision and control of probationers and probation officers throughout this state.
- (c) The manner in which applications for pardon, reprieve, medical commutation, or commutation shall be made to the governor; the procedures for handling applications and recommendations by the parole board; the manner in which paroles shall be considered, the criteria to be used to reach release decisions, the procedures for medical and special paroles, and the duties of the parole board in those matters; interviews on paroles and for the notice of intent to conduct an interview; the entering of appropriate orders granting or denying paroles; the supervision and control of paroled prisoners; and the revocation of parole.
- (d) The management and control of state penal institutions, correctional farms, probation recovery camps, and programs for the care and supervision of youthful trainees separate and apart from persons convicted of crimes within the jurisdiction of the department. Except as provided for in section 62(3), this subdivision does not apply to detention facilities operated by local units of government used to detain persons less than 72 hours. The rules may permit the use of portions of penal institutions in which persons convicted of crimes are detained. The rules shall provide that decisions as to the removal of a youth from the youthful trainee facility or the release of a youth from the supervision of the department shall be made by the department and shall assign responsibility for those decisions to a committee.
- (e) The management and control of prison labor and industry.
- (f) The director may promulgate rules providing for the creation and operation of a lifetime electronic monitoring program to conduct electronic monitoring of individuals, who have served sentences imposed for certain crimes, following their release from parole, prison, or both parole and prison.

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

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

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

- (a) Prohibits a probation officer or parole officer from carrying a firearm while on duty.
- (b) Allows a prisoner to have his or her name changed. If the Michigan supreme court rules that this subdivision is violative of constitutional provisions under the first and fourteenth amendments to the United States constitution and article I, sections 2 and 4 of the state constitution of 1963, the remaining provisions of the code shall remain in effect.

Sec. 85. (1) The lifetime electronic monitoring program is established in the department. The lifetime electronic monitoring program shall implement a system of monitoring individuals released from parole, prison, or both parole and prison who are sentenced by the court to lifetime electronic monitoring. The lifetime electronic monitoring program shall accomplish all of the following:

- (a) By electronic means, track the movement and location of each individual from the time the individual is released on parole or from prison until the time of the individual's death.
- (b) Develop methods by which the individual's movement and location may be determined, both in real time and recorded time, and recorded information retrieved upon request by the court or a law enforcement agency.
- (2) An individual who is sentenced to lifetime electronic monitoring shall wear or otherwise carry an electronic monitoring device as determined by the department under the lifetime electronic monitoring program in the manner prescribed by that program and shall reimburse the department or its agent for the actual cost of electronically monitoring the individual.

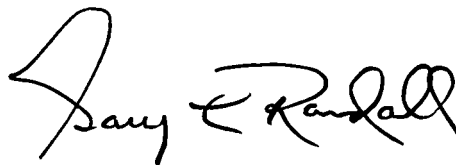
(3) As used in this section, "electronic monitoring" means a device by which, through global positioning system satellite or other means, an individual's movement and location are tracked and recorded.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 709.
- (b) Senate Bill No. 717.
- (c) Senate Bill No. 718.
- (d) Senate Bill No. 1122.
- (e) House Bill No. 5421.
- (f) House Bill No. 5422.
- (g) House Bill No. 5531.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor