

HOUSE BILL No. 4700

May 7, 2013, Introduced by Reps. Cavanagh, Tlaib and Kowall and referred to the Committee on Regulatory Reform.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending section 40a (MCL 791.240a), as amended by 2006 PA 532.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 40a. (1) After a prisoner is released on parole, the
2 prisoner's parole order is subject to revocation at the discretion
3 of the parole board for cause as provided in this section.

4 (2) If a paroled prisoner who is required to register pursuant
5 ~~to~~ **UNDER** the sex offenders registration act, 1994 PA 295, MCL
6 28.721 to 28.736, willfully violates that act, the parole board
7 shall revoke the parole. If a prisoner convicted of violating or
8 conspiring to violate section 7401(2)(a)(i) or (ii) or 7403(2)(a)(i)
9 or (ii) of the public health code, 1978 PA 368, MCL 333.7401 and
10 333.7403, is released on parole and violates or conspires to

1 violate article 7 of the public health code, 1978 PA 368, MCL
2 333.7101 to 333.7545, and that violation or conspiracy to violate
3 is punishable by imprisonment for 4 or more years, or commits a
4 violent felony during his or her release on parole, parole shall be
5 revoked. **IF A PAROLED PRISONER WHO IS REQUIRED TO REGISTER UNDER
6 THE FERROUS METAL AND NONFERROUS METAL REGULATION AND SCRAP METAL
7 OFFENDERS REGISTRATION ACT, 2008 PA 429, MCL 445.421 TO 445.443,
8 WILLFULLY VIOLATES SECTION 11 OF THE FERROUS METAL AND NONFERROUS
9 METAL REGULATION AND SCRAP METAL OFFENDERS REGISTRATION ACT, 2008
10 PA 429, MCL 445.431, PAROLE SHALL BE REVOKED.**

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

23 (4) If, before a fact-finding hearing begins, the accused
24 parolee alleges that he or she is indigent and requests that an
25 attorney be appointed to represent him or her, the parole board
26 member or attorney hearings officer who will conduct the hearing
27 shall determine whether the accused parolee is indigent. If the

1 accused parolee is determined to be indigent, the parole board
2 member or hearings officer shall cause the appointment of an
3 attorney to represent the accused parolee at the fact-finding
4 hearing. The cost of the appointed attorney shall be paid from the
5 department's general operating budget.

6 (5) An accused parolee shall be given written notice of the
7 charges against him or her and the time, place, and purpose of the
8 fact-finding hearing. At the fact-finding hearing, the accused
9 parolee may be represented by a retained attorney or an attorney
10 appointed under subsection (4) and is entitled to the following
11 rights:

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

13 (b) To testify and present relevant witnesses and documentary
14 evidence.

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

19 (d) To present other relevant evidence in mitigation of the
20 charges.

21 (6) A fact-finding hearing may be postponed for cause beyond
22 the 45-day time limit on the written request of the parolee, the
23 parolee's attorney, or, if a postponement of the preliminary parole
24 violation hearing required under section 39a has been granted
25 beyond the 10-day time limit, by the parole board.

26 (7) The director or a deputy director designated by the
27 director shall be notified in writing if the preliminary parole

1 violation hearing is not conducted within the 10-day time limit,
2 and the hearing shall be conducted as soon as possible. The
3 director or a deputy director designated by the director shall be
4 notified in writing if the fact-finding hearing is not conducted
5 within the 45-day time limit, and the hearing shall be conducted as
6 soon as possible. A parolee held in custody shall not be released
7 pending disposition of either hearing.

8 (8) If the evidence presented is insufficient to support the
9 allegation that a parole violation occurred, the parolee shall be
10 reinstated to parole status.

11 (9) If the parole board member or hearings officer conducting
12 the fact-finding hearing determines from a preponderance of the
13 evidence that a parole violation has occurred, the parole board
14 member or hearings officer shall present the relevant facts to the
15 parole board and make a recommendation as to the disposition of the
16 charges.

17 (10) If a preponderance of the evidence supports the
18 allegation that a parole violation occurred, the parole board may
19 revoke parole, and the parolee shall be provided with a written
20 statement of the findings of fact and the reasons for the
21 determination within 60 days after the paroled prisoner has been
22 returned or is available for return to a state correctional
23 facility.

24 (11) A parolee who is ordered to make restitution under the
25 William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL
26 780.751 to 780.834, or the code of criminal procedure, 1927 PA 175,
27 MCL 760.1 to 777.69, or to pay an assessment ordered under section

1 5 of 1989 PA 196, MCL 780.905, as a condition of parole may have
2 his or her parole revoked by the parole board if the parolee fails
3 to comply with the order and if the parolee has not made a good
4 faith effort to comply with the order. In determining whether to
5 revoke parole, the parole board shall consider the parolee's
6 employment status, earning ability, and financial resources, the
7 willfulness of the parolee's failure to comply with the order, and
8 any other special circumstances that may have a bearing on the
9 parolee's ability to comply with the order.

10 (12) As used in this section, "violent felony" means that term
11 as defined in section 36.

12 Enacting section 1. This amendatory act does not take effect
13 unless Senate Bill No. ____ or House Bill No. 4699(request no.
14 00092'13) of the 97th Legislature is enacted into law.