

# SENATE BILL NO. 265

April 11, 2019, Introduced by Senator SANTANA and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending sections 25a, 36, and 36a (MCL 791.225a, 791.236, and 791.236a), sections 25a and 36a as amended by 2002 PA 502 and section 36 as amended by 2012 PA 623.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 25a. (1) ~~The~~ **Subject to the marihuana violation sentence**  
2 **reduction act, the** department shall collect supervision fees

1 ordered under section ~~13(2)~~**13** of chapter II or section 1 or 3c of  
 2 chapter XI of the code of criminal procedure, 1927 PA 175, MCL  
 3 762.13, 771.1, and 771.3c. The department shall maintain records of  
 4 supervision fees ordered by the court, including records of payment  
 5 by persons subject to supervision fees and any amounts of  
 6 supervision fees past due and owing.

7 (2) A supervision fee is payable when the order of delayed  
 8 sentence or order of probation is entered, unless the court allows  
 9 a person who is subject to a supervision fee to pay the fee in  
 10 monthly installments.

11 (3) The department shall waive any applicable supervision fee  
 12 for a person who is transferred to another state under the  
 13 interstate compact entered into pursuant to 1935 PA 89, MCL 798.101  
 14 to 798.103, or the interstate compact entered into pursuant to 2002  
 15 PA 40, MCL 3.1011 to 3.1012, for the months during which he or she  
 16 is in another state. The department shall collect a supervision fee  
 17 of not more than \$135.00 per month for each month of supervision in  
 18 this state for an offender transferred to this state under an  
 19 interstate compact. In determining the amount of the fee, the  
 20 department shall consider the offender's projected income and  
 21 financial resources. The department shall use the following table  
 22 of projected monthly income in determining the amount of the fee:

23	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
24	\$ 0-249.99	\$ 0.00
25	\$ 250.00-499.99	\$10.00
26	\$ 500.00-749.99	\$25.00
27	\$ 750.00-999.99	\$40.00
28	\$1,000.00 or more	5% of monthly income, but
29		not more than \$135.00

1           The department may collect a higher amount than indicated by  
2 the table, up to the maximum of \$135.00 for each month of  
3 supervision in this state, if the department determines that the  
4 offender has sufficient assets or other financial resources to  
5 warrant the higher amount. If the department collects a higher  
6 amount, the amount and the reasons for collecting that amount ~~shall~~  
7 **must** be stated in the department records.

8           (4) If a person who is subject to a supervision fee is also  
9 subject to any combination of fines, costs, restitution orders,  
10 assessments, or payments arising out of the same criminal  
11 proceeding, the allocation of money collected for those obligations  
12 ~~shall~~**must** be as otherwise provided in the code of criminal  
13 procedure, 1927 PA 175, MCL 760.1 to 777.69.

14           (5) Twenty percent of the money collected by the department  
15 under this section ~~shall~~**must** be allocated for administrative costs  
16 incurred by the department in collecting supervision fees and for  
17 enhanced services, as described in this subsection. Enhanced  
18 services include, but are not limited to, the purchase of services  
19 for offenders such as counseling, employment training, employment  
20 placement, or education; public transportation expenses related to  
21 training, counseling, or employment; enhancement of staff  
22 performance through specialized training and equipment purchase;  
23 and purchase of items for offender employment. The department shall  
24 develop priorities for expending the money for enhanced services in  
25 consultation with circuit judges in this state. At the end of each  
26 fiscal year, the unexpended balance of the money allocated for  
27 administrative costs and enhanced services ~~shall~~**must** be available  
28 for carryforward to be used for the purposes described in this  
29 subsection in subsequent fiscal years.

1           (6) If a person has not paid the full amount of a supervision  
2 fee upon being discharged from probation, or upon termination of  
3 the period of delayed sentence for a person subject to delayed  
4 sentence, the department shall review and compare the actual income  
5 of the person during the period of probation or delayed sentence  
6 with the income amount projected when the supervision fee was  
7 ordered. If the department determines that the person's actual  
8 income did not equal or exceed the projected income, the department  
9 shall waive any unpaid amount in excess of the total amount that  
10 the person would have been ordered to pay if the person's income  
11 had been accurately projected, unless the court order states that a  
12 higher amount was ordered due to available assets or other  
13 financial resources. Any unpaid amounts not waived by the  
14 department ~~shall~~**must** be reported to the department of treasury.  
15 The department of treasury shall attempt to collect the unpaid  
16 balances pursuant to section 30a of 1941 PA 122, MCL 205.30a. Money  
17 collected under this subsection ~~shall~~**must** not be allocated for the  
18 purposes described in subsection (5).

19           Sec. 36. (1) All paroles shall be ordered by the parole board  
20 and ~~shall~~**must** be signed by the chairperson. Written notice of the  
21 order shall be sent by first-class mail or by electronic means to  
22 the prosecuting attorney and the sheriff or other police officer of  
23 the municipality or county in which the prisoner was convicted and  
24 to the prosecuting attorney and the sheriff or other local police  
25 officer of the municipality or county to which the paroled prisoner  
26 is sent or is to be sent. The notice ~~shall~~**must** be provided within  
27 10 days after the parole board issues its order to parole the  
28 prisoner.

29           (2) A parole order may be rescinded at the discretion of the

1 parole board for cause before the prisoner is released on parole. A  
2 parole ~~shall~~**must** not be revoked unless an interview with the  
3 prisoner is conducted by 1 member of the parole board. The purpose  
4 of the interview is to consider and act upon information received  
5 by the board after the original parole release decision. A  
6 revocation interview ~~shall~~**must** be conducted within 45 days after  
7 receiving the new information. At least 10 days before the  
8 interview, the parolee ~~shall~~**must** receive a copy or summary of the  
9 new evidence that is the basis for the interview.

10 (3) ~~A~~**Subject to the marihuana violation sentence reduction**  
11 **act, a** parole order may be amended at the discretion of the parole  
12 board for cause. An amendment to a parole order ~~shall~~**must** be in  
13 writing and is not effective until notice of the amendment is given  
14 to the parolee.

15 (4) When a parole order is issued, the order ~~shall~~**must**  
16 contain the conditions of the parole and ~~shall~~**must** specifically  
17 provide proper means of supervision of the paroled prisoner in  
18 accordance with the rules of the bureau of field services.

19 (5) The parole order ~~shall~~**must** contain a condition to pay  
20 restitution to the victim of the prisoner's crime or the victim's  
21 estate if the prisoner was ordered to make restitution under the  
22 William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL  
23 780.751 to 780.834, or the code of criminal procedure, 1927 PA 175,  
24 MCL 760.1 to 777.69.

25 (6) ~~The~~**Subject to the marihuana violation sentence reduction**  
26 **act, the** parole order ~~shall~~**must** contain a condition requiring the  
27 parolee to pay a parole supervision fee as prescribed in section  
28 36a.

29 (7) The parole order ~~shall~~**must** contain a condition requiring

1 the parolee to pay any assessment the prisoner was ordered to pay  
2 under section 5 of 1989 PA 196, MCL 780.905.

3 (8) The parole order ~~shall~~**must** contain a condition requiring  
4 the parolee to pay the minimum state cost prescribed by section 1j  
5 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL  
6 769.1j, if the minimum state cost has not been paid.

7 (9) If the parolee is required to be registered under the sex  
8 offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the  
9 parole order ~~shall~~**must** contain a condition requiring the parolee  
10 to comply with that act.

11 (10) If a prisoner convicted of violating or conspiring to  
12 violate section 7401(2) (a) (i) or (ii) or 7403(2) (a) (i) or (ii) of the  
13 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is  
14 released on parole, the parole order ~~shall~~**must** contain a notice  
15 that if the parolee violates or conspires to violate article 7 of  
16 the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, and  
17 that violation or conspiracy to violate is punishable by  
18 imprisonment for 4 or more years, or commits a violent felony  
19 during his or her release on parole, parole ~~shall~~**must** be revoked.

20 (11) ~~A-Subject to the marihuana violation sentence reduction~~  
21 **act, a** parole order issued for a prisoner subject to disciplinary  
22 time may contain a condition requiring the parolee to be housed in  
23 a community corrections center or a community residential home for  
24 not less than the first 30 days but not more than the first 180  
25 days of his or her term of parole. As used in this subsection,  
26 "community corrections center" and "community residential home"  
27 mean those terms as defined in section 65a.

28 (12) The parole order ~~shall~~**must** contain a condition requiring  
29 the parolee to pay the following amounts owed by the prisoner, if

1 applicable:

2 (a) The balance of filing fees and costs ordered to be paid  
3 under section 2963 of the revised judicature act of 1961, 1961 PA  
4 236, MCL 600.2963.

5 (b) The balance of any filing fee ordered to be paid by a  
6 federal court under 28 USC 1915 and any unpaid order of costs  
7 assessed against the prisoner.

8 (13) In each case in which payment of restitution is ordered  
9 as a condition of parole, a parole officer assigned to a case shall  
10 review the case not less than twice yearly to ensure that  
11 restitution is being paid as ordered. The final review ~~shall~~**must**  
12 be conducted not less than 60 days before the expiration of the  
13 parole period. If the parole officer determines that restitution is  
14 not being paid as ordered, the parole officer shall file a written  
15 report of the violation with the parole board on a form prescribed  
16 by the parole board. The report ~~shall~~**must** include a statement of  
17 the amount of arrearage and any reasons for the arrearage known by  
18 the parole officer. The parole board shall immediately provide a  
19 copy of the report to the court, the prosecuting attorney, and the  
20 victim.

21 (14) If a parolee is required to register under the sex  
22 offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the  
23 parole officer shall register the parolee as provided in that act.

24 (15) Beginning August 28, 2006, if a parolee convicted of  
25 violating or conspiring to violate section 520b or 520c of the  
26 Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, other  
27 than a parolee who is subject to lifetime electronic monitoring  
28 under section 85, is placed on parole, the parole board may require  
29 that the parolee be subject to electronic monitoring. The

1 electronic monitoring required under this subsection ~~shall~~**must** be  
2 conducted in the same manner, and ~~shall~~**must** be subject to the same  
3 requirements, as is described in section 85 of this act and section  
4 520n(2) of the Michigan penal code, 1931 PA 328, MCL 750.520n,  
5 except as follows:

6 (a) The electronic monitoring ~~shall~~**must** continue only for the  
7 duration of the term of parole.

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

11 (16) If the parole order contains a condition intended to  
12 protect 1 or more named persons, the department shall enter those  
13 provisions of the parole order into the corrections management  
14 information system, accessible by the law enforcement information  
15 network. If the parole board rescinds a parole order described in  
16 this subsection, the department within 3 business days shall remove  
17 from the corrections management information system the provisions  
18 of that parole order.

19 (17) Each prisoner who is required to be registered under the  
20 sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736,  
21 before being released on parole or being released upon completion  
22 of his or her maximum sentence, shall provide to the department  
23 notice of the location of his or her proposed place of residence or  
24 domicile. The department then shall forward that notice of location  
25 to the appropriate law enforcement agency as required under section  
26 5(3) of the sex offenders registration act, 1994 PA 295, MCL  
27 28.725. A prisoner who refuses to provide notice of the location of  
28 his or her proposed place of residence or domicile or knowingly  
29 provides an incorrect notice of the location of his or her proposed



1 place of residence or domicile under this subsection is guilty of a  
2 felony punishable by imprisonment for not more than 4 years or a  
3 fine of not more than \$2,000.00, or both.

4 (18) If a prisoner is serving a sentence for violating section  
5 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i  
6 (aggravated stalking), and if a victim of that crime has registered  
7 to receive notices about that prisoner under the William Van  
8 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to  
9 780.834, the parole order for that prisoner ~~shall~~**must** require that  
10 the prisoner's location be monitored by a global positioning  
11 monitoring system during the entire period of the prisoner's  
12 parole. If, at the time a prisoner described in this subsection is  
13 paroled, no victim of the crime has registered to receive notices  
14 about that prisoner under the William Van Regenmorter crime  
15 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, but a  
16 victim of the crime subsequently registers to receive those  
17 notices, the prisoner's order of parole ~~shall~~**must** immediately be  
18 modified to require that the prisoner's location be monitored by a  
19 global positioning system during the balance of the period of that  
20 prisoner's parole. As used in this subsection, "global positioning  
21 monitoring system" means a system that electronically determines  
22 and reports the location of an individual by means of an ankle  
23 bracelet transmitter or similar device worn by the individual,  
24 which transmits latitude and longitude data to monitoring  
25 authorities through global positioning satellite technology but  
26 does not include any radio frequency identification technology,  
27 global positioning technology, or similar technology that would be  
28 implanted in the parolee or would otherwise violate the corporeal  
29 body of the parolee.

1           (19) The parole order ~~shall~~**must** require the parolee to  
2 provide written consent to submit to a search of his or her person  
3 or property upon demand by a peace officer or parole officer. The  
4 written consent ~~shall~~**must** include the prisoner's name and date of  
5 birth, his or her physical description, the date for release on  
6 parole, and the ending date for that parole. The prisoner shall  
7 sign the written consent before being released on parole. The  
8 department shall promptly enter this condition of parole into the  
9 department's corrections management information system or offender  
10 management network information system or into a corresponding  
11 records management system that is accessible through the law  
12 enforcement information network. Consent to a search as provided  
13 under this subsection does not authorize a search that is conducted  
14 with the sole intent to intimidate or harass.

15           (20) As used in this section, "violent felony" means an  
16 offense against a person in violation of section 82, 83, 84, 86,  
17 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,  
18 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA  
19 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,  
20 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397,  
21 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529,  
22 750.529a, and 750.530.

23           Sec. 36a. (1) The parole board shall include in each order of  
24 parole that the department of corrections shall collect a parole  
25 supervision fee of not more than \$135.00 multiplied by the number  
26 of months of parole ordered, but not more than 60 months. The fee  
27 is payable when the parole order is entered, but the fee may be  
28 paid in monthly installments if the parole board approves  
29 installment payments for that parolee. In determining the amount of

1 the fee, the parole board shall consider the parolee's projected  
 2 income and financial resources. The parole board shall use the  
 3 following table of projected monthly income in determining the  
 4 amount of the fee to be ordered:

<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
5 \$ 0-249.99	\$ 0.00
6 \$ 250.00-499.99	\$10.00
7 \$ 500.00-749.99	\$25.00
8 \$ 750.00-999.99	\$40.00
9 \$1,000.00 or more	5% of monthly income, but
10	not more than \$135.00
11	

12 The parole board may order a higher amount than indicated by  
 13 the table, up to the maximum of \$135.00 multiplied by the number of  
 14 months of parole ordered but not more than 60 months, if the parole  
 15 board determines that the parolee has sufficient assets or other  
 16 financial resources to warrant the higher amount. If the parole  
 17 board orders a higher amount, the amount and the reasons for  
 18 ordering that amount ~~shall~~**must** be stated in the parole order.

19 (2) If a person who is subject to a supervision fee is also  
 20 subject to any combination of fines, costs, restitution,  
 21 assessments, or payments arising out of the same criminal  
 22 proceeding, the allocation of money collected for those obligations  
 23 ~~shall~~**must** be as provided in section 22 of chapter XV of the code  
 24 of criminal procedure, 1927 PA 175, MCL 775.22.

25 (3) A person shall not be subject to more than 1 parole  
 26 supervision fee at the same time. If a parole supervision fee is  
 27 ordered for a parolee for any month or months during which that  
 28 parolee already is subject to a parole supervision fee, the  
 29 department shall waive the fee having the shorter remaining

1 duration.

2 (4) The department shall waive the parole supervision fee for  
 3 a parolee who is transferred to another state under the interstate  
 4 compact entered into pursuant to 1935 PA 89, MCL 798.101 to  
 5 798.103, or the interstate compact entered into pursuant to 2002 PA  
 6 40, MCL 3.1011 to 3.1012, for the months during which he or she is  
 7 in another state. The department shall collect a parole supervision  
 8 fee of not more than \$135.00 per month for each month of parole  
 9 supervision in this state for an offender transferred to this state  
 10 under an interstate compact. In determining the amount of the fee,  
 11 the department shall consider the parolee's projected income and  
 12 financial resources. The department shall use the following table  
 13 of projected monthly income in determining the amount of the fee:

<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
\$ 0-249.99	\$ 0.00
\$ 250.00-499.99	\$10.00
\$ 500.00-749.99	\$25.00
\$ 750.00-999.99	\$40.00
\$1,000.00 or more	5% of monthly income, but not more than \$135.00

21 The department may collect a higher amount than indicated by  
 22 the table, up to the maximum of \$135.00 for each month of parole  
 23 supervision in this state, if the department determines that the  
 24 parolee has sufficient assets or other financial resources to  
 25 warrant the higher amount. If the department collects a higher  
 26 amount, the amount and the reasons for collecting that amount ~~shall~~  
 27 **must** be stated in the department records.

28 (5) Twenty percent of the money collected by the department  
 29 under this section ~~shall~~**must** be allocated for administrative costs

1 incurred by the department in collecting parole supervision fees  
2 and for enhanced services, as described in this subsection.  
3 Enhanced services include, but are not limited to, the purchase of  
4 services for parolees such as counseling, employment training,  
5 employment placement, or education; public transportation expenses  
6 related to training, counseling, or employment; enhancement of  
7 staff performance through specialized training and equipment  
8 purchase; and purchase of items for parolee employment. At the end  
9 of each fiscal year, the unexpended balance of the money allocated  
10 for administrative costs and enhanced services ~~shall~~**must** be  
11 available for carryforward to be used for the purposes described in  
12 this subsection in subsequent fiscal years.

13 (6) If a parolee has not paid the full amount of the parole  
14 supervision fee upon being discharged from parole, the department  
15 shall review and compare the actual income of the person during the  
16 period of parole with the income amount projected when the parole  
17 supervision fee was ordered. If the department determines that the  
18 parolee's actual income did not equal or exceed the projected  
19 income, the department shall waive any unpaid amount in excess of  
20 the total amount that the parolee would have been ordered to pay if  
21 the parolee's income had been accurately projected, unless the  
22 parole order states that a higher amount was ordered due to  
23 available assets or other financial resources. Any unpaid amounts  
24 not waived by the department ~~shall~~**must** be reported to the  
25 department of treasury. The department of treasury shall attempt to  
26 collect the unpaid balances pursuant to section 30a of 1941 PA 122,  
27 MCL 205.30a. Money collected under this subsection ~~shall~~**must** not  
28 be allocated for the purposes described in subsection (5).

29 (7) **A fee provision in an order for parole described under**

1 **this section is subject to the marihuana violation sentence**  
2 **reduction act.**

3       Enacting section 1. This amendatory act does not take effect  
4 unless Senate Bill No. 262 of the 100th Legislature is enacted into  
5 law.