

HOUSE BILL NO. 5705

May 07, 2024, Introduced by Reps. Friske, Rigas, Bezotte, DeBoyer and Beeler and referred to the Committee on Government Operations.

A bill to amend 1909 PA 17, entitled

"An act to prohibit or limit the access by prisoners and by employees of correctional facilities to certain weapons and wireless communication devices and to alcoholic liquor, drugs, medicines, poisons, and controlled substances in, on, or outside of correctional facilities; to prohibit or limit the bringing into or onto certain facilities and real property, and the disposition of, certain weapons, substances, and wireless communication devices; to prohibit or limit the selling, giving, or furnishing of certain weapons, substances, and wireless communication devices to prisoners; to prohibit the control or possession of certain weapons, substances, and wireless communication devices by prisoners; and to prescribe penalties,"

by amending sections 1, 3, 3a, and 5 (MCL 800.281, 800.283,

800.283a, and 800.285), sections 1, 3, and 5 as amended by 1982 PA 343 and section 3a as amended by 2012 PA 255.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) Except as provided in section 2, a person shall
2 not sell, give, or furnish, either directly or indirectly, any
3 alcoholic liquor, prescription drug, poison, or controlled
4 substance to a prisoner who is in or on a correctional facility or
5 dispose of that liquor, drug, poison, or controlled substance in
6 any manner that allows a prisoner or employee of the correctional
7 facility who is in or on a correctional facility access to it. **A**
8 **person that violates this subsection is guilty of a felony. The**
9 **court shall sentence the person to imprisonment for 5 years.**

10 (2) Except as provided in section 2, a person who knows or has
11 reason to know that another person is a prisoner shall not sell,
12 give, or furnish, either directly or indirectly, any alcoholic
13 liquor, prescription drug, poison, or controlled substance to that
14 prisoner anywhere outside of a correctional facility.

15 (3) Except as provided in section 2, a person shall not bring
16 any alcoholic liquor, prescription drug, poison, or controlled
17 substance into or onto a correctional facility. **A person that**
18 **violates this subsection is guilty of a felony. The court shall**
19 **sentence the person to imprisonment for not less than 1 year or**
20 **more than life.**

21 (4) Except as provided in section 2, a prisoner shall not
22 possess any alcoholic liquor, prescription drug, poison, or
23 controlled substance. **A prisoner who violates this subsection is**
24 **guilty of a felony. The court shall sentence the prisoner to**
25 **imprisonment for not less than 5 years or more than life.**

26 Sec. 3. (1) Unless authorized by the chief administrator of

1 the correctional facility, a weapon or other implement which may be
2 used to injure a prisoner or other person, or in assisting a
3 prisoner to escape from imprisonment, ~~shall~~**must** not be sold,
4 given, or furnished, either directly or indirectly, to a prisoner
5 who is in or on the correctional facility, or be disposed of in a
6 manner or in a place that it may be secured by a prisoner who is in
7 or on the correctional facility.

8 (2) Unless authorized by the chief administrator of the
9 correctional facility, a person, who knows or has reason to know
10 that another person is a prisoner, shall not sell, give, or
11 furnish, either directly or indirectly, to that prisoner anywhere
12 outside of a correctional facility a weapon or other implement
13 which may be used to injure a prisoner or other person or in
14 assisting a prisoner to escape from imprisonment.

15 (3) Unless authorized by the chief administrator of the
16 correctional facility, a weapon or other implement which may be
17 used to injure a prisoner or other person, or in assisting a
18 prisoner to escape from imprisonment, shall not be brought into or
19 onto any correctional facility. **A person that violates this**
20 **subsection is guilty of a felony. The court shall sentence the**
21 **person to imprisonment for not less than 5 years or more than life.**

22 (4) Unless authorized by the chief administrator of the
23 correctional facility, a prisoner shall not have in ~~his or her~~**the**
24 **prisoner's** possession or under ~~his or her~~**the prisoner's** control a
25 weapon or other implement which may be used to injure a prisoner or
26 other person, or to assist a prisoner to escape from imprisonment.
27 **A person that violates this subsection is guilty of a felony. The**
28 **court shall sentence the person to imprisonment for not less than**
29 **15 years or more than life.**

1 Sec. 3a. (1) A person shall not sell, give, or furnish, or aid
2 in the selling, giving, or furnishing of, a cellular telephone or
3 other wireless communication device to a prisoner in a correctional
4 facility, or dispose of a cellular telephone or other wireless
5 communication device in or on the grounds of a correctional
6 facility. **A person that violates this subsection is guilty of a**
7 **felony. The court shall sentence the person to imprisonment for not**
8 **less than 1 year or more than 5 years.**

9 (2) A prisoner shall not possess or use a cellular telephone
10 or other wireless communication device in a correctional facility
11 or on the grounds of a correctional facility except as authorized
12 by the department of corrections.

13 (3) A cellular telephone or other wireless communication
14 device sold, given, furnished, possessed, or used in violation of
15 this section is subject to confiscation and disposal under this
16 section as contraband. If a cellular telephone or other wireless
17 communication device is confiscated under this section, and the
18 cellular telephone or other wireless device is serviceable but no
19 longer needed for purposes of a criminal prosecution under this
20 section, the cellular telephone or other wireless device ~~shall~~**must**
21 be donated to a nonprofit organization that provides cellular
22 telephones and other wireless communication devices to military
23 personnel, or to any other charity approved by the warden of the
24 facility where the device was confiscated.

25 Sec. 5. (1) Except as **otherwise** provided in **sections 1, 3, and**
26 **3a or** subsection (2), a person violating this act is guilty of a
27 felony, punishable by ~~a fine of not more than \$1,000.00, or~~
28 imprisonment for not more than 5 years **or a fine of not more than**
29 **\$1,000.00, or both.**

1 (2) If the delivery of a controlled substance is a felony
2 punishable by imprisonment for more than 5 years under part 74 of
3 Act No. ~~368 of the Public Acts of 1978, being sections 333.7401 to~~
4 ~~333.7415 of the Michigan Compiled Laws,~~ **the public health code,**
5 **1978 PA 368, MCL 333.7401 to 333.7461,** a person who gives, sells,
6 or furnishes a controlled substance in violation of section 1 of
7 this act ~~shall~~**must** not be prosecuted under this section for that
8 giving, selling, or furnishing. If the possession of a controlled
9 substance is a felony punishable by imprisonment for more than 5
10 years under part 74 of Act No. ~~368 of the Public Acts of 1978,~~ **the**
11 **public health code, 1978 PA 368, MCL 333.7401 to 333.7461,** a person
12 who possesses, or brings into a correctional facility, a controlled
13 substance in violation of section 1 of this act ~~shall~~**must** not be
14 prosecuted under this section for that possession.

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