

Implement Effective Parole Reform: Fix HB 5931

After many weeks of negotiations among prosecutors, defense attorneys and the Citizens Alliance on Prisons and Public Spending (CAPPS), an agreement was reached on House Bill 5931 that would implement modest but meaningful parole reforms. More low-risk prisoners would have been released when they first became eligible, eventually saving several thousand prison beds and tens of millions of dollars.

However, the substitute for HB 5931 that emerged late on December 4 and then was voted out of the House, is actually worse than the status quo.

Every effort must be made to restore the language of HB 5931 that was agreed to by a broad range of stakeholders, before the bill is voted on in the Senate.

The issue

By law, the Michigan Parole Board must use parole guidelines in making release decisions.

- People who score high probability of parole have a very low risk of committing a new offense.
- People who score high probability of release are to be paroled unless the board finds substantial and compelling reasons for continuing their incarceration.

The parole guidelines were designed to be like the sentencing guidelines, from which judges can only depart for substantial and compelling reasons.

The problem

- Prisoners can no longer appeal parole denials.
- Therefore, unlike the sentencing guidelines, the parole guidelines cannot be enforced.

The parole board routinely continues people with high probability scores for 12, 18 or 24 months, at a cost of hundreds of millions a year to taxpayers.

- The reasons given are often vague and subjective. For example, the interviewing board member may report that the prisoner lacked sufficient “empathy” or “insight”.
- Parole data shows that the board often denies parole based on the nature of people’s offenses.
- However, all the state and national research shows that people who committed assaultive and sex offenses have extremely low re-offense rates.
- The research also shows no gain to public safety from keeping people incarcerated once they are eligible for parole.
- Thousands of people are incarcerated for years or decades beyond their first parole eligibility date, despite scoring high probability of parole and having excellent reports from MDOC treatment programs.

The workable solution

As agreed upon by the stakeholders, HB 5931 would have:

- Clarified the presumption of parole at the judicially imposed minimum sentence for people scoring high probability of parole (indicating low risk to release).
 - Permitted parole denial for “substantial and compelling reasons” but placed limits on how those reasons are defined.
 - Permitted people with high probability scores to appeal denials, thereby creating a way of enforcing the presumption.
- Increased the frequency of reviews for people with both high and average probability scores who were denied parole.

As agreed upon, HB 5931 WOULD NOT have:

- Required the board to release anyone where there was verifiable evidence that they pose a current risk.
- Changed victims’ role in the process or their ability to communicate with the parole board.

The substitute must be fixed before a vote

The substitute version of HB 5931 passed by the House would:

- Not apply to current prisoners when they become eligible for release.
- Prevent application of the presumption of parole to people who had committed one of a long list of offenses, regardless of how long they had served, how good their institutional records were or how low their risk of reoffending. **This would codify in statute the very practice of denying parole based solely on the person’s offense that presumptive parole is meant to eliminate.**
- For those prisoners still eligible for the presumption, allow the board to deny parole for whatever reasons it feels are substantial and compelling, including but not limited to an itemized list of circumstances.
- Have no enforcement mechanism of any kind, whether through individual prisoner appeals of denials or oversight by the new Criminal Justice Policy Commission.

The substitute version of HB 5931 fails to make needed reforms

- It would not implement more objective, evidence-based parole decision-making.
- It would not provide any independent oversight of how the parole board exercises its enormous discretion.
- It would not save a single prison bed or a dollar of taxpayer money.
- It undermines the purpose of having parole guidelines and is worse than the status quo.

The Senate should fix HB 5931. It should pass a bill that:

- Establishes a presumption of parole for **all** people with high probability parole guidelines scores.
- Allows parole denial for this group only where there is objective, verifiable evidence of risk that was not already scored in the parole guidelines
- Includes a method of oversight that actually makes these reforms enforceable.