

# Legislative Analysis



## FREQUENCY OF CERTAIN PAROLE REVIEWS

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**House Bill 4562 as enacted**  
**Public Act 28 of 2022**  
**Sponsor: Rep. Sarah L. Lightner**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 4563 as enacted**  
**Public Act 29 of 2022**  
**Sponsor: Rep. Angela Witwer**

**House Committee: Judiciary**  
**Senate Committee: Judiciary and Public Safety**  
**Complete to 2-10-23**

**BRIEF SUMMARY:** House Bill 4562 amends the Corrections Code to allow parole reviews after a parole denial to be conducted at least every five years if, among other conditions, the more frequent reviews otherwise required would cause harm to a victim of the prisoner's crime. House Bill 4563 ensures that such a decision must be made by the full parole board and not a parole board panel. The bills took effect March 11, 2022.

**FISCAL IMPACT:** The bills would have no fiscal impact on the state or local units of government.

### **THE APPARENT PROBLEM:**

Significant revisions to the parole guidelines were enacted by 2018 PA 339. One of the changes was to shorten, from five years to one year, the maximum time period between parole reviews for an inmate who scored high or average probability of parole but was denied parole. For an inmate who scored low probability of parole and was denied, the maximum interval between parole reviews was shortened from five years to two years. While the change incentivizes inmates to complete required programming and strive for self-improvement, some feel that in rare cases the increased frequency of parole reviews can be very traumatic for some victims. For example, since it is six months from the time a victim of a crime receives notification of an upcoming parole hearing for the perpetrator and when the parole board makes its decision, a yearly parole review each time parole is denied means that the victim is reliving the crime for half of each year. It has been suggested that in a case in which parole was denied and for which certain circumstances exist, such as harm to the victim by the more frequent reviews, the interval between parole reviews should be lengthened to no more than five years.

### **THE CONTENT OF THE BILLS:**

**House Bill 4562** amends provisions of the Corrections Code pertaining to mandatory reviews of prisoners by the parole board. Generally under the act, if a prisoner is denied parole, the parole board is required to conduct a review at least annually if the prisoner scored high or average probability of parole. For a prisoner who scored low probability of parole, a review must be conducted at least every two years until a score of high or average probability of parole is attained. (Note that the mandatory review of parole denials does not apply to prisoners who are sentenced to life but eligible for parole. Those prisoners undergo a different parole process

that includes input by the sentencing judge or that judge's successor and a public hearing, as well as input by the victim and the county prosecutor.)

The bill amends the above provisions to allow the parole board to conduct a subsequent review of a prisoner, except for a prisoner serving a life sentence, up to *five* years after the review denying the prisoner parole if a majority of the members of the parole board agree to and sign a written recommendation to waive the requirements described above. A waiver may be issued only if a majority of the parole board members find, and include a statement in the waiver, that all of the following apply:

- The parole board had no interest in granting the prisoner parole in the review denying the prisoner parole.
- The annual or biennial review after a parole denial would cause additional harm to a victim of a crime for which the prisoner was committed or to a victim's surviving family members.
- The harm can be mitigated only by waiving the post-denial annual or biennial parole review process.
- Unique circumstances and factors contributed to the decision to deny the prisoner parole and to waive the post-denial annual or biennial parole review process.

The Department of Corrections must include the number of prisoners issued a waiver under the above provisions in the annual report of parole statistics it provides to the standing committees of the Senate and House of Representatives with jurisdiction over corrections issues. Among other things, this report includes the number of prisoners who scored high probability of parole who were granted parole in the previous calendar year, the number who were deferred to complete necessary programming, and the number who were denied parole for a substantial and compelling objective reason.

In addition, the bill eliminates references to the Criminal Justice Policy Commission established by 2014 PA 465. The sections of the code that created the commission and prescribed its powers and duties were repealed by a sunset provision on September 30, 2019.

MCL 791.233e

**House Bill 4563** also amends the Corrections Code. Previously, the code provided that all decisions and recommendations of the parole board required by the code had to be by a majority vote of the parole board or a parole board panel. The bill instead provides that those decisions and recommendations must be made by majority vote of the parole board or, *except as otherwise prohibited by the act*, a parole board panel. This change ensures that only the full 10-member parole board, not a three-member panel, can waive and extend parole review requirements as provided under House Bill 4562.

MCL 791.246

### ***ARGUMENTS:***

#### ***For:***

All victims experience some level of trauma, but some crimes are particularly heinous. Even the passage of time may not dull the impact of the emotions released upon receiving notice of

an upcoming parole hearing for the person who harmed them. The time period from receipt of the hearing notice to the parole board's decision can be fraught with memories that may be painful and make it difficult to move forward in life. According to testimony presented to the committee by a victim of a near-fatal attack, the time between the notice and the decision to parole or deny parole affects sleep, work, and health. If the hearing is yearly, this means half of each year is being consumed by reliving the attack as letters are written to the parole board contesting parole and attending parole hearings. When the nature of the crime and factors unique to a particular prisoner make a grant of parole unlikely, allowing a longer interval of up to five years between parole reviews could mitigate the extreme distress imposed on some victims. It is believed that the conditions established by HB 4562 that must be met for the extended time to apply, coupled with the requirement that a majority of the entire parole board approve the longer review interval (rather than just a majority of a parole board panel), will limit applicability to a handful of prisoners who are unsuitable for parole. In addition, the number of prisoners each year for whom the annual or biennial reviews were delayed must be reported to the legislature, which will allow for legislative oversight to ensure that the bill has the intended result and is not used in such a way as to violate the spirit of the 2018 reforms.

***Response:***

Some may be concerned that HB 4562 could water down the reforms made by 2018 PA 399. That legislation, which among other things revised the length between parole reviews for those denied parole, was due in part to low parole rates and a high number of prisoners still in prison long after their earliest parole dates, as well as recommendations by the Council of State Governments, which had done a study of the state's parole practices. More frequent reviews give incentive to prisoners to make use of required programming and optional work or educational opportunities for self-improvement and make it less likely that a parole panel or the full board will habitually deny parole to a prisoner who has worked hard to rehabilitate.

While some feel that the pain of victims going through frequent parole hearings is being overlooked, others may feel that the amount of time spent incarcerated should reflect the nature of the crime, the effort a prisoner makes to reform, and whether the prisoner poses a threat to public safety, and not be based on the level of anger or distress of a victim. Research shows that most victims favor balanced and restorative justice principles, which focus on the perpetrator's making amends to victims and the community, rather than a "lock them up and throw away the key" approach. Further, the prisoners to which the bills apply will all be released one day. Those released on parole must abide by conditions and remain under the oversight of the Department of Corrections for the length of the parole period. A parole violation can mean tighter restrictions or a return to prison. When a prisoner completes their maximum sentence, there is no oversight or programs to help with reintegration.

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