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Urgent Executive and Legislative Action Needed in Response to COVID-19

- 1. The Governor should use emergency powers to streamline the commutation process.** The State of Emergency declaration for COVID-19 allows suspension of certain statutes to best cope with the emergency. MCL 30.405(1)(a). The Governor can use these powers to streamline the commutation process so that those most at risk from COVID-19 can be released immediately if they are not a danger to society. Commutation is not a criminal process or procedure, so this exception to the statute does not apply.
- 2. The Governor should double the membership of the parole board to expedite parole hearings** and ensure that nobody has to wait to be paroled beyond their minimum sentence if they are otherwise set for approval.
- 3. Amend The County Jail Overcrowding State of Emergency Act** to apply to all Michigan jails in the event of a pandemic-related State of Emergency.
 - The County Jail Overcrowding State of Emergency Act provides sheriffs and judges with the power to modify bond and reduce sentences in response to a jail overcrowding emergency.
 - The Act can be amended to apply to the current COVID-19 crisis and future pandemic events.
- 4. Modify compassionate release.** Sheriffs and Judges can identify deserving people and grant compassionate release under very limited circumstances. These conditions should expand to include those most vulnerable to the COVID-19.
- 5. Double Quarter Reductions and Sheriff's Good Time.** A judge may reduce a jail sentence by one-quarter of the time if the conduct, diligence, and general attitude of the person merits this reduction. A sheriff provides a one day reduction for every six days served if there are no violations of rules and regulations. These provisions can be doubled to cover the COVID-19 risk.

Specific statutory amendments follow.

County Jail Overcrowding State of Emergency Act
Create new MCL 801.59c:

801.59c

(1) REGARDLESS OF THE SIZE OF THE JAIL POPULATION, ALL PROVISIONS IN THIS ACT SHALL APPLY TO ALL COUNTY JAILS IN THE EVENT THE STATE DECLARES AN EMERGENCY DUE TO A DISEASE CHARACTERIZED AS A PANDEMIC BY THE WORLD HEALTH ORGANIZATION.

(2) WHEN THE STATE OF EMERGENCY IS LIFTED, THIS SECTION OF THE ACT NO LONGER APPLIES.

**Compassionate Release
Amend MCL 771.3h:**

771.3h

(1) A county sheriff may notify the court in writing that a prisoner may be eligible for compassionate release if the county sheriff has consulted with a physician and the physician determined that the prisoner has a life expectancy of not more than 6 months **OR IF A PRISONER IS DIAGNOSED WITH A DISEASE CHARACTERIZED AS A PANDEMIC BY THE WORLD HEALTH ORGANIZATION DURING A STATE OF EMERGENCY RELATED TO THIS PANDEMIC, OR SHOWS SYMPTOMS OF THIS DISEASE.** The notification must be accompanied with the evidence the physician considered in making the determination regarding the prisoner's life expectancy **OR DISEASE DIAGNOSIS OR SYMPTOMS.**

(2) Subject to subsection (3), a court may grant compassionate release to a prisoner if the court finds that the prisoner has a life expectancy of not more than 6 months, **OR IF THE PRISONER IS DIAGNOSED WITH A DISEASE CHARACTERIZED AS A PANDEMIC BY THE WORLD HEALTH ORGANIZATION DURING A STATE OF EMERGENCY RELATED TO THIS PANDEMIC, OR SHOWS SYMPTOMS OF THIS DISEASE,** and that the release of the prisoner would not reasonably pose a threat to public safety or the prisoner. If a court grants a prisoner compassionate release, the court shall enter an amended judgment of sentence specifying that the prisoner is released from the term of imprisonment imposed for the offense for which the prisoner was originally convicted.

(3) A court shall not grant a prisoner compassionate release unless all of the following apply:

(a) A placement option has been secured for the prisoner in the community. A placement option may include, but is not limited to, placement in the prisoner's home or a medical facility.

(b) The sheriff has made a reasonable effort to determine whether expenses related to the prisoner's placement secured under subdivision (a) are covered by Medicaid, a health care policy, a certificate of insurance, or another source for the payment of medical expenses or whether the prisoner has sufficient income or assets to pay for expenses related to the placement.

(c) The court conducted a public hearing in which the prosecuting attorney of the county and each victim who requests notice in the manner provided in the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, are provided adequate notice of the hearing and an opportunity to be heard during the hearing. **IN THE EVENT OF A PANDEMIC-RELATED STATE OF EMERGENCY, THE PROSECUTING ATTORNEY HAS FIVE DAYS TO CONTACT THE VICTIM AND REQUEST THIS HEARING, OTHERWISE NO HEARING IS NECESSARY.**

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**Quarter Reduction
Amend MCL 801.257:**

801.257

Except as provided in section 5 of the prisoner reimbursement to the county act and section 5a of chapter 171 of the Revised Statutes of 1846, being section 801.5a of the Michigan Compiled Laws, a prisoner may receive, if approved by the court, a reduction of 1/4 of his or her term if his or her conduct, diligence, and general attitude merit such reduction. **IN THE EVENT THE STATE DECLARES AN EMERGENCY DUE TO A DISEASE CHARACTERIZED AS A PANDEMIC BY THE WORLD HEALTH ORGANIZATION, A PRISONER MAY RECEIVE A REDUCTION OF 1/2 OF HIS OR HER TERM.**

**Sheriff Good-Time
Amend MCL 51.282**

51.282

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(2) Every prisoner whose record shows that there are no violations of the rules and regulations shall be entitled to a reduction from his or her sentence as follows: 1 day for each 6 days of the sentence. **IN THE EVENT THE STATE DECLARES AN EMERGENCY DUE TO A DISEASE CHARACTERIZED AS A PANDEMIC BY THE WORLD HEALTH ORGANIZATION, A PRISONER SHALL BE ENTITLED TO A REDUCTION OF 2 DAYS FOR EVERY 6 DAYS OF SENTENCE.** The sheriff may, by general rule, subject to amendment from time to time, prescribe how much of the good time earned under this subsection a prisoner shall forfeit for any infraction of the general rules and regulations, and for any act of insubordination the sheriff may by special order take away any portion of or the whole of the good time made by any prisoner up to the date of such offense. The sheriff may as a reward for especially good conduct, in case of insubordination, restore to any prisoner the whole or any portion of the good time lost because of any minor infraction of the rules.