

Legislative Analysis



PRISONER ID CARD: USE TO OBTAIN DRIVER LICENSE OR STATE ID CARD UPON RELEASE

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House Bill 5176 with committee amendment
Sponsor: Rep. Andrew Kandrevas

House Bill 5177 with committee amendment
Sponsor: Rep. Robert Jones

House Bill 5179 with committee amendment
Sponsor: Rep. Tonya Schuitmaker

House Bill 5178 with committee amendment
Sponsor: Rep. Justin Amash

House Bill 5180 with committee amendment
Sponsor: Rep. Vicki Barnett

Committee: Judiciary

First Analysis (12-16-09)

BRIEF SUMMARY: The bills would amend various acts to ease the ability of prisoners, after release upon parole or completion of their sentences, to obtain driver's licenses and state personal I.D. cards, and to create a debit card by which former prisoners could access money left in their prisoner accounts.

FISCAL IMPACT: The bills would have a fiscal impact on the Department of Corrections. A more detailed discussion follows later in the analysis.

THE APPARENT PROBLEM:

In today's world, such simple tasks as cashing a check, opening a bank account, applying for a job, or renting an apartment all have one thing in common – the need to show a valid driver's license or state personal ID card. The inability to produce a valid ID can, conversely, strip a person of the ability to complete one or all of those transactions. For a person recently released from prison, whether on parole or at the end of a maximum sentence, obtaining the necessary documentation to apply for a driver's license or state ID can be a daunting, if not impossible task.

Many prisoners do not have a valid ID at the time of release. If a person was incarcerated for a long period of time, and no longer has contact with family members (or their relatives are now deceased), copies of a birth certificate may have been lost. Other than the ID card used in prison, an ex-offender may have no picture ID. Yet, many of the forms of documentation acceptable to the SOS require a picture ID to get additional copies, such as marriage licenses, birth certificates, and school records. Plus, there is a cost associated with ordering copies of documents. Yet, a person who can't get a job due to a lack of the required ID often can't afford the fees to order the documents needed to

get a job! A person who gets caught in such a revolving door has a harder time reintegrating into society and becomes at higher risk for reoffending.

According to advocates who assist prisoners in obtaining the necessary documents, the whole process can take about one to two months and cost about \$30 to \$60 for a person who does not have an active file (recently expired driver's license or state ID) at the SOS. During this time, the person may be unable to secure housing, find a job, or enroll in an educational institution.

For several years, advocates have requested that SOS accept, as one of the secondary pieces of documentation, the ID card issued to prisoners when incarcerated. Until recently, the SOS argued that the prison ID cards did not meet the standards it needed to verify the person's identity. More recently, the SOS and Department of Corrections (DOC) have entered into a Memorandum of Understanding (MOU), in which the DOC will provide prisoners with an ID card upon release that addresses some of the concerns of the SOS. In addition, the DOC will provide the SOS with read-only access to its OMNI database for further verification of the prisoner ID cards. Though the MOU would seem to resolve the issue, some feel that corresponding provisions should be placed into statute to provide continuity in practice if or when there are changes in administration at the DOC and SOS.

THE CONTENT OF THE BILLS:

The bills would amend various acts to ease the ability of prisoners, after release on parole or completion of their sentences, to obtain driver's licenses and state personal I.D. cards, and also to create a debit card by which former prisoners could access money left in their prisoner accounts.

House Bills 5176 and 5178 would allow a person to use a prison identification card as one of the required documents needed to obtain a state ID card or driver's license.

House Bill 5177 would require certain kinds of assistance by the Department of Corrections to prisoners in obtaining the identification documents needed to obtain a state ID or driver's license and would prescribe the information to be contained on a prisoner's ID card.

House Bill 5179 would require additional information to be included in a pre-sentence investigation report and require that certain information relating to the value of obtaining a driver's license and state identification card after release be provided to a person sentenced to prison.

House Bill 5180 would require creation of a debit card so that a prisoner could access money left in his or her account upon release from prison.

The bills are tie-barred to each other, meaning that no single bill can take effect unless all the bills in the package are enacted. A more detailed description of each bill follows.

House Bills 5176 and 5178

The bills would amend two different acts to require the Secretary of State to accept an identification card issued by the Department of Corrections (DOC) to prisoners placed on parole or released from a correctional facility as one of the required identification documents needed to apply for a state personal ID card or driver's license. The prisoner ID card would have to contain the prisoner's name, photograph, and other information identifying the prisoner as required under a provision proposed by House Bill 5177. Further, electronic access to prisoner biography information maintained by the DOC would have to be provided to the Secretary of State for the purpose of verifying the identity of a prisoner applying for an operator's or chauffeur's license under the Michigan Vehicle Code or for an official state identification card under the state ID act. House Bill 5176 would amend the state ID act, Public Act 222 of 1972 (MCL 28.291). House Bill 5178 would amend the Michigan Vehicle Code (MCL 257.307).

House Bill 5177

The bill would amend the Corrections Code (MCL 791.235 et al.). It would require the Department of Corrections (DOC), either by contract or otherwise, to assist prisoners in obtaining the identification documents described in the bill and, subject to the DOC's security needs, require that the DOC reasonably allow prisoners to obtain the identification documents before being released on parole or discharged upon completion of their maximum sentence.

Identification documents. The documents a prisoner would be reasonably allowed to obtain during incarceration would include a Social Security card and any two of the identification documents that, in combination with the prisoner identification card issued under the bill, would satisfy the application requirements for obtaining a driver's license or state personal identification card as established by the Secretary of State under Section 307 of the Michigan Vehicle Code or Section 1 of Public Act 222 of 1972, the state personal identification card act. (Documents required to verify a person's identity for a driver's license or state ID card include a certified birth certificate, marriage license or divorce decree, a photo U.S. military identification card, and school records.)

The DOC would have to allow the Secretary of State to have electronic access to prisoner biography information for the purpose of verifying the identity of prisoners who applied for driver licenses or state personal identification cards.

DOC Form. The DOC would also be required to provide a form to each prisoner, as described in a provision to be added by House Bill 5179. The form would have to list the personal identification documents needed to obtain a state driver's license or personal ID card. The form would be given to a prisoner as follows:

- Within 10 days of arriving at a reception center for any prisoner who begins to serve a sentence under the DOC's jurisdiction after the bill's effective date.
- Not later than 30 days after the bill's effective date for any prisoners currently serving a sentence on the bill's effective date.

Parole eligibility report. As part of the determination to parole a prisoner, the parole board reviews information pertinent to the prisoner contained in a parole eligibility report. In general, the report is prepared by appropriate institutional staff at least 90 days before the expiration of the prisoner's minimum sentence and prior to a prisoner's interview with a parole board member. The bill would require two things in relation to the parole eligibility report:

- Include, as a required item in the eligibility report, whether the prisoner attempted to obtain identification documents.
- A prisoner's attempt or failure to attempt to obtain identification documents needed to obtain a state driver's license or personal ID card would have to be a factor required to be considered as part of the prisoner's parole eligibility report.

Prisoner identification card. The DOC would have to provide a prisoner identification card to each prisoner. The prisoner ID card would have to be given to a prisoner who is released on parole or released upon completion of the maximum sentence. The prisoner ID card would have to include the following based upon all available information:

- The prisoner's photograph, taken not earlier than six months before the prisoner's date of release.
- The prisoner's name as identified on the birth certificate or on any one of the other primary source ID documents specified by the SOS as being necessary to obtain a driver's license or state ID card, if those documents are available; or, the prisoner's name listed on commitment papers.
- The prisoner's place and date of birth.
- The date on which the prisoner began a term of incarceration at a state correctional facility.
- A statement as to whether the prisoner had been placed on parole or discharged upon completion of the sentence.

The Reentry Success Fund. The Reentry Success Fund would be created within the state treasury. The State Treasurer could receive money or other assets from any source for deposit into the fund and would direct the fund's investments and credit to the fund interest and earnings from those investments. Money in the fund at the close of a fiscal year would remain in the fund and not lapse to the General Fund. The DOC could expend money from the fund, upon appropriation, only for the expense of obtaining the documents needed to obtain a state driver's license or personal ID card for prisoners who are indigent.

House Bill 5179

The bill would amend the Code of Criminal Procedure (MCL 771.14) to require additional information to be included in a pre-sentence investigation report and to require certain information to be provided to a person committed to a state correctional facility about the value of obtaining a driver's license and state identification card upon release.

Generally speaking, before a court imposes a sentence, a probation officer must make inquiries as to the person's character and circumstances and prepare a written report for the court. This pre-sentence investigation report must include certain information, such as an evaluation of and a prognosis for the person's adjustment in the community based on factual information in the report.

The bill would require the pre-sentence report to also include a statement as to whether the person had provided identification documents necessary for obtaining a driver's license or state ID card (as described in a related bill, House Bill 5177). These documents include a certified birth certificate, marriage license or divorce decree, a photo U.S. military identification card, and school records.

The bill would also require that a person being committed to a state correctional facility be provided a written form explaining the importance of obtaining a driver's license or state personal identification card upon release. The form would also have to list the personal identification documents needed to obtain a driver's license or state ID card.

The form would also contain a request that the person obtain and provide those documents to the Department of Corrections and would state that the DOC must retain the documents in the person's file until release. Any identification documents previously provided by the person would have to accompany the commitment papers.

House Bill 5180

The bill would add a new section to the Corrections Code (MCL 791.237a) to require the Department of Corrections to issue a debit card to any prisoner having money left in his or her institutional account on the date the prisoner is released on parole or released upon completion of the maximum sentence. The debit card would allow the prisoner to make electronic transfers of funds from the institutional account.

BACKGROUND INFORMATION:

The bills are almost identical to a package passed by the House of Representatives in the 2007-2008 legislative session (House Bills 4525-4528 and 5568).

FISCAL INFORMATION:

House Bill 5176 and 5178 would have no fiscal impact on the Department of State.

House Bills 5177 and 5178 are largely consistent with a memorandum of understanding (MOU) between the Department of State and the Department of Corrections; however, it appears that the department could incur modest costs in complying with requirements to provide prisoners with copies of forms and to include certain information in parole eligibility reports.

House Bill 5180 apparently would not present significant costs to the Department of Corrections. However, the bill conflicts with existing departmental practice by not including exceptions to its requirement that a debit card or similar electronic funds transfer card be issued to each exiting prisoner who has funds in his or her institutional account. Debit cards for exiting prisoners currently are provided under MDOC Director's Office Memorandum 2009-12, available online at:
http://www.michigan.gov/documents/corrections/2009-12_267632_7.pdf.

The memorandum generally requires all of a prisoner's funds to be loaded onto a debit card, but establishes several exceptions:

- If the balance in a prisoner's account is less than \$25, the prisoner is to be given the balance in the account in cash.
- If the balance is more than \$25, and the prisoner is taking public transportation, the prisoner generally is to receive \$15 in cash and the remainder loaded onto a debit card.
- If the prisoner is receiving a parole loan for lodging, a check is issued for the lodging costs.
- If the prisoner is paroling directly to the Tuscola Regional Reentry Program facility (the former Camp Tuscola), the balance in the prisoner's account is transferred to the Thumb Correctional Facility pending release from Tuscola.

ARGUMENTS:

For:

For years, ex-prisoners and advocates providing services to ex-prisoners have complained about the difficulty ex-prisoners encounter when trying to obtain a Michigan driver's license or state personal ID card after release from prison. Without a license or ID card, it is virtually impossible for these people to obtain housing, secure employment, or even open a bank account. One barrier to obtaining a driver's license or ID card is lack of sufficient documents required by the Secretary of State (SOS). However, many ex-prisoners find themselves in a "Catch-22" situation, whereby they cannot get a driver's license without certain documentation, but cannot obtain those documents without a driver's license or ID card.

For several years, some believed a viable solution was to enact legislation to require the SOS to accept a prison ID card as one of the three pieces of documentation needed to obtain a license or state ID. Several times legislation has been offered to do so, but has been opposed by the SOS on grounds that SOS employees would have no way to verify

the authenticity of a prison ID card, or to ensure that it was a trustworthy way to verify the identity of the person presenting it.

More recently, the SOS and Department of Corrections have resolved many of these concerns via a Memorandum of Understanding between the two departments. Though some feel the Memorandum obviates the need for this legislative package, others feel strongly that placing complementary language in statute will ensure that the policy goes forward, surviving changes in administration (which can precipitate changes in policy). Not only will the Memorandum (and the legislation) be of benefit to persons already released from prison, the bills would encourage and educate newly committed persons to the need for having current ID before release and establish a fund that can help indigent persons obtain the necessary documents while in prison. Also, by documenting the effort to obtain personal identification documents while incarcerated on a prisoner's parole eligibility report, prisoners will be motivated to secure needed personal identification documents prior to release (which will also positively impact their reintegration into society).

Many advocates believe that enactment of the bill package, and continuance of the new program to allow prisoners and ex-prisoners to use a prison ID as one form of documentation to obtain a driver's license or state ID card, will facilitate a person's reentry into the community, which has been documented to reduce the risk of reoffending. In that sense, the bills are a win-win proposal for all concerned.

Response:

The bills only benefit prisoners being released from DOC-operated correctional facilities. Those who work with people being released from jail – which include parolees who violate their parole conditions and are sent to jail instead of back to prison – say that this population also struggles with obtaining the ID necessary to find housing, employment, or public assistance. Apparently, it is not uncommon for IDs to be lost during incarceration in a county jail, so even if a person had a valid ID going in, he or she may not have one when released. Moreover, many of those released from jail or prison live very transient lives, making it difficult to hang onto the documents needed to get an ID, especially if the individual suffers from a mental illness. Once those documents are lost, the person is back to square one. It would be helpful, therefore, if the documents (or a record of the documents) used by these individuals to obtain an ID were able to be retained by the Secretary of State or another governmental entity in order to reissue an ID in a timely manner – taking into consideration that some controls to prevent abuse or the potential of obtaining multiple IDs for use by other people were adopted.

Against:

For years, the SOS has voiced a concern over the fact that a person can be convicted, sentenced, and incarcerated under a false name. Therefore, the name on a prison ID card could be false. The SOS has long been concerned that granting a license, which then could be used to obtain other legal documents, could potentially lead to commission of other crimes under the false identity.

Though some concerns linger regarding the ability of a person to be committed to prison under a false name, the Memorandum (and the legislation) does address many concerns of the SOS. However, the long-held belief of the SOS was that addressing the issue through departmental policy is a better approach than legislation. As technology advances, as problems with the new program surface, as unforeseen needs arise, the Memorandum of Understanding between the two departments can be more quickly amended (and more cost effectively) than amending statutes.

For:

House Bill 5180 would require the DOC to create a debit card program so that prisoners could access any funds remaining in their prison accounts when they are released on parole or upon completing their maximum sentence. Being able to quickly and easily access these funds electronically will also enhance an ex-prisoner's ability to reintegrate into society. For many prisoners, the amount may be small (i.e., for a prisoner required to pay restitution to a victim, amounts in the account over a certain amount - about \$50 - are regularly sent by prison officials to pay off any debt or fees assigned to the prisoner as part of the sentence). Still, even a small amount is helpful to defray the expenses associated with starting life anew.

POSITIONS:

A representative of the Department of Corrections testified in support of the bills. (12-2-09)

NorthWest Initiative (part of A.R.R.O. – a grass roots ReEntry program) supports House Bills 5176 and 5177. (12-02-09)

The Michigan Catholic Conference indicated support for the bills. (12-2-09)

The Center for Civil Justice indicated support for the bills. (12-2-09)

The State Bar of Michigan indicated support for the bills. (12-02-09)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.