

**SUBSTITUTE FOR
SENATE BILL NO. 864**

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 33, 33c, 34, and 35 (MCL 791.233, 791.233c,
791.234, and 791.235), section 33 as amended by 2019 PA 14, section
33c as added by 1994 PA 217, and sections 34 and 35 as amended by
2024 PA 111.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 33. (1) The grant of a parole is subject to all of the
2 following conditions:

3 (a) A prisoner must not be given liberty on parole until the
4 board has reasonable assurance, after consideration of all of the
5 facts and circumstances, including the prisoner's mental and social
6 attitude, that the prisoner will not become a menace to society or



1 to the public safety.

2 (b) Except as provided in ~~section~~**sections** 34a and ~~section~~
3 35(10), a parole must not be granted to a prisoner other than a
4 prisoner subject to disciplinary time until the prisoner has served
5 the minimum term imposed by the court less allowances for good time
6 or special good time to which the prisoner may be entitled by
7 statute, except that a prisoner other than a prisoner subject to
8 disciplinary time is eligible for parole before the expiration of
9 his or her minimum term of imprisonment if the sentencing judge, or
10 the judge's successor in office, gives written approval of the
11 parole of the prisoner before the expiration of the minimum term of
12 imprisonment.

13 (c) Except as provided in ~~section~~**sections** 34a and ~~section~~
14 35(10), and notwithstanding the provisions of subdivision (b), a
15 parole must not be granted to a prisoner other than a prisoner
16 subject to disciplinary time sentenced for the commission of a
17 crime described in section 33b(a) to (cc) until the prisoner has
18 served the minimum term imposed by the court less an allowance for
19 disciplinary credits as provided in section 33(5) of 1893 PA 118,
20 MCL 800.33. A prisoner described in this subdivision is not
21 eligible for special parole.

22 (d) Except as provided in ~~section~~**subdivision (g) and sections**
23 34a and ~~section~~35(10), a parole must not be granted to a prisoner
24 subject to disciplinary time until the prisoner has served the
25 minimum term imposed by the court.

26 (e) A prisoner must not be released on parole until the parole
27 board has satisfactory evidence that arrangements have been made
28 for such honorable and useful employment as the prisoner is capable
29 of performing, for the prisoner's education, or for the prisoner's



1 care if the prisoner is mentally or physically ill or
2 incapacitated.

3 (f) Except as provided in section 35(10), a prisoner whose
4 minimum term of imprisonment is 2 years or more must not be
5 released on parole unless he or she has either earned a high school
6 diploma or a high school equivalency certificate. The director of
7 the department may waive the restriction imposed by this
8 subdivision as to any prisoner who is over the age of 65 or who was
9 gainfully employed immediately before committing the crime for
10 which he or she was incarcerated. The department may also waive the
11 restriction imposed by this subdivision as to any prisoner who has
12 a learning disability, who does not have the necessary proficiency
13 in English, or who for some other reason that is not the fault of
14 the prisoner is unable to successfully complete the requirements
15 for a high school diploma or a high school equivalency certificate.
16 If the prisoner does not have the necessary proficiency in English,
17 the department shall provide English language training for that
18 prisoner necessary for the prisoner to begin working toward the
19 completion of the requirements for a high school equivalency
20 certificate. This subdivision applies to prisoners sentenced for
21 crimes committed after December 15, 1998. In providing an
22 educational program leading to a high school diploma or a high
23 school equivalency certificate, the department shall give priority
24 to prisoners sentenced for crimes committed on or before December
25 15, 1998.

26 (g) Except as provided in sections 34a and 35(10), a parole
27 must not be granted to a prisoner subject to disciplinary time who
28 was sentenced on or after the effective date of the amendatory act
29 that added this subdivision until the prisoner has served the



1 minimum term imposed by the court less an allowance for
 2 productivity credits as provided in section 33a of 1893 PA 118, MCL
 3 800.33a.

4 (2) Paroles-in-custody to answer warrants filed by local or
 5 out-of-state agencies, or immigration officials, are permissible if
 6 an accredited agent of the agency filing the warrant calls for the
 7 prisoner to be paroled in custody.

8 (3) The parole board may promulgate rules under the
 9 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
 10 24.328, that are not inconsistent with this act with respect to
 11 conditions imposed upon prisoners paroled under this act.

12 Sec. 33c. As used in this act: ~~,"prisoner~~

13 (a) "Limited prisoner subject to disciplinary time" means a
 14 prisoner subject to disciplinary time who is sentenced before the
 15 effective date of the amendatory act that added this subdivision.

16 (b) "Prisoner subject to disciplinary time" means that term as
 17 defined in section 34 of ~~Act No. 118 of the Public Acts of 1893,~~
 18 ~~being section 800.34 of the Michigan Compiled Laws.~~ 1893 PA 118, MCL
 19 800.34.

20 Sec. 34. (1) Except for a prisoner granted parole under
 21 section 35(10) or as provided in section 34a, a prisoner sentenced
 22 to an indeterminate sentence and confined in a state correctional
 23 facility with a minimum in terms of years other than a **limited**
 24 prisoner subject to disciplinary time is subject to the
 25 jurisdiction of the parole board when the prisoner has served a
 26 period of time equal to the minimum sentence imposed by the court
 27 for the crime of which he or she was convicted, less good time, ~~and~~
 28 disciplinary credits, **and productivity credits**, if applicable.

29 (2) Except for a prisoner granted parole under section 35(10)



1 or as provided in section 34a, a **limited** prisoner subject to
2 disciplinary time sentenced to an indeterminate sentence and
3 confined in a state correctional facility with a minimum in terms
4 of years is subject to the jurisdiction of the parole board when
5 the prisoner has served a period of time equal to the minimum
6 sentence imposed by the court for the crime of which he or she was
7 convicted.

8 (3) Except for a prisoner granted parole under section 35(10),
9 if a prisoner other than a **limited** prisoner subject to disciplinary
10 time is sentenced for consecutive terms, whether received at the
11 same time or at any time during the life of the original sentence,
12 the parole board has jurisdiction over the prisoner for purposes of
13 parole when the prisoner has served the total time of the added
14 minimum terms, less the good time, ~~and~~ disciplinary credits, **and**
15 **productivity credits** allowed by statute. The maximum terms of the
16 sentences must be added to compute the new maximum term under this
17 subsection, and discharge must be issued only after the total of
18 the maximum sentences has been served less good time, ~~and~~
19 disciplinary credits, **and productivity credits**, unless the prisoner
20 is paroled and discharged upon satisfactory completion of the
21 parole.

22 (4) Except for a prisoner granted parole under section 35(10),
23 if a **limited** prisoner subject to disciplinary time is sentenced for
24 consecutive terms, whether received at the same time or at any time
25 during the life of the original sentence, the parole board has
26 jurisdiction over the prisoner for purposes of parole when the
27 prisoner has served the total time of the added minimum terms. The
28 maximum terms of the sentences must be added to compute the new
29 maximum term under this subsection, and discharge must be issued



1 only after the total of the maximum sentences has been served,
2 unless the prisoner is paroled and discharged upon satisfactory
3 completion of the parole.

4 (5) If a prisoner other than a **limited** prisoner subject to
5 disciplinary time has 1 or more consecutive terms remaining to
6 serve in addition to the term he or she is serving, the parole
7 board may terminate the sentence the prisoner is presently serving
8 at any time after the minimum term of the sentence has been served.

9 (6) A prisoner sentenced to imprisonment for life for any of
10 the following is not eligible for parole and is instead subject to
11 the provisions of section 44 or 44a:

12 (a) First degree murder in violation of section 316 of the
13 Michigan penal code, 1931 PA 328, MCL 750.316.

14 (b) A violation of section 16(5) or 18(7) of the Michigan
15 penal code, 1931 PA 328, MCL 750.16 and 750.18.

16 (c) A violation of chapter XXXIII of the Michigan penal code,
17 1931 PA 328, MCL 750.200 to 750.212a.

18 (d) A violation of section 17764(7) of the public health code,
19 1978 PA 368, MCL 333.17764.

20 (e) First degree criminal sexual conduct in violation of
21 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL
22 750.520b.

23 (f) Any other violation for which parole eligibility is
24 expressly denied under a law of this state.

25 (7) Except for a prisoner granted parole under section 35(10),
26 a prisoner sentenced to imprisonment for life, other than a
27 prisoner described in subsection (6), is subject to the
28 jurisdiction of the parole board and may be placed on parole
29 according to the conditions prescribed in subsection (8) if he or



1 she meets any of the following criteria:

2 (a) Except as provided in subdivision (b) or (c), the prisoner
3 has served 10 calendar years of the sentence for a crime committed
4 before October 1, 1992 or 15 calendar years of the sentence for a
5 crime committed on or after October 1, 1992.

6 (b) Except as provided in subsection (12), the prisoner has
7 served 20 calendar years of a sentence for violating, or attempting
8 or conspiring to violate, section 7401(2)(a)(i) of the public
9 health code, 1978 PA 368, MCL 333.7401, and has another conviction
10 for a serious crime.

11 (c) Except as provided in subsection (12), the prisoner has
12 served 17-1/2 calendar years of the sentence for violating, or
13 attempting or conspiring to violate, section 7401(2)(a)(i) of the
14 public health code, 1978 PA 368, MCL 333.7401, and does not have
15 another conviction for a serious crime.

16 (8) A parole granted to a prisoner under subsection (7) is
17 subject to the following conditions:

18 (a) At the conclusion of 10 calendar years of the prisoner's
19 sentence and thereafter as determined by the parole board until the
20 prisoner is paroled, discharged, or deceased, and in accordance
21 with the procedures described in subsection (9), 1 member of the
22 parole board shall interview the prisoner. The interview schedule
23 prescribed in this subdivision applies to all prisoners to whom
24 subsection (7) applies, regardless of the date on which they were
25 sentenced.

26 (b) In addition to the interview schedule prescribed in
27 subdivision (a), the parole board shall review the prisoner's file
28 at the conclusion of 15 calendar years of the prisoner's sentence
29 and every 5 years thereafter until the prisoner is paroled,



1 discharged, or deceased. A prisoner whose file is to be reviewed
2 under this subdivision must be notified of the upcoming file review
3 at least 30 days before the file review takes place and must be
4 allowed to submit written statements or documentary evidence for
5 the parole board's consideration in conducting the file review.

6 (c) A decision to grant or deny parole to the prisoner must
7 not be made until after a public hearing held in the manner
8 prescribed for pardons and commutations in sections 44 and 45.
9 Notice of the public hearing must be given to the sentencing judge,
10 or the judge's successor in office. Parole must not be granted if
11 the sentencing judge files written objections to the granting of
12 the parole within 30 days of receipt of the notice of hearing, but
13 the sentencing judge's written objections bar the granting of
14 parole only if the sentencing judge is still in office in the court
15 before which the prisoner was convicted and sentenced. A sentencing
16 judge's successor in office may file written objections to the
17 granting of parole, but a successor judge's objections must not bar
18 the granting of parole under subsection (7). If written objections
19 are filed by either the sentencing judge or the judge's successor
20 in office, the objections must be made part of the prisoner's file.

21 (d) A parole granted under subsection (7) must be for a period
22 of not less than 4 years and subject to the usual rules pertaining
23 to paroles granted by the parole board. A parole granted under
24 subsection (7) is not valid until the transcript of the record is
25 filed with the attorney general whose certification of receipt of
26 the transcript must be returned to the office of the parole board
27 within 5 days. Except for medical records protected under section
28 2157 of the revised judicature act of 1961, 1961 PA 236, MCL
29 600.2157, the file of a prisoner granted a parole under subsection



1 (7) is a public record.

2 (9) An interview conducted under subsection (8)(a) is subject
3 to both of the following requirements:

4 (a) The prisoner must be given written notice, not less than
5 30 days before the interview date, stating that the interview will
6 be conducted.

7 (b) The prisoner may be represented at the interview by an
8 individual of his or her choice. The representative must not be
9 another prisoner. A prisoner is not entitled to appointed counsel
10 at public expense. The prisoner or representative may present
11 relevant evidence in favor of holding a public hearing as allowed
12 in subsection (8)(c).

13 (10) In determining whether a prisoner convicted of violating,
14 or attempting or conspiring to violate, section 7401(2)(a)(i) of
15 the public health code, 1978 PA 368, MCL 333.7401, and sentenced to
16 imprisonment for life before October 1, 1998 is to be released on
17 parole, the parole board shall consider all of the following:

18 (a) Whether the violation was part of a continuing series of
19 violations of section 7401 or 7403 of the public health code, 1978
20 PA 368, MCL 333.7401 and 333.7403, by that individual.

21 (b) Whether the violation was committed by the individual in
22 concert with 5 or more other individuals.

23 (c) Any of the following:

24 (i) Whether the individual was a principal administrator,
25 organizer, or leader of an entity that the individual knew or had
26 reason to know was organized, in whole or in part, to commit
27 violations of section 7401 or 7403 of the public health code, 1978
28 PA 368, MCL 333.7401 and 333.7403, and whether the violation for
29 which the individual was convicted was committed to further the



1 interests of that entity.

2 (ii) Whether the individual was a principal administrator,
3 organizer, or leader of an entity that the individual knew or had
4 reason to know committed violations of section 7401 or 7403 of the
5 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and
6 whether the violation for which the individual was convicted was
7 committed to further the interests of that entity.

8 (iii) Whether the violation was committed in a drug-free school
9 zone.

10 (iv) Whether the violation involved the delivery of a
11 controlled substance to an individual less than 17 years of age or
12 possession with intent to deliver a controlled substance to an
13 individual less than 17 years of age.

14 (11) Except as provided in subsection (19) and section 34a, a
15 prisoner's release on parole is discretionary with the parole
16 board. The action of the parole board in granting a parole is
17 appealable by the prosecutor of the county from which the prisoner
18 was committed or the victim of the crime for which the prisoner was
19 convicted. The appeal must be to the circuit court in the county
20 from which the prisoner was committed, by leave of the court.

21 (12) If the sentencing judge, or his or her successor in
22 office, determines on the record that a prisoner described in
23 subsection (7) (b) or (c) sentenced to imprisonment for life for
24 violating, or attempting or conspiring to violate, section
25 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7401,
26 has cooperated with law enforcement, the prisoner is subject to the
27 jurisdiction of the parole board and may be released on parole as
28 provided in subsection (7) (b) or (c) 2-1/2 years earlier than the
29 time otherwise indicated in subsection (7) (b) or (c). The prisoner



1 is considered to have cooperated with law enforcement if the court
2 determines on the record that the prisoner had no relevant or
3 useful information to provide. The court shall not make a
4 determination that the prisoner failed or refused to cooperate with
5 law enforcement on grounds that the defendant exercised his or her
6 constitutional right to trial by jury. If the court determines at
7 sentencing that the defendant cooperated with law enforcement, the
8 court shall include its determination in the judgment of sentence.

9 (13) Except for a prisoner granted parole under section 35(10)
10 and notwithstanding subsections (1) and (2), a prisoner convicted
11 of violating, or attempting or conspiring to violate, section
12 7401(2) (a) (i) or 7403(2) (a) (i) of the public health code, 1978 PA
13 368, MCL 333.7401 and 333.7403, whose offense occurred before March
14 1, 2003, and who was sentenced to a term of years, is eligible for
15 parole after serving 20 years of the sentence imposed for the
16 violation if the individual has another serious crime or 17-1/2
17 years of the sentence if the individual does not have another
18 conviction for a serious crime, or after serving the minimum
19 sentence imposed for that violation, whichever is less.

20 (14) Except for a prisoner granted parole under section 35(10)
21 and notwithstanding subsections (1) and (2), a prisoner who was
22 convicted of violating, or attempting or conspiring to violate,
23 section 7401(2) (a) (ii) or 7403(2) (a) (ii) of the public health code,
24 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred
25 before March 1, 2003, and who was sentenced according to those
26 sections as they existed before March 1, 2003, is eligible for
27 parole after serving the minimum of each sentence imposed for that
28 violation or 10 years of each sentence imposed for that violation,
29 whichever is less.



1 (15) Except for a prisoner granted parole under section 35(10)
2 and notwithstanding subsections (1) and (2), a prisoner who was
3 convicted of violating, or attempting or conspiring to violate,
4 section 7401(2)(a)(iii) or 7403(2)(a)(iii) of the public health code,
5 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred
6 before March 1, 2003, and who was sentenced according to those
7 sections as they existed before March 1, 2003, is eligible for
8 parole after serving the minimum of each sentence imposed for that
9 violation or 5 years of each sentence imposed for that violation,
10 whichever is less.

11 (16) Except for a prisoner granted parole under section 35(10)
12 and notwithstanding subsections (1) and (2), a prisoner who was
13 convicted of violating, or attempting or conspiring to violate,
14 section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public health code,
15 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred
16 before March 1, 2003, who was sentenced according to those sections
17 of law as they existed before March 1, 2003 to consecutive terms of
18 imprisonment for 2 or more violations of section 7401(2)(a) or
19 7403(2)(a) of the public health code, 1978 PA 368, MCL 333.7401 and
20 333.7403, is eligible for parole after serving 1/2 of the minimum
21 sentence imposed for each violation of section 7401(2)(a)(iv) or
22 7403(2)(a)(iv) of the public health code, 1978 PA 368, MCL 333.7401
23 and 333.7403. This subsection applies only to sentences imposed for
24 violations of section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public
25 health code, 1978 PA 368, MCL 333.7401 and 333.7403, and does not
26 apply if the sentence was imposed for a conviction for a new
27 offense committed while the individual was on probation or parole.

28 (17) Except for a prisoner granted parole under section 35(10)
29 and notwithstanding subsections (1) and (2), a prisoner who was



convicted of violating, or attempting or conspiring to violate, section 7401(2)(a)(ii) or (iii) or 7403(2)(a)(ii) or (iii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, who had a prior conviction for a violation of section 7401(2)(a)(ii) or (iii) or 7403(2)(a)(ii) or (iii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and who was sentenced to life without parole under section 7413(1) of the public health code, 1978 PA 368, MCL 333.7413, according to that section as it existed before March 28, 2018 is eligible for parole after serving 5 years of each sentence imposed for that violation.

(18) The parole board shall provide notice to the prosecuting attorney of the county in which the prisoner was convicted before granting parole to the prisoner under subsection (13), (14), (15), (16), or (17) or under section 35(10). The parole board shall provide the relevant medical records to the prosecuting attorney of the county in which the prisoner was convicted for a prisoner being considered for parole under section 35(10) at the same time the parole board provides the notice required under this subsection. The parole board shall also provide notice to any known victim or, in the case of a homicide, the victim's immediate family, that it is considering a prisoner for parole under section 35(10) at the same time it provides notice to the prosecuting attorney under this subsection.

(19) The prosecuting attorney or victim or, in the case of a homicide, the victim's immediate family, may object to the parole board's decision to recommend parole by filing a motion in the circuit court in the county in which the prisoner was convicted within 30 days of receiving notice under subsection (18). ~~Upon~~ **On the receipt of a** notification under subsection (18) and **a** request



1 by the victim, or, in the case of a homicide, the victim's
2 immediate family, the prosecuting attorney must confer with the
3 victim, or in the case of a homicide, the victim's immediate
4 family, before making a decision regarding whether or not to object
5 to the parole board's determination. A motion filed under this
6 subsection must be heard by the sentencing judge or the judge's
7 successor in office. The prosecuting attorney shall inform the
8 parole board if a motion was filed under this subsection. A
9 prosecutor who files a motion under this subsection may seek an
10 independent medical examination of the prisoner being considered
11 for parole under section 35(10). If an appeal is initiated under
12 this subsection, a subsequent appeal under subsection (11) may not
13 be initiated upon the granting of parole.

14 (20) Both of the following apply to a hearing conducted on a
15 motion filed under subsection (19):

16 (a) The prosecutor and the parole board may present evidence
17 in support of or in opposition to the determination that a prisoner
18 is medically frail, including the results of any independent
19 medical examination.

20 (b) The sentencing judge or the judge's successor shall
21 determine whether the prisoner is eligible for parole as a result
22 of being medically frail.

23 (21) The decision of the sentencing judge or the judge's
24 successor on a motion filed under subsection (19) is binding on the
25 parole board with respect to whether a prisoner must be considered
26 medically frail or not. However, the decision of the sentencing
27 judge or the judge's successor is subject to appeal by leave to the
28 court of appeals granted to the department, the prosecuting
29 attorney, or the victim or victim's immediate family in the case of



1 a homicide.

2 (22) As used in this section:

3 (a) "Medically frail" means that term as defined in section
4 35.

5 (b) "Serious crime" means violating or conspiring to violate
6 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to
7 333.7545, that is punishable by imprisonment for more than 4 years,
8 or an offense against a person in violation of section 83, 84, 86,
9 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
10 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,
11 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,
12 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,
13 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

14 (c) "State correctional facility" means a facility that houses
15 prisoners committed to the jurisdiction of the department.

16 Sec. 35. (1) The release of a prisoner on parole must be
17 granted solely upon the initiative of the parole board. There is no
18 entitlement to parole. The parole board may grant a parole without
19 interviewing the prisoner if, after evaluating the prisoner
20 according to the parole guidelines, the parole board determines
21 that the prisoner has a high probability of being paroled and the
22 parole board therefore intends to parole the prisoner. Except as
23 provided in subsection (2), a prisoner must not be denied parole
24 without an interview before 1 member of the parole board. The
25 interview must be conducted at least 1 month before the expiration
26 of the prisoner's minimum sentence less applicable good time ~~and~~
27 **credits**, disciplinary credits, **and productivity credits** for a
28 prisoner eligible for good time ~~and~~ **credits**, disciplinary credits,
29 **or productivity credits**, or at least 1 month before the expiration



1 of the prisoner's minimum sentence for a **limited** prisoner subject
2 to disciplinary time. The parole board shall consider any statement
3 made to the parole board by a crime victim under the William Van
4 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to
5 780.834, or under any other provision of law. The parole board
6 shall not consider any of the following factors in making a parole
7 determination:

8 (a) A juvenile record that a court has ordered the department
9 to expunge.

10 (b) Information that is determined by the parole board to be
11 inaccurate or irrelevant after a challenge and presentation of
12 relevant evidence by a prisoner who has received a notice of intent
13 to conduct an interview as provided in subsection (4). This
14 subdivision applies only to presentence investigation reports
15 prepared before April 1, 1983.

16 (2) If, after evaluating a prisoner according to the parole
17 guidelines, the parole board determines that the prisoner has a low
18 probability of being paroled and the parole board therefore does
19 not intend to parole the prisoner, the parole board is not required
20 to interview the prisoner before denying parole to the prisoner.

21 (3) The parole board may consider but shall not base a
22 determination to deny parole solely on either of the following:

23 (a) A prisoner's marital history.

24 (b) Prior arrests not resulting in conviction or adjudication
25 of delinquency.

26 (4) If an interview is to be conducted, the prisoner must be
27 sent a notice of intent to conduct an interview not less than 1
28 month before the date of the interview. The notice must state the
29 specific issues and concerns that will be discussed at the



1 interview and that may be a basis for a denial of parole. The
2 parole board shall not deny parole based on reasons other than
3 those stated in the notice of intent to conduct an interview except
4 for good cause stated to the prisoner at or before the interview
5 and in the written explanation required by subsection (18).

6 (5) Except for good cause, the parole board member conducting
7 the interview shall not have cast a vote for or against the
8 prisoner's release before conducting the current interview. Before
9 the interview, the parole board member who is to conduct the
10 interview shall review pertinent information relative to the notice
11 of intent to conduct an interview.

12 (6) A prisoner may waive the right to an interview by 1 member
13 of the parole board. The waiver of the right to be interviewed must
14 be in writing and given not more than 30 days after the notice of
15 intent to conduct an interview is issued. During the interview held
16 under a notice of intent to conduct an interview, the prisoner may
17 be represented by an individual of his or her choice. The
18 representative shall not be another prisoner or an attorney. A
19 prisoner is not entitled to appointed counsel at public expense.
20 The prisoner or representative may present relevant evidence in
21 support of release.

22 (7) ~~At least~~ **Not less than** 90 days before the expiration of
23 the prisoner's minimum sentence less applicable good time ~~and~~
24 **credits, disciplinary credits, and productivity credits** for a
25 prisoner eligible for good time ~~or credits~~, disciplinary credits,
26 **or productivity credits**, or at least 90 days before the expiration
27 of the prisoner's minimum sentence for a **limited** prisoner subject
28 to disciplinary time, or the expiration of a 12-month continuance
29 for any prisoner, or at the request of the parole board for a



1 prisoner being considered for parole under subsection (10), the
2 appropriate institutional staff shall prepare a parole eligibility
3 report. The parole eligibility report is considered pertinent
4 information for purposes of subsection (5). The report must include
5 all of the following:

6 (a) A statement of all major misconduct charges of which the
7 prisoner was found guilty and the punishment served for the
8 misconduct.

9 (b) The prisoner's work and educational record while confined.

10 (c) The results of any physical, mental, or psychiatric
11 examinations of the prisoner that may have been performed.

12 (d) Whether the prisoner fully cooperated with this state by
13 providing complete financial information as required under section
14 3a of the state correctional facility reimbursement act, 1935 PA
15 253, MCL 800.403a.

16 (e) Whether the prisoner refused to attempt to obtain
17 identification documents under section 34c, if applicable.

18 (f) For a prisoner subject to disciplinary time, a statement
19 of all disciplinary time submitted for the parole board's
20 consideration under section 34 of 1893 PA 118, MCL 800.34.

21 (g) The result on any validated risk assessment instrument.

22 (8) The preparer of the report shall not include a
23 recommendation as to release on parole.

24 (9) Psychological evaluations performed at the request of the
25 parole board to assist it in reaching a decision on the release of
26 a prisoner may be performed by the same person who provided the
27 prisoner with therapeutic treatment, unless a different person is
28 requested by the prisoner or parole board.

29 (10) Except for a prisoner who was convicted of any crime that



1 is punishable by a term of life imprisonment without parole or of a
2 violation of section 520b of the Michigan penal code, 1931 PA 328,
3 MCL 750.520b, the parole board may grant a medical parole for a
4 prisoner determined to be medically frail. A decision to grant a
5 medical parole must be initiated on the recommendation of the
6 bureau of health care services. If the bureau of health care
7 services believes that the prisoner is medically frail, the bureau
8 shall utilize a specialist in the appropriate field of medicine,
9 who is not employed by the department, to evaluate the condition of
10 the prisoner and to report on that condition to the bureau. The
11 parole board, in consultation with the bureau of health care
12 services, shall determine whether the prisoner is medically frail.
13 If the parole board determines that a prisoner is medically frail
14 and is going to be considered for parole under this subsection, the
15 parole board shall provide the notice and medical records required
16 under section 34(18). Unless the prosecutor of the county from
17 which the prisoner was committed files a motion under section
18 34(19), the parole board may grant parole to a prisoner who is
19 determined to be medically frail. If a motion is filed under
20 section 34(19) and the court finds that the prisoner is eligible
21 for parole as a result of being medically frail, and if no
22 additional appeals are pending, the parole board may grant parole
23 to the prisoner under this subsection. The requirements of sections
24 33(1)(b), (c), (d), and (f), 33b, and 34(1), (2), (3), (4), (7),
25 (13), (14), (15), (16), and (17) do not apply to a parole granted
26 under this subsection.

27 (11) The following conditions apply to a parole granted under
28 subsection (10):

29 (a) A prisoner must only be released on parole under



1 subsection (10) if he or she agrees to all of the following:

2 (i) His or her placement as approved by the parole board, or,
3 if the parolee is unable to consent because of the parolee's
4 physical or mental health condition, an individual legally entitled
5 to agree to the parolee's placement agrees to the parolee's
6 placement as approved by the parole board.

7 (ii) To the release of his or her medical records that are
8 directly relevant to the condition or conditions rendering the
9 prisoner medically frail to the prosecutor and sentencing or
10 successor judge of the county from which the prisoner was committed
11 before the parole board determines whether or not to grant the
12 prisoner parole under subsection (10).

13 (iii) An independent medical exam if sought by the prosecutor of
14 the county from which the prisoner was committed as provided under
15 section 34(19). If possible, this independent medical exam must
16 occur at a facility of the department. The reasonable costs of this
17 independent medical exam must be paid for by the department.

18 (b) The parolee shall adhere to the terms of his or her parole
19 for the length of the parole term.

20 (c) The parole must be for a term not less than the time
21 necessary to reach the prisoner's earliest release date.

22 (d) If the parolee is medically frail as described under
23 subsection (20)(d)(ii) and placement of the parolee under
24 subdivision (a) is not in a medical facility, the parole board
25 shall require the parolee to be subject to electronic monitoring at
26 the time the parolee is released on parole. The parole board may
27 remove a requirement for a parolee to be subject to electronic
28 monitoring under this subdivision if the parole board determines
29 electronic monitoring is not necessary to protect public safety. A



1 requirement for electronic monitoring under this subdivision is in
2 addition to any other requirement for electronic monitoring or
3 monitoring by a global positioning monitoring system under another
4 law of this state.

5 (e) A parolee who violates the terms of his or her parole or
6 is determined to no longer meet the definition of medically frail
7 may be transferred to a setting more appropriate for the medical
8 needs of the parolee or be subject to the parole violation process
9 under sections 38, 39, 39a, and 40a as determined by the parole
10 board and the department.

11 (f) If the parolee is placed in a medical facility under
12 subdivision (a), the parolee must only be placed in a medical
13 facility that agrees to accept the parolee.

14 (12) The department shall not retain authority over the
15 medical treatment plan for a prisoner granted parole under
16 subsection (10) and, if a prisoner granted parole under subsection
17 (10) is placed in a medical facility, the parolee must have full
18 patient rights at the medical facility.

19 (13) The department and the parole board shall ensure that the
20 placement and terms and conditions of a parole granted under
21 subsection (10) do not violate any other state or federal
22 regulations.

23 (14) A medical facility housing parolees granted parole under
24 subsection (10) must be operated in a manner that ensures the
25 safety of the residents of the medical facility.

26 (15) A parolee granted parole under subsection (10) and placed
27 in a medical facility has the same patient rights and
28 responsibilities as any other individual who is a resident of or
29 has been admitted to the medical facility. The medical facility is



1 not responsible for the enforcement of conditions of parole or the
2 reporting of violations of conditions of parole for any parolee
3 placed in the medical facility. The medical facility shall comply
4 with state and federal laws and regulations that protect resident
5 rights and state and federal laws and regulations for skilled
6 nursing facilities, regardless of the conditions of parole imposed
7 on a resident parolee.

8 (16) The process for a parole determination under subsection
9 (10) does not change or affect any of the rights afforded to a
10 victim under the William Van Regenmorter crime victim's rights act,
11 1985 PA 87, MCL 780.751 to 780.834.

12 (17) The department shall file a petition to the appropriate
13 court under section 434 of the mental health code, 1974 PA 258, MCL
14 330.1434, for any prisoner being paroled or being released after
15 serving his or her maximum sentence whom the department considers
16 to be a person requiring treatment. The parole board shall require
17 mental health treatment as a special condition of parole for any
18 parolee whom the department has determined to be a person requiring
19 treatment whether or not the petition filed for that prisoner is
20 granted by the court. As used in this subsection, "person requiring
21 treatment" means that term as defined in section 401 of the mental
22 health code, 1974 PA 258, MCL 330.1401.

23 (18) When the parole board makes a final determination not to
24 release a prisoner, the parole board shall provide the prisoner
25 with a written explanation of the reason for denial and, if
26 appropriate, specific recommendations for corrective action the
27 prisoner may take to facilitate release.

28 (19) This section does not apply to the placement on parole of
29 a person in conjunction with special alternative incarceration



1 under section 34a(7).

2 (20) As used in this section:

3 (a) "Activities of daily living" means basic personal care and
4 everyday activities as described in 42 CFR 441.505, including, but
5 not limited to, tasks such as eating, toileting, grooming,
6 dressing, bathing, and transferring from 1 physical position to
7 another, including, but not limited to, moving from a reclining
8 position to a sitting or standing position.

9 (b) "Electronic monitoring" means that term as defined in
10 section 85.

11 (c) "Medical facility" means a hospital, hospice, nursing
12 home, or other housing accommodation providing medical treatment
13 suitable to the condition or conditions rendering a parolee
14 medically frail.

15 (d) "Medically frail" describes an individual who is a minimal
16 threat to society as a result of the individual's medical
17 condition, whose recent conduct in prison indicates the individual
18 is unlikely to engage in assaultive conduct, and who has 1 or more
19 of the following:

20 (i) A permanent physical disability or serious and complex
21 medical condition resulting in the inability to walk, stand, or sit
22 without personal assistance.

23 (ii) A terminal medical or neurological condition resulting in
24 a life expectancy of under 18 months.

25 (iii) A permanent disabling mental disorder, including dementia,
26 Alzheimer's, or a similar degenerative brain disorder that results
27 in the need for nursing home level of care, and a significantly
28 impaired ability to perform 2 or more activities of daily living.

29 Enacting section 1. This amendatory act does not take effect



1 unless Senate Bill No. _____ or House Bill No. _____ (request no.
 2 05072'23) **861** of the 102nd Legislature is enacted into law.

