



# SENATE BILL No. 557

March 31, 1993, Introduced by Senators BOUCHARD, GOUGEON and HOFFMAN and referred to the Committee on Family Law, Criminal Law, and Corrections.

A bill to amend sections 33, 33b, 34, 34a, 35, 37, 38, 41, and 51 of Act No. 232 of the Public Acts of 1953, entitled as amended

"An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are hereby transferred; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

section 33 as amended by Act No. 458 of the Public Acts of 1982, section 33b as amended by Act No. 252 of the Public Acts of 1989,

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sections 34 and 35 as amended by Act No. 181 of the Public Acts of 1992, section 34a as added by Act No. 22 of the Public Acts of 1992, sections 37 and 38 as amended by Act No. 314 of the Public Acts of 1982, and section 51 as amended by Act No. 155 of the Public Acts of 1983, being sections 791.233, 791.233b, 791.234, 791.234a, 791.235, 791.237, 791.238, 791.241, and 791.251 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Section 1. Sections 33, 33b, 34, 34a, 35, 37, 38, 41, and  
2 51 of Act No. 232 of the Public Acts of 1953, section 33 as  
3 amended by Act No. 458 of the Public Acts of 1982, section 33b as  
4 amended by Act No. 252 of the Public Acts of 1989, sections 34  
5 and 35 as amended by Act No. 181 of the Public Acts of 1992,  
6 section 34a as added by Act No. 22 of the Public Acts of 1992,  
7 sections 37 and 38 as amended by Act No. 314 of the Public Acts  
8 of 1982, and section 51 as amended by Act No. 155 of the Public  
9 Acts of 1983, being sections 791.233, 791.233b, 791.234,  
10 791.234a, 791.235, 791.237, 791.238, 791.241, and 791.251 of the  
11 Michigan Compiled Laws, are amended to read as follows:

12       Sec. 33. (1) The grant of a parole ~~shall be~~ IS subject to  
13 all of the following:

14       (a) A prisoner shall not be given ~~his~~ liberty on parole  
15 until the board has reasonable assurance, after consideration of  
16 all of the facts and circumstances, including the prisoner's  
17 mental and social attitude, that the prisoner will not become a  
18 menace to society or to the public safety.

1 (b) A parole shall not be granted to a prisoner SENTENCED ON  
2 OR BEFORE THE EFFECTIVE DATE OF THE 1993 AMENDATORY ACT THAT  
3 AMENDED THIS SECTION until the prisoner has served the minimum  
4 term imposed by the court less allowances for good time or spe-  
5 cial good time to which the prisoner may be entitled to by stat-  
6 ute, except that ~~prisoners shall be~~ A PRISONER IS eligible for  
7 parole ~~prior to~~ BEFORE the expiration of ~~their~~ HIS OR HER  
8 minimum ~~terms~~ TERM of imprisonment whenever the sentencing  
9 judge, or the judge's successor in office, gives written approval  
10 of the parole of the prisoner ~~prior to~~ BEFORE the expiration of  
11 the minimum ~~terms~~ TERM of imprisonment.

12 (c) Notwithstanding the provisions of subdivision (b), a  
13 parole shall not be granted to a prisoner sentenced ON OR BEFORE  
14 THE EFFECTIVE DATE OF THE 1993 AMENDATORY ACT THAT AMENDED THIS  
15 SECTION for the commission of a crime described in section 33b(a)  
16 to (cc) until the prisoner has served the minimum term imposed by  
17 the court less an allowance for disciplinary credits as provided  
18 in section 33(5) of Act No. 118 of the Public Acts of 1893,  
19 being section 800.33 of the Michigan Compiled Laws. A prisoner  
20 described in this subdivision is not eligible for special  
21 parole.

22 (D) A PAROLE SHALL NOT BE GRANTED TO A PRISONER SENTENCED  
23 AFTER THE EFFECTIVE DATE OF THE 1993 AMENDATORY ACT THAT AMENDED  
24 THIS SECTION UNTIL THE PRISONER HAS SERVED THE MINIMUM TERM  
25 IMPOSED BY THE COURT, PLUS ANY DISCIPLINARY TIME ACCUMULATED PUR-  
26 SUANT TO SECTION 34 OF ACT NO. 118 OF THE PUBLIC ACTS OF 1893,  
27 BEING SECTION 800.34 OF THE MICHIGAN COMPILED LAWS, EXCEPT THAT A

1 PRISONER IS ELIGIBLE FOR PAROLE BEFORE THE EXPIRATION OF HIS OR  
2 HER MINIMUM TERM OF IMPRISONMENT PLUS DISCIPLINARY TIME WHENEVER  
3 THE SENTENCING JUDGE, OR THE JUDGE'S SUCCESSOR IN OFFICE, GIVES  
4 WRITTEN APPROVAL OF THE PAROLE OF THE PRISONER BEFORE THE EXPIRA-  
5 TION OF THE MINIMUM TERM OF IMPRISONMENT PLUS DISCIPLINARY TIME.

6 (E) ~~(d)~~ A prisoner shall not be released on parole until  
7 the parole board has satisfactory evidence that arrangements have  
8 been made for such honorable and useful employment as the pris-  
9 oner is capable of performing, ~~or~~ FOR the prisoner's education,  
10 or for the prisoner's care if the prisoner is mentally or physici-  
11 cally ill or incapacitated.

12 ~~(e) If a prisoner is serving a sentence for a crime commit-~~  
13 ~~ted during the time the prisoner was on parole due to a reduction~~  
14 ~~of a previous prison term under the prison overcrowding emergency~~  
15 ~~powers act, Act No. 519 of the Public Acts of 1980, being sec-~~  
16 ~~tions 800.71 to 800.79 of the Michigan Compiled Laws, that pris-~~  
17 ~~oner shall not be released on parole due to a reduction in the~~  
18 ~~prisoner's minimum term under the prison overcrowding emergency~~  
19 ~~powers act, Act No. 519 of the Public Acts of 1980.~~

20 (2) Paroles-in-custody to answer warrants filed by local ~~,~~  
21 OR out-of-state agencies, or immigration officials, are permissi-  
22 ble ~~,~~ ~~provided~~ IF an accredited agent of the agency filing the  
23 warrant ~~shall call~~ CALLS for the prisoner so paroled in  
24 custody.

25 (3) Pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
26 Act No. 306 of the Public Acts of 1969, as amended, being  
27 sections 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws,

1 the parole board may promulgate rules not inconsistent with this  
2 act with respect to conditions to be imposed upon ~~paroled~~ pris-  
3 oners paroled under this act.

4       Sec. 33b. A person convicted and sentenced ON OR BEFORE THE  
5 EFFECTIVE DATE OF THE 1993 AMENDATORY ACT THAT AMENDED THIS  
6 SECTION for the commission of any of the following crimes ~~shall~~  
7 IS not ~~be~~ eligible for parole until the person has served the  
8 minimum term imposed by the court less an allowance for disci-  
9 plinary credits as provided in section 33(5) of Act No. 118 of  
10 the Public Acts of 1893, being section 800.33 of the Michigan  
11 Compiled Laws, ~~but shall~~ AND IS not ~~be~~ eligible for special  
12 parole:

13       (a) Section 13 of THE MICHIGAN PENAL CODE, Act No. 328 of  
14 the Public Acts of 1931, as amended, being section 750.13 of the  
15 Michigan Compiled Laws.

16       (b) Section 14 of Act No. 328 of the Public Acts of 1931, as  
17 amended, being section 750.14 of the Michigan Compiled Laws.

18       (c) Section 72, 73, or 75 of Act No. 328 of the Public Acts  
19 of 1931, as amended, being section 750.72, 750.73, or 750.75 of  
20 the Michigan Compiled Laws.

21       (d) Section 80, 82, 83, 84, ~~85,~~ 86, 87, 88, 89, or 90 of  
22 Act No. 328 of the Public Acts of 1931, as amended, being section  
23 750.80, 750.82, 750.83, 750.84, ~~750.85,~~ 750.86, 750.87, 750.88,  
24 750.89, or 750.90 of the Michigan Compiled Laws, OR UNDER FORMER  
25 SECTION 85 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931.

1 (e) Section 91 or 92 of Act No. 328 of the Public Acts of  
2 1931, as amended, being section 750.91 or 750.92 of the Michigan  
3 Compiled Laws.

4 (f) Section 110, 112, or 116 of Act No. 328 of the Public  
5 Acts of 1931, as amended, being section 750.110, 750.112, or  
6 750.116 of the Michigan Compiled Laws.

7 (g) Section 135, 136b(2), or 136b(3) of Act No. 328 of the  
8 Public Acts of 1931, as amended, being section 750.135 or  
9 750.136b of the Michigan Compiled Laws, or under former section  
10 136a of Act No. 328 of the Public Acts of 1931.

11 (h) Section 158 of Act No. 328 of the Public Acts of 1931,  
12 as amended, being section 750.158 of the Michigan Compiled Laws.

13 (i) Section 160 of Act No. 328 of the Public Acts of 1931,  
14 as amended, being section 750.160 of the Michigan Compiled Laws.

15 (j) Section 171 of Act No. 328 of the Public Acts of 1931,  
16 as amended, being section 750.171 of the Michigan Compiled Laws.

17 (k) Section ~~194 or~~ 196 of Act No. 328 of the Public Acts  
18 of 1931, as amended, being section ~~750.194 or~~ 750.196 of the  
19 Michigan Compiled Laws, OR UNDER FORMER SECTION 194 OF ACT  
20 NO. 328 OF THE PUBLIC ACTS OF 1931.

21 (l) Section 204, 205, 206, 207, 208, 209, or 213 of Act  
22 No. 328 of the Public Acts of 1931, as amended, being section  
23 750.204, 750.205, 750.206, 750.207, 750.208, 750.209, or 750.213  
24 of the Michigan Compiled Laws.

25 (m) Section 224, 226, or 227 of Act No. 328 of the Public  
26 Acts of 1931, as amended, being section 750.224, 750.226, or  
27 750.227 of the Michigan Compiled Laws.

1 (n) Section 316, 317, 319, 321, 322, 323, 327, 328, or 329  
2 of Act No. 328 of the Public Acts of 1931, as amended, being sec-  
3 tion 750.316, 750.317, 750.319, 750.321, 750.322, 750.323,  
4 750.327, 750.328, or 750.329 of the Michigan Compiled Laws.

5 (o) ~~Section~~ FORMER SECTION 333 of Act No. 328 of the  
6 Public Acts of 1931. ~~, as amended, being section 750.333 of the~~  
7 ~~Michigan Compiled Laws.~~

8 (p) Section 338, 338a, OR 338b ~~, or 341~~ of Act No. 328 of  
9 the Public Acts of 1931, as amended, being section 750.338,  
10 750.338a, OR 750.338b ~~, or 750.341~~ of the Michigan Compiled  
11 Laws, OR UNDER FORMER SECTION 341 OF ACT NO. 328 OF THE PUBLIC  
12 ACTS OF 1931.

13 (q) Section 349, 349a, or 350 of Act No. 328 of the Public  
14 Acts of 1931, as amended, being section 750.349, 750.349a, or  
15 750.350 of the Michigan Compiled Laws.

16 (r) Section 357 of Act No. 328 of the Public Acts of 1931,  
17 as amended, being section 750.357 of the Michigan Compiled Laws.

18 (s) Section 386 or 392 of Act No. 328 of the Public Acts of  
19 1931, as amended, being section 750.386 or 750.392 of the  
20 Michigan Compiled Laws.

21 (t) Section 397 or 397a of Act No. 328 of the Public Acts of  
22 1931, as amended, being section 750.397 or 750.397a of the  
23 Michigan Compiled Laws.

24 (u) Section 436 of Act No. 328 of the Public Acts of 1931,  
25 as amended, being section 750.436 of the Michigan Compiled Laws.

1 (v) Section 511 or 517 of Act No. 328 of the Public Acts of  
2 1931, as amended, being section 750.511 or 750.517 of the  
3 Michigan Compiled Laws.

4 (w) Section 520b, 520c, 520d, or 520g of Act No. 328 of the  
5 Public Acts of 1931, as amended, being section 750.520b,  
6 750.520c, 750.520d, or 750.520g of the Michigan Compiled Laws.

7 (x) Section 529, 530, or 531 of Act No. 328 of the Public  
8 Acts of 1931, as amended, being section 750.529, 750.530, or  
9 750.531 of the Michigan Compiled Laws.

10 (y) Section 544 ~~or 545a~~ of Act No. 328 of the Public Acts  
11 of 1931, as amended, being section 750.544 ~~or 750.545a~~ of the  
12 Michigan Compiled Laws, OR UNDER FORMER SECTION 545A OF ACT  
13 NO. 328 OF THE PUBLIC ACTS OF 1931.

14 (z) ~~Section~~ FORMER SECTION 2 of Act No. 38 of the Public  
15 Acts of 1950 Ex. Sess. ~~, as amended, being section 752.312 of~~  
16 ~~the Michigan Compiled Laws.~~

17 (aa) ~~Section~~ FORMER SECTION 6 of Act No. 117 of the Public  
18 Acts of 1952. ~~, as amended, being section 752.326 of the~~  
19 ~~Michigan Compiled Laws.~~

20 (bb) Section 1, 2, OR 3 ~~, or 4~~ of Act No. 302 of the  
21 Public Acts of 1968, as amended, being section 752.541, 752.542,  
22 OR 752.543 ~~, or 752.544~~ of the Michigan Compiled Laws.

23 (cc) Section 7401(2)(a), 7401(2)(b), 7402(2)(a), or  
24 7402(2)(b) of THE PUBLIC HEALTH CODE, Act No. 368 of the Public  
25 Acts of 1978, being section 333.7401 or 333.7402 of the Michigan  
26 Compiled Laws.

1           Sec. 34. (1) Except as provided in section 34a, a prisoner  
2 sentenced ON OR BEFORE THE EFFECTIVE DATE OF THE 1993 AMENDATORY  
3 ACT THAT AMENDED THIS SECTION to an indeterminate sentence and  
4 confined in a state correctional facility with a minimum in terms  
5 of years ~~shall be~~ IS subject to the jurisdiction of the parole  
6 board when the prisoner has served a period of time equal to the  
7 minimum sentence imposed by the court for the crime of which he  
8 or she was convicted, less good time and disciplinary credits, if  
9 applicable.

10           (2) EXCEPT AS PROVIDED IN SECTION 34A, A PRISONER SENTENCED  
11 AFTER THE EFFECTIVE DATE OF THE 1993 AMENDATORY ACT THAT AMENDED  
12 THIS SECTION TO AN INDETERMINATE SENTENCE AND CONFINED IN A STATE  
13 CORRECTIONAL FACILITY WITH A MINIMUM IN TERMS OF YEARS IS SUBJECT  
14 TO THE JURISDICTION OF THE PAROLE BOARD WHEN THE PRISONER HAS  
15 SERVED A PERIOD OF TIME EQUAL TO THE MINIMUM SENTENCE IMPOSED BY  
16 THE COURT FOR THE CRIME OF WHICH HE OR SHE WAS CONVICTED, PLUS  
17 ANY DISCIPLINARY TIME ACCUMULATED PURSUANT TO SECTION 34 OF ACT  
18 NO. 118 OF THE PUBLIC ACTS OF 1893, BEING SECTION 800.34 OF THE  
19 MICHIGAN COMPILED LAWS.

20           (3) ~~-(2)-~~ If a prisoner is sentenced ON OR BEFORE THE EFFEC-  
21 TIVE DATE OF THE 1993 AMENDATORY ACT THAT AMENDED THIS SECTION  
22 for consecutive terms, whether received at the same time or at  
23 any time during the life of the original sentence, the parole  
24 board ~~shall have~~ HAS jurisdiction over the prisoner for pur-  
25 poses of parole when the prisoner has served the total time of  
26 the added minimum terms, less the good time and disciplinary  
27 ~~credit~~ CREDITS allowed by statute. The maximum terms of the

1 sentences shall be added to compute the new maximum term under  
2 this subsection, and discharge shall be issued only after the  
3 total of the maximum sentences has been served less good time and  
4 disciplinary credits, unless the prisoner is paroled and dis-  
5 charged upon satisfactory completion of the parole.

6 (4) IF A PRISONER IS SENTENCED AFTER THE EFFECTIVE DATE OF  
7 THE 1993 AMENDATORY ACT THAT AMENDED THIS SECTION FOR CONSECUTIVE  
8 TERMS, WHETHER RECEIVED AT THE SAME TIME OR AT ANY TIME DURING  
9 THE LIFE OF THE ORIGINAL SENTENCE, THE PAROLE BOARD HAS JURISDIC-  
10 TION OVER THE PRISONER FOR PURPOSES OF PAROLE WHEN THE PRISONER  
11 HAS SERVED THE TOTAL TIME OF THE ADDED MINIMUM TERMS, PLUS ANY  
12 DISCIPLINARY TIME. THE MAXIMUM TERMS OF THE SENTENCES SHALL BE  
13 ADDED TO COMPUTE THE NEW MAXIMUM TERM UNDER THIS SUBSECTION, AND  
14 DISCHARGE SHALL BE ISSUED ONLY AFTER THE TOTAL OF THE MAXIMUM  
15 SENTENCES HAS BEEN SERVED, UNLESS THE PRISONER IS PAROLED AND  
16 DISCHARGED UPON SATISFACTORY COMPLETION OF THE PAROLE.

17 (5) ~~(3)~~ If a prisoner has 1 or more consecutive terms  
18 remaining to serve in addition to the term he or she is serving,  
19 the parole board may terminate the sentence the prisoner is pres-  
20 ently serving at any time after the minimum term of the sentence  
21 has been served, PLUS DISCIPLINARY TIME, IF APPLICABLE.

22 (6) ~~(4)~~ A prisoner under sentence for life or for a term  
23 of years, other than a prisoner sentenced for life for murder in  
24 the first degree or sentenced for life or for a minimum term of  
25 imprisonment for a major controlled substance offense, who has  
26 served 10 calendar years of the sentence in the case of a  
27 prisoner sentenced for a crime committed before October 1, 1992,

1 or who has served 15 calendar years of the sentence in the case  
2 of a prisoner sentenced for a crime committed on or after  
3 October 1, 1992, is subject to the jurisdiction of the parole  
4 board and may be released on parole by the parole board, subject  
5 to the following conditions:

6 (a) One member of the parole board shall interview the pris-  
7 oner at the conclusion of 10 calendar years of the sentence and  
8 every 5 years thereafter until such time as the prisoner is  
9 paroled, discharged, or deceased. The interview schedule pre-  
10 scribed in this subdivision applies to all prisoners to whom this  
11 subsection is applicable, whether sentenced before, on, or after  
12 the effective date of the 1992 amendatory act that amended this  
13 subdivision.

14 (b) A parole shall not be granted a prisoner so sentenced  
15 until after a public hearing held in the manner prescribed for  
16 pardons and commutations in sections ~~44(d) to (f)~~ 44(2)(F) TO  
17 (H) and 45. Notice of the public hearing shall be given to the  
18 sentencing judge, or the judge's successor in office, and parole  
19 shall not be granted if the sentencing judge, or the judge's suc-  
20 cessor in office, files written objections to the granting of the  
21 parole within 30 days of receipt of the notice of hearing. The  
22 written objections shall be made part of the prisoner's file.

23 (c) A parole granted under this subsection shall be for a  
24 period of not less than 4 years and subject to the usual rules  
25 pertaining to paroles granted by the parole board. A parole  
26 ordered under this subsection ~~shall~~ IS not ~~become~~ valid until  
27 the transcript of the record is filed with the attorney general

1 whose certification of receipt of the transcript shall be  
2 returnable to the office of the parole board within 5 days.  
3 Except for medical records protected under section 2157 of the  
4 revised judicature act of 1961, Act No. 236 of the Public Acts of  
5 1961, being section 600.2157 of the Michigan Compiled Laws, the  
6 file of a prisoner granted a parole under this subsection ~~shall~~  
7 ~~be~~ IS a public record.

8 (d) A parole shall not be granted under this subsection in  
9 the case of a prisoner who is otherwise prohibited by law from  
10 parole consideration. In such cases the interview procedures in  
11 section 44 shall be followed.

12 (7) ~~(5)~~ Except as provided in section 34a, a prisoner's  
13 release on parole ~~shall be~~ IS discretionary with the parole  
14 board. The action of the parole board in granting or denying a  
15 parole ~~shall be~~ IS appealable by the prisoner, the prosecutor  
16 of the county from which the prisoner was committed, or the  
17 victim of the crime for which the prisoner was convicted. The  
18 appeal shall be to the circuit court by leave of the court.

19 Sec. 34a. (1) A prisoner sentenced either before, on, or  
20 after the effective date of the amendatory act that added this  
21 section to an indeterminate term of imprisonment under the juris-  
22 diction of the department shall be considered by the department  
23 for placement in a special alternative incarceration unit estab-  
24 lished under section 3 of the special alternative incarceration  
25 act, Act No. 287 of the Public Acts of 1988, being section 798.13  
26 of the Michigan Compiled Laws, if the prisoner meets the  
27 eligibility requirements of subsections (2) and (3). For a

1 prisoner committed to the jurisdiction of the department on or  
2 after ~~the effective date of the amendatory act that added this~~  
3 ~~section~~ MARCH 19, 1992, the department shall determine before  
4 the prisoner leaves the reception center whether the prisoner is  
5 eligible for placement in a special alternative incarceration  
6 unit, although actual placement may take place at a later date.  
7 A determination of eligibility does not guarantee placement in a  
8 unit.

9 (2) To be eligible for placement in a special alternative  
10 incarceration unit, the prisoner shall meet all of the following  
11 requirements:

12 (a) The prisoner's minimum sentence does not exceed either  
13 of the following limits, as applicable:

14 (i) 24 months or less for a violation of section 110 of the  
15 Michigan penal code, Act No. 110 of the Public Acts of 1931,  
16 being section 750.110 of the Michigan Compiled Laws, if the vio-  
17 lation involved any occupied dwelling house, as that term is  
18 defined in that section.

19 (ii) 36 months or less for any other crime.

20 (b) The prisoner has never previously been placed in a spe-  
21 cial alternative incarceration unit as either a prisoner or a  
22 probationer, unless he or she was removed from a special alterna-  
23 tive incarceration unit for medical reasons as specified in  
24 subsection (6).

25 (c) The prisoner is physically able to participate in the  
26 program.

1 (d) The prisoner does not appear to have any mental handicap  
2 that would prevent participation in the program.

3 (e) The prisoner is serving his or her first prison  
4 sentence.

5 (f) At the time of sentencing, the judge did not prohibit  
6 participation in the program in the judgment of sentence.

7 (g) The prisoner is otherwise suitable for the program, as  
8 determined by the department.

9 (h) The prisoner is not serving a sentence for any of the  
10 following crimes:

11 (i) Section 11, 49, 80, 83, 89, 91, 157b, 158, 207, 260,  
12 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a, 350, 422,  
13 436, 511, 516, 517, 520b, 529, 531, or 544 of the Michigan penal  
14 code, Act No. 328 of the Public Acts of 1931, being  
15 sections 750.11, 750.49, 750.80, 750.83, 750.89, 750.91,  
16 750.157b, 750.158, 750.207, 750.260, 750.316, 750.317, 750.327,  
17 750.328, 750.335a, 750.338, 750.338a, 750.338b, 750.349,  
18 750.349a, 750.350, 750.422, 750.436, 750.511, 750.516, 750.517,  
19 750.520b, 750.529, 750.531, and 750.544 of the Michigan Compiled  
20 Laws.

21 (ii) A violation of section 145c, 520c, 520d, or 520g of Act  
22 No. 328 of the Public Acts of 1931, being sections 750.145c,  
23 750.520c, 750.520d, and 750.520g of the Michigan Compiled Laws.

24 (iii) A violation of section 72, 73, or 75 of Act No. 328 of  
25 the Public Acts of 1931, being sections 750.72, 750.73, and  
26 750.75 of the Michigan Compiled Laws.

1 (iv) A violation of section 86, 112, 136b, 193, 195, 213,  
2 319, 321, 329, or 397 of Act No. 328 of the Public Acts of 1931,  
3 being sections 750.86, 750.112, 750.136b, 750.193, 750.195,  
4 750.213, 750.319, 750.321, 750.329, and 750.397 of the Michigan  
5 Compiled Laws.

6 (v) A violation of section 2 of Act No. 302 of the Public  
7 Acts of 1968, being section 752.542 of the Michigan Compiled  
8 Laws.

9 (vi) An attempt to commit a crime described in subparagraphs  
10 (i) to (v).

11 (vii) A violation occurring on or after January 1, 1992, of  
12 section 625(4) or (5) of the Michigan vehicle code, Act No. 300  
13 of the Public Acts of 1949, being section 257.625 of the Michigan  
14 Compiled Laws.

15 (viii) A crime for which the prisoner was punished pursuant  
16 to section 10, 11, or 12 of chapter IX of the code of criminal  
17 procedure, Act No. 175 of the Public Acts of 1927, being sections  
18 769.10, 769.11, and 769.12 of the Michigan Compiled Laws.

19 (3) A prisoner who is serving a sentence for a violation of  
20 section 7401 or 7403 of the public health code, Act No. 368 of  
21 the Public Acts of 1978, being sections 333.7401 and 333.7403 of  
22 the Michigan Compiled Laws, and who has previously been convicted  
23 for a violation of section 7401 or 7403(2)(a), (b), or (e) of Act  
24 No. 368 of the Public Acts of 1978 ~~, being sections 333.7401 and~~  
25 ~~333.7403 of the Michigan Compiled Laws,~~ is not eligible for  
26 placement in a special alternative incarceration unit until after

1 he or she has served the equivalent of the mandatory minimum  
2 sentence prescribed by statute for that violation.

3       (4) If the sentencing judge prohibited a prisoner's partici-  
4 pation in the special alternative incarceration program in the  
5 judgment of sentence, that prisoner shall not be placed in a spe-  
6 cial alternative incarceration unit. If the sentencing judge  
7 permitted the prisoner's participation in the special alternative  
8 incarceration program in the judgment of sentence, that prisoner  
9 may be placed in a special alternative incarceration unit if the  
10 department determines that the prisoner also meets the require-  
11 ments of subsections (2) and (3). If the sentencing judge nei-  
12 ther prohibited nor permitted a prisoner's participation in the  
13 special alternative incarceration program in the judgment of sen-  
14 tence, and the department determines that the prisoner meets the  
15 eligibility requirements of subsections (2) and (3), the depart-  
16 ment shall notify the judge or the judge's successor, the prose-  
17 cuting attorney for the county in which the prisoner was sen-  
18 tenced, and any victim of the crime for which the prisoner was  
19 committed if the victim has submitted to the department a written  
20 request for any notification pursuant to section 19(1) of the  
21 crime victim's rights act, Act No. 87 of the Public Acts of 1985,  
22 being section 780.769 of the Michigan Compiled Laws, of the pro-  
23 posed placement of the prisoner in the special alternative incar-  
24 ceration unit not later than 30 days before placement is intended  
25 to occur. The department shall not place the prisoner in a spe-  
26 cial alternative incarceration unit unless the sentencing judge,  
27 or the judge's successor, notifies the department, in writing,

1 that he or she does not object to the proposed placement. In  
2 making the decision on whether or not to object, the judge, or  
3 judge's successor, shall review any impact statement submitted  
4 pursuant to section 14 of Act No. 87 of the Public Acts of 1985,  
5 being section 780.764 of the Michigan Compiled Laws, by the  
6 victim or victims of the crime of which the prisoner was  
7 convicted.

8 (5) Notwithstanding subsection (4), a prisoner shall not be  
9 placed in a special alternative incarceration unit unless the  
10 prisoner consents to that placement and agrees that the depart-  
11 ment may suspend or restrict privileges generally afforded other  
12 prisoners including, but not limited to, the areas of visitation,  
13 property, mail, publications, commissary, library, and telephone  
14 access. However, the department may not suspend or restrict the  
15 prisoner's access to the prisoner grievance system.

16 (6) A prisoner may be placed in a special alternative incar-  
17 ceration program for a period of not less than 90 days or more  
18 than 120 days. If, during that period, the prisoner misses more  
19 than 5 days of program participation due to medical excuse for  
20 illness or injury occurring after he or she was placed in the  
21 program, the period of placement shall be increased by the number  
22 of days missed, beginning with the sixth day of medical excuse,  
23 up to a maximum of 20 days. However, the total number of days a  
24 prisoner may be placed in this program, including days missed due  
25 to medical excuse, shall not exceed 120 days. A medical excuse  
26 shall be verified by a physician's statement. A prisoner who is  
27 medically unable to participate in the program for more than 25

1 days shall be returned to a state correctional facility but may  
2 be reassigned to the program if the prisoner meets the eligibil-  
3 ity requirements of subsections (2) and (3).

4 (7) Upon certification of completion of the special alterna-  
5 tive incarceration program, the prisoner shall be placed on  
6 parole. A prisoner paroled under this section shall have condi-  
7 tions of parole as determined appropriate by the parole board and  
8 shall be placed on parole for not less than 18 months, or the  
9 balance of the prisoner's minimum sentence, whichever is greater,  
10 with at least the first 120 days under intensive supervision.

11 (8) The parole board may suspend or revoke parole for any  
12 prisoner paroled under this section subject to sections 39a and  
13 40a. ~~IF~~ FOR A PRISONER SENTENCED ON OR BEFORE THE EFFECTIVE  
14 DATE OF THE 1993 AMENDATORY ACT THAT AMENDED THIS SUBSECTION, IF  
15 parole is revoked before the expiration of the prisoner's minimum  
16 sentence, less disciplinary credits, the parole board shall  
17 forfeit, ~~all disciplinary credits granted~~ pursuant to  
18 section 33(13) of Act No. 118 of the Public Acts of 1893, being  
19 section 800.33 of the Michigan Compiled Laws, ALL DISCIPLINARY  
20 CREDITS that were accumulated during special alternative incar-  
21 ceration, and the prisoner shall be considered for parole pursu-  
22 ant to section 35.

23 (9) ~~One year after the effective date of the 1992 amenda-~~  
24 ~~tory act that added this section~~ ON MARCH 19, 1993, and annually  
25 after that time, the department shall report to the legislature  
26 the impact of the operation of this section, including a report  
27 concerning recidivism.

1 (10) This section is repealed upon the expiration of 3 years  
2 after the date of its enactment.

3 Sec. 35. (1) The release of a prisoner on parole shall be  
4 granted solely upon the initiative of the parole board. The  
5 parole board may grant a parole without interviewing the  
6 prisoner. However, beginning on the date on which the adminis-  
7 trative rules prescribing parole guidelines pursuant to  
8 section 33e(5) take effect, the parole board may grant a parole  
9 without interviewing the prisoner only if, after evaluating the  
10 prisoner according to the parole guidelines, the parole board  
11 determines that the prisoner has a high probability of being  
12 paroled and the parole board therefore intends to parole the  
13 prisoner. Except as provided in subsection (2), a prisoner shall  
14 not be denied parole without an interview before 1 member of the  
15 parole board. The interview shall be conducted at least 1 month  
16 before the expiration of the prisoner's minimum sentence less  
17 applicable good time and disciplinary credits FOR A PRISONER ELI-  
18 GIBLE FOR GOOD TIME AND DISCIPLINARY CREDITS, OR AT LEAST 1 MONTH  
19 BEFORE THE EXPIRATION OF THE PRISONER'S MINIMUM SENTENCE PLUS  
20 DISCIPLINARY TIME FOR A PRISONER SUBJECT TO DISCIPLINARY TIME.  
21 THE INTERVIEW SHALL BE CONDUCTED IN THE COUNTY FROM WHICH THE  
22 PRISONER WAS COMMITTED. THE PROSECUTOR FOR THE COUNTY FROM WHICH  
23 THE PRISONER WAS COMMITTED MAY ADDRESS OR SUBMIT A WRITTEN STATE-  
24 MENT FOR CONSIDERATION OF THE PAROLE BOARD. The parole board  
25 shall consider any state made to the parole board by a crime  
26 victim under the crime victim's rights act, Act No. 87 of the  
27 Public Acts of 1985, being sections 780.751 to 780.834 of the

1 Michigan Compiled Laws, or under any other provision of law. The  
2 parole board shall not consider any of the following factors in  
3 making a parole determination:

4 (a) A juvenile record that a court has ordered the depart-  
5 ment to expunge.

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

12 (2) Beginning on the date on which the administrative rules  
13 prescribing the parole guidelines take effect pursuant to  
14 section 33e(5), if, after evaluating a prisoner according to the  
15 parole guidelines, the parole board determines that the prisoner  
16 has a low probability of being paroled and the parole board  
17 therefore does not intend to parole the prisoner, the parole  
18 board shall not be required to interview the prisoner before  
19 denying parole to the prisoner.

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

22 (a) A prisoner's marital history.

23 (b) Prior arrests not resulting in conviction or adjudica-  
24 tion of delinquency.

25 (4) If an interview is to be conducted, the prisoner shall  
26 be sent a notice of intent to conduct an interview at least 1  
27 month before the date of the interview. The notice shall state

1 the specific issues and concerns that shall be discussed at the  
2 interview and that may be a basis for a denial of parole. A  
3 denial of parole shall not be based on reasons other than those  
4 stated in the notice of intent to conduct an interview except for  
5 good cause stated to the prisoner at or before the interview and  
6 in the written explanation required by subsection ~~(12)~~ (13).  
7 This subsection does not apply until April 1, 1983.

8 (5) BEGINNING ON THE EFFECTIVE DATE OF THE 1993 AMENDATORY  
9 ACT THAT AMENDED THIS SECTION, A COPY OF THE NOTICE OF INTENT TO  
10 CONDUCT AN INTERVIEW, AS DESCRIBED IN SUBSECTION (4), SHALL BE  
11 SENT TO THE PROSECUTOR AND THE SHERIFF FOR THE COUNTY FROM WHICH  
12 THE PRISONER WAS COMMITTED.

13 (6) ~~(5)~~ Except for good cause, the parole board member  
14 conducting the interview shall not have cast a vote for or  
15 against the prisoner's release before conducting the current  
16 interview. Before the interview, the parole board member who is  
17 to conduct the interview shall review pertinent information rela-  
18 tive to the notice of intent to conduct an interview.

19 (7) ~~(6)~~ A prisoner may waive the right to an interview by  
20 1 member of the parole board. The waiver of the right to be  
21 interviewed shall be given not more than 30 days after the notice  
22 of intent to conduct an interview is issued and shall be made in  
23 writing. During the interview held pursuant to a notice of  
24 intent to conduct an interview, the prisoner may be represented  
25 by an individual of his or her choice. The representative shall  
26 not be another prisoner or an attorney. A prisoner is not  
27 entitled to appointed counsel at public expense. The prisoner or

1 representative may present relevant evidence in support of  
2 release. This subsection does not apply until April 1, 1983.

3       (8) ~~(7)~~ At least 90 days before the expiration of the  
4 prisoner's minimum sentence LESS APPLICABLE GOOD TIME AND DISCI-  
5 PLINARY CREDITS FOR A PRISONER ELIGIBLE FOR GOOD TIME OR DISCI-  
6 PLINARY CREDITS, OR AT LEAST 90 DAYS BEFORE THE EXPIRATION OF THE  
7 PRISONER'S MINIMUM SENTENCE PLUS DISCIPLINARY TIME FOR A PRISONER  
8 SUBJECT TO DISCIPLINARY TIME, or the expiration of a 12-month  
9 continuance FOR ANY PRISONER, a parole eligibility report shall  
10 be prepared by appropriate institutional staff. The parole eli-  
11 gibility report shall be considered pertinent information for  
12 purposes of subsection ~~(5)~~ (6). The report shall include all  
13 of the following:

14       (a) A statement of all major misconduct charges of which the  
15 prisoner was found guilty and the punishment served for the  
16 misconduct.

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

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

21       (d) Whether the prisoner fully cooperated with the state by  
22 providing complete financial information as required under sec-  
23 tion 3a of the state correctional facility reimbursement act, Act  
24 No. 253 of the Public Acts of 1935, being section 800.403a of the  
25 Michigan Compiled Laws.

26       (9) ~~(8)~~ The preparer of the report shall not include a  
27 recommendation as to release on parole.

1       (10) ~~-(9)-~~ Psychological evaluations performed at the  
2 request of the parole board to assist it in reaching a decision  
3 on the release of a prisoner may be performed by the same person  
4 who provided the prisoner with therapeutic treatment, unless a  
5 different person is requested by the prisoner or parole board.

6       (11) ~~-(10)-~~ The parole board may grant a medical parole for  
7 a prisoner determined to be physically or mentally  
8 incapacitated. A decision to grant a medical parole shall be  
9 initiated upon the recommendation of the bureau of health care  
10 services and shall be reached only after a review of the medical,  
11 institutional, and criminal records of the prisoner.

12       (12) ~~-(11)-~~ The department shall submit a petition to the  
13 probate court under section 434 of the mental health code, Act  
14 No. 258 of the Public Acts of 1974, being section 330.1434 of the  
15 Michigan Compiled Laws, for any prisoner being paroled or being  
16 released after serving his or her maximum sentence whom the  
17 department considers to be a person requiring treatment. The  
18 parole board shall require mental health treatment as a special  
19 condition of parole for any parolee whom the department has  
20 determined to be a person requiring treatment whether or not the  
21 petition filed for that prisoner is granted by the probate  
22 court. As used in this subsection, "person requiring treatment"  
23 means that term as defined in section 401 of Act No. 258 of the  
24 Public Acts of 1974, being section 330.1401 of the Michigan  
25 Compiled Laws.

26       (13) ~~-(12)-~~ When the parole board makes a final  
27 determination not to release a prisoner, the prisoner shall be

1 provided with a written explanation of the reason for denial and,  
2 if appropriate, specific recommendations for corrective action  
3 the prisoner may take to facilitate release.

4 (14) ~~(13)~~ This section does not apply to the placement on  
5 parole of a person in conjunction with special alternative incar-  
6 ceration under section 34a(7).

7 Sec. 37. (1) When a prisoner is released upon parole, the  
8 department shall provide the prisoner with clothing and a non-  
9 transferable ticket to the place in which the paroled prisoner is  
10 to reside. At the discretion of the deputy director in charge of  
11 the bureau of field services, the paroled prisoner may be  
12 advanced the expense of the transportation to the place of resi-  
13 dence and a sum of money necessary for reasonable maintenance and  
14 subsistence for a 2-week period, as determined by the deputy  
15 director. A sum of money given under this section shall be  
16 repaid to the state by the paroled prisoner within 180 days after  
17 the money is received by the paroled prisoner.

18 (2) If a prisoner who is discharged ~~on his or her maximum~~  
19 ~~sentence less good time~~ WITHOUT BEING PAROLED has less than  
20 \$75.00 in his or her immediate possession, has no visible means  
21 of support, and has conserved personal funds in a reasonable  
22 manner, the department shall furnish to that prisoner the  
23 following:

24 (a) Clothing ~~which~~ THAT is appropriate for the season.

25 (b) A sum of \$75.00 including that amount already in the  
26 prisoner's possession.

1 (c) Transportation to a place in this state where the  
2 prisoner will reside or work or to the place where the prisoner  
3 was convicted or sentenced.

4 (3) When providing for transportation, the department  
5 shall:

6 (a) Use the most economical available public  
7 transportation.

8 (b) Arrange for and purchase the prisoner's transportation  
9 ticket.

10 (c) Assume responsibility for delivering that prisoner to  
11 the site of departure and confirming the prisoner's departure  
12 from the site.

13 (4) The cost of implementing this section shall be paid out  
14 of the general fund of the state.

15 Sec. 38. (1) Each prisoner on parole shall remain in the  
16 legal custody and under the control of the ~~commission~~  
17 DEPARTMENT. The deputy director of the bureau of field services,  
18 upon a showing of probable violation of parole, may issue a war-  
19 rant for the return of any paroled prisoner. Pending a hearing  
20 upon any charge of parole violation, the prisoner shall remain  
21 incarcerated.

22 (2) A prisoner violating the provisions of his or her parole  
23 and for whose return a warrant has been issued by the deputy  
24 director of the bureau of field services ~~shall be~~ IS treated as  
25 an escaped prisoner and ~~shall be~~ IS liable, when arrested, to  
26 serve out the unexpired portion of his or her maximum  
27 imprisonment. The time from the date of the declared violation

1 to the date of the prisoner's availability for return to an  
2 institution shall not be counted as time served. The warrant of  
3 the deputy director of the bureau of field services ~~shall be~~ IS  
4 a sufficient warrant authorizing all officers named in the war-  
5 rant to detain the paroled prisoner in any jail of the state  
6 until his or her return to the state penal institution.

7 (3) If a paroled prisoner fails to return to prison when  
8 required by the deputy director of the bureau of field services  
9 or if the paroled prisoner escapes while on parole, the paroled  
10 prisoner shall be treated in all respects as if he or she had  
11 escaped from prison and ~~shall be~~ IS subject to be retaken as  
12 provided by the laws of this state.

13 (4) The parole board, in its discretion, may cause the for-  
14 feiture of all good time to the date of the declared violation.

15 (5) A prisoner committing a crime while at large on parole  
16 and being convicted and sentenced for the crime shall be treated  
17 as to the last incurred term as provided under section 34.

18 (6) A parole shall be construed as a permit to the prisoner  
19 to leave the prison, and not as a release. While at large, the  
20 paroled prisoner shall be considered to be serving out the sen-  
21 tence imposed by the court and, IF HE OR SHE WAS SENTENCED ON OR  
22 BEFORE THE EFFECTIVE DATE OF THE 1993 AMENDATORY ACT THAT AMENDED  
23 THIS SECTION, shall be entitled to good time the same as if con-  
24 fined in ~~prison~~ A STATE CORRECTIONAL FACILITY.

25 Sec. 41. When the parole board has determined the matter,  
26 it shall enter an order rescinding ~~such~~ parole, or reinstating  
27 the original order of parole or enter such other order as it may

1 see fit. IF THE PAROLE BOARD RESCINDS AN ORDER OF PAROLE, THE  
2 PRISONER SHALL BE RETURNED TO A STATE CORRECTIONAL FACILITY FOR  
3 THE DURATION OF THE PRISONER'S MAXIMUM TERM OF IMPRISONMENT AND  
4 IS NOT ELIGIBLE AGAIN FOR PAROLE DURING THE SERVING OF THAT MAXI-  
5 MUM TERM.

6 Sec. 51. (1) There is created within the department a hear-  
7 ings division. The division ~~shall be~~ IS under the direction  
8 and supervision of the hearings administrator who is appointed by  
9 the director of the department.

10 (2) The hearings division ~~shall be~~ IS responsible for each  
11 prisoner hearing ~~which~~ the department conducts ~~which~~ THAT may  
12 result in the loss by a prisoner of a right, including but not  
13 limited to any 1 or more of the following matters:

14 (a) An infraction of a prison rule ~~which~~ THAT may result  
15 in punitive segregation, loss of disciplinary credits, or the  
16 loss of good time.

17 (b) A security classification ~~which~~ THAT may result in the  
18 placement of a prisoner in administrative segregation.

19 (C) AN INFRACTION OF A PRISON RULE THAT MAY RESULT IN THE  
20 ACCUMULATION OF DISCIPLINARY TIME.

21 (D) ~~(e)~~ A special designation ~~which~~ THAT permanently  
22 excludes, by department policy or rule, a person under the juris-  
23 diction of the department from community placement.

24 (E) ~~(d)~~ Visitor restrictions.

25 (F) ~~(e)~~ High or very high assaultive risk  
26 classifications.

