

# SENATE BILL No. 1565

November 5, 2008, Introduced by Senators KUIPERS and KAHN and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled  
 "Corrections code of 1953,"  
 by amending section 35 (MCL 791.235), as amended by 1998 PA 315.

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

1           Sec. 35. (1) The release of a prisoner on parole shall be  
 2 granted solely upon the initiative of the parole board. The parole  
 3 board may grant a parole without interviewing the prisoner.  
 4 However, beginning ~~on the date on which the administrative rules~~  
 5 ~~prescribing parole guidelines pursuant to section 33e(5) take~~  
 6 ~~effect~~ **JANUARY 26, 1996**, the parole board may grant a parole  
 7 without interviewing the prisoner only if, after evaluating the  
 8 prisoner according to the parole guidelines, the parole board  
 9 determines that the prisoner has a high probability of being

1 paroled and the parole board therefore intends to parole the  
2 prisoner. Except as provided in subsection (2), a prisoner shall  
3 not be denied parole without an interview before 1 member of the  
4 parole board. The interview shall be conducted at least 1 month  
5 before the expiration of the prisoner's minimum sentence less  
6 applicable good time and disciplinary credits for a prisoner  
7 eligible for good time and disciplinary credits, or at least 1  
8 month before the expiration of the prisoner's minimum sentence for  
9 a prisoner subject to disciplinary time. The parole board shall  
10 consider any statement made to the parole board by a crime victim  
11 under the crime victim's rights act, 1985 PA 87, MCL 780.751 to  
12 780.834, or under any other provision of law. The parole board  
13 shall not consider any of the following factors in making a parole  
14 determination:

15 (a) A juvenile record that a court has ordered the department  
16 to expunge.

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

23 (2) Beginning ~~on the date on which the administrative rules~~  
24 ~~prescribing the parole guidelines take effect pursuant to section~~  
25 ~~33e(5) JANUARY 26, 1996~~, if, after evaluating a prisoner according  
26 to the parole guidelines, the parole board determines that the  
27 prisoner has a low probability of being paroled and the parole

1 board therefore does not intend to parole the prisoner, the parole  
2 board ~~shall~~**IS** not ~~be~~ required to interview the prisoner before  
3 denying parole to the prisoner.

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

6 (a) A prisoner's marital history.

7 (b) Prior arrests not resulting in conviction or adjudication  
8 of delinquency.

9 (4) If an interview is to be conducted, the prisoner shall be  
10 sent a notice of intent to conduct an interview at least 1 month  
11 before the date of the interview. The notice shall state the  
12 specific issues and concerns that shall be discussed at the  
13 interview and that may be a basis for a denial of parole. A denial  
14 of parole shall not be based on reasons other than those stated in  
15 the notice of intent to conduct an interview except for good cause  
16 stated to the prisoner at or before the interview and in the  
17 written explanation required by subsection ~~(12)~~**(13)**. This  
18 subsection does not apply until April 1, 1983.

19 (5) Except for good cause, the parole board member conducting  
20 the interview shall not have cast a vote for or against the  
21 prisoner's release before conducting the current interview. Before  
22 the interview, the parole board member who is to conduct the  
23 interview shall review pertinent information relative to the notice  
24 of intent to conduct an interview.

25 (6) A prisoner may waive the right to an interview by 1 member  
26 of the parole board. The waiver of the right to be interviewed  
27 shall be given not more than 30 days after the notice of intent to

1 conduct an interview is issued and shall be made in writing. During  
2 the interview held pursuant to a notice of intent to conduct an  
3 interview, the prisoner may be represented by an individual of his  
4 or her choice. The representative shall not be another prisoner or  
5 an attorney. A prisoner is not entitled to appointed counsel at  
6 public expense. The prisoner or representative may present relevant  
7 evidence in support of release. This subsection does not apply  
8 until April 1, 1983.

9 (7) At least 90 days before the expiration of the prisoner's  
10 minimum sentence less applicable good time and disciplinary credits  
11 for a prisoner eligible for good time or disciplinary credits, or  
12 at least 90 days before the expiration of the prisoner's minimum  
13 sentence for a prisoner subject to disciplinary time, or the  
14 expiration of a 12-month continuance for any prisoner, a parole  
15 eligibility report shall be prepared by appropriate institutional  
16 staff. The parole eligibility report shall be considered pertinent  
17 information for purposes of subsection (5). The report shall  
18 include all of the following:

19 (a) A statement of all major misconduct charges of which the  
20 prisoner was found guilty and the punishment served for the  
21 misconduct.

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

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

25 (d) Whether the prisoner fully cooperated with the state by  
26 providing complete financial information as required under section  
27 3a of the state correctional facility reimbursement act, 1935 PA

1 253, MCL 800.403a.

2 (e) For a prisoner subject to disciplinary time, a statement  
3 of all disciplinary time submitted for the parole board's  
4 consideration pursuant to section 34 of 1893 PA 118, MCL 800.34.

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

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

12 (10) The parole board may grant a medical parole for a  
13 prisoner determined to be physically or mentally incapacitated. A  
14 decision to grant a medical parole shall be initiated upon the  
15 recommendation of the bureau of health care services and shall be  
16 reached only after a review of the medical, institutional, and  
17 criminal records of the prisoner.

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

1 health code, 1974 PA 258, MCL 330.1401.

2 (12) IN ADDITION TO ANY OTHER REQUIREMENTS UNDER THIS ACT  
3 PERTAINING TO THE PLACEMENT OF A PRISONER ON PAROLE, THE PAROLE  
4 BOARD SHALL REQUIRE THAT A PRISONER MEET ALL OF THE FOLLOWING  
5 REQUIREMENTS BEFORE PLACING THAT PRISONER ON PAROLE:

6 (A) THE PRISONER SHALL SHOW THAT HE OR SHE HAS NOT USED  
7 CONTROLLED SUBSTANCES ILLEGALLY OR ABUSED ALCOHOL WHILE  
8 INCARCERATED DURING THE PRECEDING 3 YEARS.

9 (B) IF THE PRISONER HAS A HISTORY OF DRUG OR ALCOHOL ABUSE,  
10 THE PRISONER SHALL HAVE A SPECIFIC, DETAILED PLAN FOR DRUG OR  
11 ALCOHOL TREATMENT WHILE ON PAROLE.

12 (C) IF MENTAL HEALTH TREATMENT WOULD BE APPROPRIATE FOR THE  
13 PRISONER, THE PRISONER SHALL HAVE A SPECIFIC, DETAILED PLAN FOR  
14 RECEIVING MENTAL HEALTH TREATMENT WHILE ON PAROLE.

15 (D) THE PRISONER SHALL HAVE A SPECIFIC, DETAILED PLAN FOR  
16 EMPLOYMENT UPON RELEASE ON PAROLE AND SHALL SHOW THAT HE OR SHE HAS  
17 THE JOB SKILLS APPROPRIATE FOR THAT EMPLOYMENT.

18 (E) THE PRISONER SHALL SHOW THAT HE OR SHE WILL BE ASSISTED IN  
19 REENTERING THE COMMUNITY IN WHICH HE OR SHE WILL RESIDE BY  
20 INDIVIDUALS WHO LIVE IN THAT COMMUNITY, SUCH AS FAMILY MEMBERS,  
21 CLERGY, AND COUNSELORS.

22 (F) THE PRISONER SHALL HAVE OBTAINED A VALID BIRTH  
23 CERTIFICATE.

24 (13) ~~(12)~~—When the parole board makes a final determination  
25 not to release a prisoner, the prisoner shall be provided with a  
26 written explanation of the reason for denial and, if appropriate,  
27 specific recommendations for corrective action the prisoner may

1 take to facilitate release.

2 (14) ~~(13)~~—This section does not apply to the placement on  
3 parole of a person in conjunction with special alternative  
4 incarceration under section 34a(7).