

SUBSTITUTE FOR
HOUSE BILL NO. 4138

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 11a, 20g, 33, 33e, and 35 (MCL 791.211a,
791.220g, 791.233, 791.233e, and 791.235), section 11a as amended
by 1998 PA 204, section 20g as amended by 2000 PA 211, section 33
as amended by 1998 PA 320, section 33e as added by 1992 PA 181, and
section 35 as amended by 2012 PA 24, and by adding section 1b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1B. AS USED IN THIS ACT:

2 (A) "BOARD" OR "PAROLE BOARD" MEANS THE PAROLE BOARD
3 ESTABLISHED IN SECTION 31A.

4 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF CORRECTIONS.

5 Sec. 11a. (1) The director of ~~corrections~~ **THE DEPARTMENT** may
6 enter into contracts on behalf of this state as the director

1 considers appropriate to implement the participation of this state
2 in the interstate corrections compact ~~pursuant to article III of~~
3 **ENTERED INTO UNDER 1994 PA 92, MCL 3.981 TO 3.984, UNDER SECTION 3**
4 **OF** the interstate corrections compact, **1994 PA 92, MCL 3.983**. The
5 contracts may authorize confinement of prisoners in, or transfer of
6 prisoners from, correctional facilities under the jurisdiction of
7 the department of corrections. A contract shall not authorize the
8 confinement of a prisoner who is in the custody of the department
9 in an institution of a state other than a state that is a party to
10 the interstate corrections compact. When transferring prisoners to
11 institutions of other states under this section, the director shall
12 endeavor to ensure that the transfers do not disproportionately
13 affect groups of prisoners according to race, religion, color,
14 creed, or national origin.

15 (2) The director of ~~corrections~~ **THE DEPARTMENT** shall first
16 determine, on the basis of an inspection made by his or her
17 direction, that an institution of another state is a suitable place
18 for confinement of prisoners committed to his or her custody before
19 entering into a contract permitting that confinement, and shall, at
20 least annually, redetermine the suitability of that confinement. In
21 determining the suitability of an institution of another state, the
22 director shall determine that the institution maintains standards
23 of care and discipline not incompatible with those of this state
24 and that all inmates confined in that institution are treated
25 equitably, regardless of race, religion, color, creed, or national
26 origin.

27 (3) In considering transfers of prisoners out-of-state

1 ~~pursuant to~~ **UNDER** the interstate corrections compact ~~due to~~ **ENTERED**
2 **INTO UNDER 1994 PA 92, MCL 3.981 TO 3.984, BECAUSE OF** bed space
3 needs, the department shall do all of the following:

4 (a) Consider first prisoners who volunteer to transfer ~~as long~~
5 ~~as~~ **IF** they meet the eligibility criteria for ~~such~~ **THE** transfer.

6 (b) Provide law library materials including Michigan Compiled
7 Laws, Michigan state and federal cases, and U.S. sixth circuit
8 court **OF APPEALS** cases.

9 (c) Not transfer a prisoner who has a significant medical or
10 mental health need.

11 (d) Use objective criteria in determining which prisoners to
12 transfer.

13 (4) Unless a prisoner consents in writing, a prisoner
14 transferred under the interstate corrections compact ~~due to~~ **BECAUSE**
15 **OF** bed space needs shall not be confined in another state for more
16 than 1 year.

17 (5) A prisoner who is transferred to an institution of another
18 state under this section shall receive all of the following while
19 in the receiving state:

20 (a) Mail services and access to the court.

21 (b) Visiting and telephone privileges.

22 (c) Occupational and vocational programs such as GED-ABE and
23 appropriate vocational programs for his or her level of custody.

24 (d) Programs such as substance ~~abuse~~ **USE** programs, sex
25 offender programs, and life skills development.

26 **(E) HIGH SCHOOL EQUIVALENCY TRAINING AND CERTIFICATION.**

27 **(F)** ~~(e)~~ Routine and emergency health care, dental care, and

1 mental health services.

2 ~~(6) One year after April 13, 1994 and annually after that~~
3 ~~date,~~ **BY APRIL 13 OF EACH YEAR,** the department shall report all of
4 the following to the senate and house committees responsible for
5 legislation concerning corrections and to the appropriations
6 subcommittees on corrections:

7 (a) The number of prisoners transferred to or from
8 correctional facilities in this state ~~pursuant to~~ **UNDER** the
9 interstate corrections compact **ENTERED INTO UNDER 1994 PA 92, MCL**
10 **3.981 TO 3.984.**

11 (b) The cost to the state of the transfers described in
12 subdivision (a).

13 (c) The reasons for the transfers described in subdivision
14 (a).

15 Sec. 20g. (1) The department may establish a youth
16 correctional facility ~~which~~ **THAT** shall house only prisoners
17 committed to the jurisdiction of the department who are 19 years of
18 age or less. If the department establishes or contracts with a
19 private vendor for the operation of a youth correctional facility,
20 following intake processing in a department operated facility, the
21 department shall house all male prisoners who are 16 years of age
22 or less at the youth correctional facility unless the department
23 determines that the prisoner should be housed at a different
24 facility for reasons of security, safety, or because of the
25 prisoner's specialized physical or mental health care needs.

26 (2) Except as provided in subsection (3), a prisoner who is 16
27 years of age or less and housed at a youth correctional facility

1 **ESTABLISHED UNDER SUBSECTION (1)** shall only be placed in a general
2 population housing unit with prisoners who are 16 years of age or
3 less.

4 (3) A prisoner who becomes 17 years of age while being housed
5 at a youth correctional facility **ESTABLISHED UNDER SUBSECTION (1)**
6 and who has a satisfactory prison record may remain in a general
7 population housing unit for no more than 1 year with prisoners who
8 are 16 years of age or less.

9 (4) Except as provided in subsection (3), a prisoner who is 16
10 years of age or less and housed at a youth correctional facility
11 **ESTABLISHED UNDER SUBSECTION (1)** shall not ~~be allowed to be~~ in the
12 proximity of a prisoner who is 17 years of age or more without the
13 presence and direct supervision of custody personnel in the
14 immediate vicinity.

15 (5) The department may establish and operate the youth
16 correctional facility **UNDER SUBSECTION (1)** or may contract on
17 behalf of the state with a private vendor for the construction or
18 operation, or both, of the youth correctional facility. If the
19 department contracts with a private vendor to construct,
20 rehabilitate, develop, renovate, or operate any existing or
21 anticipated facility ~~pursuant to~~ **UNDER** this section, the department
22 shall require a written certification from the private vendor
23 regarding all of the following:

24 (a) If practicable to efficiently and effectively complete the
25 project, the private vendor shall follow a competitive bid process
26 for the construction, rehabilitation, development, or renovation of
27 the facility, and this process shall be open to all Michigan

1 residents and firms. The private vendor shall not discriminate
2 against any contractor on the basis of its affiliation or
3 nonaffiliation with any collective bargaining organization.

4 (b) The private vendor shall make a good faith effort to
5 employ, if qualified, Michigan residents at the facility.

6 (c) The private vendor shall make a good faith effort to
7 employ or contract with Michigan residents and firms to construct,
8 rehabilitate, develop, or renovate the facility.

9 (6) If the department contracts with a private vendor for the
10 operation of the youth correctional facility **UNDER SUBSECTION (5)**,
11 the department shall require by contract that the personnel
12 employed by the private vendor in the operation of the facility be
13 certified as correctional officers to the same extent as would be
14 required if those personnel were employed in a correctional
15 facility operated by the department. The department ~~also~~ shall **ALSO**
16 require by contract that the private vendor meet requirements
17 specified by the department regarding security, protection of the
18 public, inspections by the department, programming, liability and
19 insurance, conditions of confinement, educational services required
20 under subsection (11), and any other issues the department
21 considers necessary for the operation of the youth correctional
22 facility. The department shall also require that the contract
23 include provisions to protect the public's interest if the private
24 vendor defaults on the contract. Before finalizing a contract with
25 a private vendor for the construction or operation of the youth
26 correctional facility **UNDER SUBSECTION (5)**, the department shall
27 submit the proposed contract to the standing committees of the

1 senate and the house of representatives having jurisdiction of
2 corrections issues, the corrections subcommittees of the standing
3 committees on appropriations of the senate and the house of
4 representatives, and, with regard to proposed construction
5 contracts, the joint committee on capital outlay. A contract
6 between the department and a private vendor for the construction or
7 operation of the youth correctional facility ~~shall be~~ **IS** contingent
8 upon appropriation of the required funding. If the department
9 contracts with a private vendor under this section, the selection
10 of that private vendor shall be by open, competitive bid.

11 (7) The department shall not site a youth correctional
12 facility under this section in a city, village, or township unless
13 the local legislative body of that city, village, or township
14 adopts a resolution approving the location.

15 (8) A private vendor operating a youth correctional facility
16 under a contract under this section shall not do any of the
17 following, unless directed to do so by the department policy:

18 (a) Calculate inmate release and parole eligibility dates.

19 (b) Award good time or disciplinary credits, or impose
20 disciplinary time.

21 (c) Approve inmates for extensions of limits of confinement.

22 (9) The youth correctional facility shall be open to visits
23 during all business hours, and during nonbusiness hours unless an
24 emergency prevents it, by any elected state senator or state
25 representative.

26 (10) Once each year, the department shall report on the
27 operation of the facility. ~~Copies of~~ **THE DEPARTMENT SHALL SUBMIT**

1 the report ~~shall be submitted~~ to the chairpersons of the house and
2 senate committees responsible for legislation on corrections or
3 judicial issues, and to the clerk of the house of representatives
4 and the secretary of the senate.

5 (11) Regardless of whether the department itself operates the
6 youth correctional facility **ESTABLISHED UNDER SUBSECTION (1)** or
7 contracts with a private vendor to operate the youth correctional
8 facility **UNDER SUBSECTION (5)**, all of the following educational
9 services shall be provided for juvenile prisoners housed at the
10 facility who have not earned a high school diploma or received a
11 general education certificate (GED):

12 (a) The department or private vendor shall require that a
13 prisoner whose academic achievement level is not sufficient to
14 allow the prisoner to participate effectively in a program leading
15 to the attainment of a ~~GED certificate~~ ~~participate in classes that~~
16 ~~will prepare him or her to participate effectively in the GED~~
17 ~~program,~~ **HIGH SCHOOL EQUIVALENCY CERTIFICATION**, and shall provide
18 those classes in the facility.

19 (b) The department or private vendor shall require that a
20 prisoner who successfully completes classes described in
21 subdivision (a), or whose academic achievement level is otherwise
22 sufficient, participate in classes leading to the attainment of a
23 ~~GED certificate,~~ **HIGH SCHOOL EQUIVALENCY CERTIFICATION**, and shall
24 provide those classes.

25 (12) Neither the department nor the private vendor shall seek
26 to have the youth correctional facility authorized as a public
27 school academy under the revised school code, 1976 PA 451, MCL

1 380.1 to 380.1852.

2 (13) A private vendor that operates the youth correctional
3 facility under a contract with the department shall provide written
4 notice of its intention to discontinue its operation of the
5 facility. This subsection does not authorize or limit liability for
6 a breach or default of contract. If the reason for the
7 discontinuance is that the private vendor intends not to renew the
8 contract, the notice shall be delivered to the director of the
9 department at least 1 year before the contract expiration date. If
10 the discontinuance is for any other reason, the notice shall be
11 delivered to the director of the department at least 6 months
12 before the date ~~on which~~ **THAT** the private vendor will discontinue
13 its operation of the facility. This subsection does not authorize
14 or limit liability for a breach or default of contract.

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

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

22 (b) Except as provided in section 34a, a parole shall not be
23 granted to a prisoner other than a prisoner subject to disciplinary
24 time until the prisoner has served the minimum term imposed by the
25 court less allowances for good time or special good time to which
26 the prisoner may be entitled by statute, except that a prisoner
27 other than a prisoner subject to disciplinary time is eligible for

1 parole before the expiration of his or her minimum term of
2 imprisonment ~~whenever~~ **IF** the sentencing judge, or the judge's
3 successor in office, gives written approval of the parole of the
4 prisoner before the expiration of the minimum term of imprisonment.

5 (c) Except as provided in section 34a, and notwithstanding ~~the~~
6 ~~provisions of~~ subdivision (b), a parole shall not be granted to a
7 prisoner other than a prisoner subject to disciplinary time
8 sentenced for the commission of a crime described in section 33b(a)
9 to (cc) until the prisoner has served the minimum term imposed by
10 the court less an allowance for disciplinary credits as provided in
11 section 33(5) of 1893 PA 118, MCL 800.33. A prisoner described in
12 this subdivision is not eligible for special parole.

13 (d) Except as provided in section 34a, a parole shall not be
14 granted to a prisoner subject to disciplinary time until the
15 prisoner has served the minimum term imposed by the court.

16 (e) A prisoner shall not be released on parole until the
17 parole board has satisfactory evidence that arrangements have been
18 made for such honorable and useful employment as the prisoner is
19 capable of performing, for the prisoner's education, or for the
20 prisoner's care if the prisoner is mentally or physically ill or
21 incapacitated.

22 (f) A prisoner whose minimum term of imprisonment is 2 years
23 or more shall not be released on parole unless he or she has either
24 earned a high school diploma or ~~earned its equivalent in the form~~
25 ~~of a general education development (GED)~~ **A HIGH SCHOOL EQUIVALENCY**
26 certificate. The director of the department may waive the
27 restriction imposed by this subdivision ~~as to any~~ **FOR A** prisoner

1 who is over the age of 65 or who was gainfully employed immediately
2 before committing the crime for which he or she was incarcerated.

3 The department of corrections may also waive the restriction
4 imposed by this subdivision ~~as to any~~ **FOR A** prisoner who has a
5 learning disability, who does not have the necessary proficiency in
6 English, or who for some other reason that is not the fault of the
7 prisoner is unable to successfully complete the requirements for a
8 high school diploma or a ~~general education development~~ **HIGH SCHOOL**
9 **EQUIVALENCY** certificate. If the prisoner does not have the

10 necessary proficiency in English, the department of corrections
11 shall provide English language training for that prisoner necessary
12 for the prisoner to begin working toward the completion of the
13 requirements for a ~~general education development~~ **HIGH SCHOOL**
14 **EQUIVALENCY** certificate. This subdivision applies to prisoners
15 sentenced for crimes committed after December 15, 1998. In
16 providing an educational program leading to a high school degree or
17 ~~general education development~~ **HIGH SCHOOL EQUIVALENCY** certificate,
18 the department shall give priority to prisoners sentenced for
19 crimes committed on or before December 15, 1998.

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

24 (3) ~~Pursuant to~~ **UNDER** the administrative procedures act of
25 1969, 1969 PA 306, MCL 24.201 to 24.328, the parole board may
26 promulgate rules not inconsistent with this act with respect to
27 conditions to be imposed upon prisoners paroled under this act.

1 Sec. 33e. (1) The department shall develop parole guidelines
2 that are consistent with section 33(1)(a) ~~and that shall~~ **TO** govern
3 the exercise of the parole board's discretion ~~pursuant to~~ **UNDER**
4 sections 34 and 35 as to the release of prisoners on parole under
5 this act. The purpose of the parole guidelines ~~shall be~~ **IS** to
6 assist the parole board in making release decisions that enhance
7 the public safety.

8 (2) In developing the parole guidelines, the department shall
9 consider factors including, but not limited to, the following:

10 (a) The offense for which the prisoner is incarcerated at the
11 time of parole consideration.

12 (b) The prisoner's institutional program performance.

13 (c) The prisoner's institutional conduct.

14 (d) The prisoner's prior criminal record. As used in this
15 subdivision, "prior criminal record" means the recorded criminal
16 history of a prisoner, including all misdemeanor and felony
17 convictions, probation violations, juvenile adjudications for acts
18 that would have been crimes if committed by an adult, parole
19 failures, and delayed sentences.

20 (e) Other relevant factors as determined by the department, if
21 not otherwise prohibited by law.

22 (3) In developing the parole guidelines, the department may
23 consider both of the following factors:

24 (a) The prisoner's statistical risk screening.

25 (b) The prisoner's age.

26 (4) The department shall ensure that the parole guidelines do
27 not create disparities in release decisions based on race, color,

1 national origin, gender, religion, or disability.

2 (5) The department shall promulgate rules pursuant to ~~UNDER~~
3 the administrative procedures act of 1969, ~~Act No. 306 of the~~
4 ~~Public Acts of 1969, being sections 24.201 to 24.328 of the~~
5 ~~Michigan Compiled Laws, which shall 1969 PA 306, MCL 24.201 TO~~
6 **24.328, THAT** prescribe the parole guidelines. ~~The department shall~~
7 ~~submit the proposed rules to the joint committee on administrative~~
8 ~~rules not later than April 1, 1994. Until the rules take effect,~~
9 ~~the director shall require that the parole guidelines be considered~~
10 ~~by the parole board in making release decisions. After the rules~~
11 ~~take effect, the director shall require that the parole board~~
12 ~~follow the parole guidelines.~~

13 (6) The parole board may depart from the parole guidelines by
14 denying parole to a prisoner who has a high probability of parole
15 as determined under the parole guidelines or by granting parole to
16 a prisoner who has a low probability of parole as determined under
17 the parole guidelines. A departure under this subsection shall be
18 for substantial and compelling reasons stated in writing. The
19 parole board shall not use a prisoner's gender, race, ethnicity,
20 alienage, national origin, or religion to depart from the
21 recommended parole guidelines.

22 (7) **IN ORDER TO FACILITATE THE EFFICIENT ADMINISTRATION OF THE**
23 **DEPARTMENT AND NOT TO CREATE A LIBERTY INTEREST IN OR EXPECTATION**
24 **OF PAROLE, IT IS PRESUMED THAT A PRISONER WHO SCORES HIGH**
25 **PROBABILITY OF PAROLE ON THE PAROLE GUIDELINES, EXCEPT FOR A**
26 **PRISONER SERVING A LIFE SENTENCE, IS NOT A MENACE TO SOCIETY OR THE**
27 **PUBLIC SAFETY AND SHALL BE RELEASED UPON SERVING THE MINIMUM**

1 SENTENCE IMPOSED BY THE COURT. SUBSTANTIAL AND COMPELLING REASONS
2 FOR A DEPARTURE FROM THE PAROLE GUIDELINES FOR A PRISONER WITH A
3 HIGH PROBABILITY OF PAROLE ARE LIMITED TO THE FOLLOWING
4 CIRCUMSTANCES:

5 (A) THE PRISONER HAS AN INSTITUTIONAL CONDUCT SCORE LOWER THAN
6 -1 ON THE PAROLE GUIDELINES.

7 (B) THERE IS OBJECTIVE AND VERIFIED EVIDENCE OF SUBSTANTIAL
8 HARM TO A VICTIM THAT COULD NOT HAVE BEEN AVAILABLE FOR
9 CONSIDERATION AT THE TIME OF SENTENCING, OR THE PRISONER HAS
10 THREATENED TO HARM ANOTHER PERSON IF RELEASED.

11 (C) THE PRISONER HAS A PENDING FELONY CHARGE OR DETAINER.

12 (D) THERE IS OBJECTIVE AND VERIFIED EVIDENCE OF POST-
13 SENTENCING CONDUCT, NOT ALREADY SCORED IN THE PAROLE GUIDELINES,
14 THAT DEMONSTRATES THAT THE PRISONER WOULD PRESENT A HIGH RISK TO
15 PUBLIC SAFETY IF PAROLED.

16 (E) THE PRISONER HAS BEEN IDENTIFIED IN THE FEDERAL COMBINED
17 DNA INDEX SYSTEM (CODIS) AND LINKED TO AN UNSOLVED CRIMINAL
18 VIOLATION. THE PAROLE BOARD MAY DENY A PRISONER'S RELEASE ON PAROLE
19 BEYOND THE SERVICE OF HIS OR HER MINIMUM SENTENCE FOR NOT MORE THAN
20 18 MONTHS FROM THE DATE THE PRISONER WAS IDENTIFIED THROUGH CODIS.

21 (F) THE RELEASE OF THE PRISONER IS OTHERWISE BARRED BY LAW.

22 (8) THE PAROLE BOARD MAY DEFER RELEASE UPON THE SERVICE OF THE
23 PRISONER'S MINIMUM SENTENCE UNDER SUBSECTION (7) FOR NOT MORE THAN
24 4 MONTHS TO ALLOW THE PRISONER TO COMPLETE A TREATMENT PROGRAM THAT
25 IS REASONABLY NECESSARY TO REDUCE THE RISK TO PUBLIC SAFETY FROM
26 THE PRISONER'S RELEASE.

27 (9) THE PAROLE BOARD SHALL CONDUCT A REVIEW OF A PRISONER,

1 EXCEPT FOR PRISONERS SERVING A LIFE SENTENCE, WHO HAS BEEN DENIED
2 RELEASE AS FOLLOWS:

3 (A) IF THE PRISONER SCORED HIGH OR AVERAGE PROBABILITY OF
4 RELEASE, CONDUCT A REVIEW NOT LESS THAN ANNUALLY.

5 (B) IF THE PRISONER SCORED LOW PROBABILITY OF RELEASE, CONDUCT
6 A REVIEW NOT LESS THAN EVERY 2 YEARS UNTIL A SCORE OF HIGH OR
7 AVERAGE PROBABILITY IS ATTAINED.

8 (10) ~~(7)~~Not less than once every 2 years, the department
9 shall review the correlation between the implementation of the
10 parole guidelines and the recidivism rate of paroled prisoners, and
11 shall submit to the joint committee on administrative rules AND THE
12 CRIMINAL JUSTICE POLICY COMMISSION CREATED UNDER SECTION 32A OF
13 CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL
14 769.32A, any proposed revisions to the administrative rules that
15 the department considers appropriate after conducting the review.

16 (11) BY MARCH 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO
17 THE STANDING COMMITTEES OF THE SENATE AND THE HOUSE OF
18 REPRESENTATIVES HAVING JURISDICTION OF CORRECTIONS ISSUES AND THE
19 CRIMINAL JUSTICE POLICY COMMISSION DESCRIBED IN SUBSECTION (10) ALL
20 OF THE FOLLOWING INFORMATION:

21 (A) THE NUMBER OF PRISONERS SUBJECT TO SUBSECTION (7) WHO WERE
22 GRANTED PAROLE DURING THE PRECEDING CALENDAR YEAR.

23 (B) THE NUMBER OF PRISONERS SUBJECT TO SUBSECTION (7) FOR WHOM
24 PAROLE WAS DEFERRED TO COMPLETE NECESSARY PROGRAMMING DURING THE
25 PRECEDING CALENDAR YEAR.

26 (C) THE NUMBER OF PRISONERS SUBJECT TO SUBSECTION (7) WHO WERE
27 INCARCERATED AT LEAST 4 MONTHS PAST THEIR FIRST PAROLE ELIGIBILITY

1 DATE AS OF DECEMBER 31 OF THE PRECEDING CALENDAR YEAR.

2 (D) THE NUMBER OF PRISONERS SUBJECT TO SUBSECTION (7) WHO WERE
3 DENIED PAROLE FOR A REASON, OR REASONS, UNDER SUBSECTION (7) (A)
4 THROUGH (F), DURING THE PRECEDING CALENDAR YEAR. THIS INFORMATION
5 SHALL BE PROVIDED WITH A BREAKDOWN OF PAROLE DENIALS FOR EACH OF
6 THE FOLLOWING REASONS:

7 (i) THE PRISONER HAD AN INSTITUTIONAL CONDUCT SCORE LOWER THAN
8 -1 ON THE PAROLE GUIDELINES.

9 (ii) THERE WAS OBJECTIVE AND VERIFIED EVIDENCE OF SUBSTANTIAL
10 HARM TO A VICTIM THAT COULD NOT HAVE BEEN AVAILABLE FOR
11 CONSIDERATION AT THE TIME OF THE PRISONER'S SENTENCING.

12 (iii) THE PRISONER HAD A PENDING FELONY CHARGE OR DETAINER.

13 (iv) THERE WAS OBJECTIVE AND VERIFIED EVIDENCE OF POST-
14 SENTENCING CONDUCT, NOT SCORED IN THE PAROLE GUIDELINES, THAT
15 DEMONSTRATED THAT THE PRISONER WOULD PRESENT A HIGH RISK TO PUBLIC
16 SAFETY IF PAROLED.

17 (v) THE PRISONER WAS IDENTIFIED IN THE FEDERAL COMBINED DNA
18 INDEX SYSTEM (CODIS) AND LINKED TO AN UNSOLVED CRIMINAL VIOLATION
19 AND THE PAROLE BOARD DENIED HIS OR HER RELEASE ON PAROLE BEYOND THE
20 SERVICE OF HIS OR HER MINIMUM SENTENCE UNDER SUBSECTION (7) (E).

21 (vi) THE RELEASE OF THE PRISONER WAS OTHERWISE BARRED BY LAW.

22 (E) THE NUMBER OF PRISONERS SUBJECT TO SUBSECTION (7) WHO WERE
23 DENIED PAROLE WHOSE CONTROLLING OFFENSE IS IN EACH OF THE FOLLOWING
24 GROUPS:

25 (i) HOMICIDE.

26 (ii) SEXUAL OFFENSE.

27 (iii) AN ASSAULTIVE OFFENSE OTHER THAN A HOMICIDE OR SEXUAL

1 OFFENSE.

2 (iv) A NONASSAULTIVE OFFENSE.

3 (v) A CONTROLLED SUBSTANCE OFFENSE.

4 (F) OF THE TOTAL NUMBER OF PRISONERS SUBJECT TO SUBSECTION (7)
5 WHO WERE DENIED PAROLE, THE NUMBER WHO WERE SUBJECT TO SUBSECTION
6 (7) FOR THE FOLLOWING TIME PERIODS:

7 (i) LESS THAN ONE YEAR.

8 (ii) ONE YEAR OR MORE BUT LESS THAN 2 YEARS.

9 (iii) TWO YEARS OR MORE BUT LESS THAN 3 YEARS.

10 (iv) THREE YEARS OR MORE BUT LESS THAN 4 YEARS.

11 (v) FOUR OR MORE YEARS.

12 (G) THE DEPARTMENT SHALL IMMEDIATELY ADVISE THE STANDING
13 COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES HAVING
14 JURISDICTION OF CORRECTIONS ISSUES AND THE CRIMINAL JUSTICE POLICY
15 COMMISSION DESCRIBED IN SUBSECTION (10) OF ANY CHANGES MADE TO THE
16 SCORING OF THE PAROLE GUIDELINES AFTER THE EFFECTIVE DATE OF THE
17 AMENDATORY ACT THAT ADDED THIS SUBDIVISION, INCLUDING A CHANGE IN
18 THE NUMBER OF POINTS THAT DEFINE "HIGH PROBABILITY OF PAROLE".

19 (12) SUBSECTIONS (7) AND (8) AS AMENDED OR ADDED BY THE
20 AMENDATORY ACT THAT ADDED THIS SUBSECTION APPLY ONLY TO PRISONERS
21 WHOSE CONTROLLING OFFENSE WAS COMMITTED ON OR AFTER THE EFFECTIVE
22 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. SUBSECTIONS
23 (7) AND (8) DO NOT APPLY TO A PRISONER SERVING A LIFE SENTENCE,
24 REGARDLESS OF THE DATE OF HIS OR HER CONTROLLING OFFENSE.

25 Sec. 35. (1) The release of a prisoner on parole shall be
26 granted solely upon the initiative of the parole board. **THERE IS NO**
27 **ENTITLEMENT TO PAROLE.** The parole board may grant a parole without

1 interviewing the prisoner . ~~However, beginning January 26, 1996,~~
2 ~~the parole board may grant a parole without interviewing the~~
3 ~~prisoner only~~ if, after evaluating the prisoner according to the
4 parole guidelines, the parole board determines that the prisoner
5 has a high probability of being paroled and the parole board
6 therefore intends to parole the prisoner. Except as provided in
7 subsection (2), a prisoner shall not be denied parole without an
8 interview before 1 member of the parole board. The interview shall
9 be conducted at least 1 month before the expiration of the
10 prisoner's minimum sentence less applicable good time and
11 disciplinary credits for a prisoner eligible for good time and
12 disciplinary credits, or at least 1 month before the expiration of
13 the prisoner's minimum sentence for a prisoner subject to
14 disciplinary time. The parole board shall consider any statement
15 made to the parole board by a crime victim under the William Van
16 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to
17 780.834, or under any other provision of law. The parole board
18 shall not consider any of the following factors in making a parole
19 determination:

20 (a) A juvenile record that a court has ordered the department
21 to expunge.

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

1 (2) ~~Beginning January 26, 1996, if, IF,~~ after evaluating a
2 prisoner according to the parole guidelines, the parole board
3 determines that the prisoner has a low probability of being paroled
4 and the parole board therefore does not intend to parole the
5 prisoner, the parole board is not required to interview the
6 prisoner before denying parole to the prisoner.

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

9 (a) A prisoner's marital history.

10 (b) Prior arrests not resulting in conviction or adjudication
11 of delinquency.

12 (4) If an interview is to be conducted, the prisoner shall be
13 sent a notice of intent to conduct an interview at least 1 month
14 before the date of the interview. The notice shall state the
15 specific issues and concerns that shall be discussed at the
16 interview and that may be a basis for a denial of parole. ~~A denial~~
17 ~~of~~ **THE PAROLE BOARD SHALL NOT DENY** parole ~~shall not be based on~~
18 reasons other than those stated in the notice of intent to conduct
19 an interview except for good cause stated to the prisoner at or
20 before the interview and in the written explanation required by
21 subsection (12). ~~This subsection does not apply until April 1,~~
22 ~~1983.~~

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

1 of intent to conduct an interview.

2 (6) A prisoner may waive the right to an interview by 1 member
3 of the parole board. The waiver of the right to be interviewed
4 shall be **IN WRITING AND** given not more than 30 days after the
5 notice of intent to conduct an interview is issued. ~~and shall be~~
6 ~~made in writing.~~ During the interview held pursuant to **UNDER** a
7 notice of intent to conduct an interview, the prisoner may be
8 represented by an individual of his or her choice. The
9 representative shall not be another prisoner or an attorney. A
10 prisoner is not entitled to appointed counsel at public expense.
11 The prisoner or representative may present relevant evidence in
12 support of release.

13 (7) At least 90 days before the expiration of the prisoner's
14 minimum sentence less applicable good time and disciplinary credits
15 for a prisoner eligible for good time or disciplinary credits, or
16 at least 90 days before the expiration of the prisoner's minimum
17 sentence for a prisoner subject to disciplinary time, or the
18 expiration of a 12-month continuance for any prisoner, **THE**
19 **APPROPRIATE INSTITUTIONAL STAFF SHALL PREPARE** a parole eligibility
20 report. ~~shall be prepared by appropriate institutional staff.~~ The
21 parole eligibility report ~~shall be~~ **IS** considered pertinent
22 information for purposes of subsection (5). The report ~~shall~~ **MUST**
23 include all of the following:

24 (a) A statement of all major misconduct charges of which the
25 prisoner was found guilty and the punishment served for the
26 misconduct.

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

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

3 (d) Whether the prisoner fully cooperated with ~~the~~**THIS** state
4 by providing complete financial information as required under
5 section 3a of the state correctional facility reimbursement act,
6 1935 PA 253, MCL 800.403a.

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

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

12 **(G) THE RESULT ON ANY VALIDATED RISK ASSESSMENT INSTRUMENT.**

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

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

20 (10) The parole board may grant a medical parole for a
21 prisoner determined to be physically or mentally incapacitated. A
22 decision to grant a medical parole shall be initiated ~~upon~~**ON** the
23 recommendation of the bureau of health care services and shall be
24 reached only after a review of the medical, institutional, and
25 criminal records of the prisoner.

26 (11) The department shall ~~submit~~**FILE** a petition to the
27 appropriate court under section 434 of the mental health code, 1974

1 PA 258, MCL 330.1434, for any prisoner being paroled or being
2 released after serving his or her maximum sentence whom the
3 department considers to be a person requiring treatment. The parole
4 board shall require mental health treatment as a special condition
5 of parole for any parolee whom the department has determined to be
6 a person requiring treatment whether or not the petition filed for
7 that prisoner is granted by the court. As used in this subsection,
8 "person requiring treatment" means that term as defined in section
9 401 of the mental health code, 1974 PA 258, MCL 330.1401.

10 (12) When the parole board makes a final determination not to
11 release a prisoner, **THE PAROLE BOARD SHALL PROVIDE** the prisoner
12 ~~shall be provided~~ with a written explanation of the reason for
13 denial and, if appropriate, specific recommendations for corrective
14 action the prisoner may take to facilitate release.

15 (13) This section does not apply to the placement on parole of
16 a person in conjunction with special alternative incarceration
17 under section 34a(7).

18 Enacting section 1. This amendatory act takes effect 90 days
19 after the date it is enacted into law.