

HOUSE BILL NO. 4671

April 21, 2021, Introduced by Reps. Tyrone Carter, Kahle, Slagh, Posthumus and Calley and referred to the Committee on Rules and Competitiveness.

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), sections 33 and 34 as amended by 2019 PA 14, section 33c as added by 1994 PA 217, and section 35 as amended by 2019 PA 13.

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:

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

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

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

26 (d) Except as provided in ~~section~~**subdivision (g) and sections**
27 34a and ~~section~~35(10), a parole must not be granted to a prisoner
28 subject to disciplinary time until the prisoner has served the
29 minimum term imposed by the court.

1 (e) A prisoner must not be released on parole until the parole
2 board has satisfactory evidence that arrangements have been made
3 for such honorable and useful employment as the prisoner is capable
4 of performing, for the prisoner's education, or for the prisoner's
5 care if the prisoner is mentally or physically ill or
6 incapacitated.

7 (f) Except as provided in section 35(10), a prisoner whose
8 minimum term of imprisonment is 2 years or more must not be
9 released on parole unless he or she has either earned a high school
10 diploma or a high school equivalency certificate. The director of
11 the department may waive the restriction imposed by this
12 subdivision as to any prisoner who is over the age of 65 or who was
13 gainfully employed immediately before committing the crime for
14 which he or she was incarcerated. The department may also waive the
15 restriction imposed by this subdivision as to any prisoner who has
16 a learning disability, who does not have the necessary proficiency
17 in English, or who for some other reason that is not the fault of
18 the prisoner is unable to successfully complete the requirements
19 for a high school diploma or a high school equivalency certificate.
20 If the prisoner does not have the necessary proficiency in English,
21 the department shall provide English language training for that
22 prisoner necessary for the prisoner to begin working toward the
23 completion of the requirements for a high school equivalency
24 certificate. This subdivision applies to prisoners sentenced for
25 crimes committed after December 15, 1998. In providing an
26 educational program leading to a high school diploma or a high
27 school equivalency certificate, the department shall give priority
28 to prisoners sentenced for crimes committed on or before December
29 15, 1998.

1 (g) Except as provided in sections 34a and 35(10), a parole
 2 must not be granted to a prisoner subject to disciplinary time who
 3 was sentenced on or after the effective date of the amendatory act
 4 that added this subdivision until the prisoner has served the
 5 minimum term imposed by the court less an allowance for
 6 productivity credits as provided in section 33a of 1893 PA 118, MCL
 7 800.33a.

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

12 (3) The parole board may promulgate rules under the
 13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
 14 24.328, that are not inconsistent with this act with respect to
 15 conditions imposed upon prisoners paroled under this act.

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

17 (a) **"Limited prisoner subject to disciplinary time"** means a
 18 **prisoner subject to disciplinary time who is sentenced before the**
 19 **effective date of the amendatory act that added this subdivision.**

20 (b) **"Prisoner** subject to disciplinary time" means that term as
 21 defined in section 34 of ~~Act No. 118 of the Public Acts of 1893,~~
 22 ~~being section 800.34 of the Michigan Compiled Laws.~~**1893 PA 118, MCL**
 23 **800.34.**

24 Sec. 34. (1) Except for a prisoner granted parole under
 25 section 35(10) or as provided in section 34a, a prisoner sentenced
 26 to an indeterminate sentence and confined in a state correctional
 27 facility with a minimum in terms of years other than a **limited**
 28 **prisoner subject to disciplinary time** is subject to the
 29 jurisdiction of the parole board when the prisoner has served a

1 period of time equal to the minimum sentence imposed by the court
2 for the crime of which he or she was convicted, less good time, ~~and~~
3 disciplinary credits, **and productivity credits**, if applicable.

4 (2) Except for a prisoner granted parole under section 35(10)
5 or as provided in section 34a, a **limited** prisoner subject to
6 disciplinary time sentenced to an indeterminate sentence and
7 confined in a state correctional facility with a minimum in terms
8 of years is subject to the jurisdiction of the parole board when
9 the prisoner has served a period of time equal to the minimum
10 sentence imposed by the court for the crime of which he or she was
11 convicted.

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

26 (4) Except for a prisoner granted parole under section 35(10),
27 if a **limited** prisoner subject to disciplinary time is sentenced for
28 consecutive terms, whether received at the same time or at any time
29 during the life of the original sentence, the parole board has

1 jurisdiction over the prisoner for purposes of parole when the
2 prisoner has served the total time of the added minimum terms. The
3 maximum terms of the sentences must be added to compute the new
4 maximum term under this subsection, and discharge must be issued
5 only after the total of the maximum sentences has been served,
6 unless the prisoner is paroled and discharged upon satisfactory
7 completion of the parole.

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

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

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

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

20 (c) A violation of chapter XXXIII of the Michigan penal code,
21 1931 PA 328, MCL 750.200 to 750.212a.

22 (d) A violation of section 17764(7) of the public health code,
23 1978 PA 368, MCL 333.17764.

24 (e) First degree criminal sexual conduct in violation of
25 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL
26 750.520b.

27 (f) Any other violation for which parole eligibility is
28 expressly denied under state law.

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

1 a prisoner sentenced to imprisonment for life, other than a
2 prisoner described in subsection (6), is subject to the
3 jurisdiction of the parole board and may be placed on parole
4 according to the conditions prescribed in subsection (8) if he or
5 she meets any of the following criteria:

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

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

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

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

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

1 (b) In addition to the interview schedule prescribed in
2 subdivision (a), the parole board shall review the prisoner's file
3 at the conclusion of 15 calendar years of the prisoner's sentence
4 and every 5 years thereafter until the prisoner is paroled,
5 discharged, or deceased. A prisoner whose file is to be reviewed
6 under this subdivision must be notified of the upcoming file review
7 at least 30 days before the file review takes place and must be
8 allowed to submit written statements or documentary evidence for
9 the parole board's consideration in conducting the file review.

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

25 (d) A parole granted under subsection (7) must be for a period
26 of not less than 4 years and subject to the usual rules pertaining
27 to paroles granted by the parole board. A parole granted under
28 subsection (7) is not valid until the transcript of the record is
29 filed with the attorney general whose certification of receipt of

1 the transcript must be returned to the office of the parole board
2 within 5 days. Except for medical records protected under section
3 2157 of the revised judicature act of 1961, 1961 PA 236, MCL
4 600.2157, the file of a prisoner granted a parole under subsection
5 (7) is a public record.

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

8 (a) The prisoner must be given written notice, not less than
9 30 days before the interview date, stating that the interview will
10 be conducted.

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

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

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

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

27 (c) Any of the following:

28 (i) Whether the individual was a principal administrator,
29 organizer, or leader of an entity that the individual knew or had

1 reason to know was organized, in whole or in part, to commit
2 violations of section 7401 or 7403 of the public health code, 1978
3 PA 368, MCL 333.7401 and 333.7403, and whether the violation for
4 which the individual was convicted was committed to further the
5 interests of that entity.

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

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

14 (iv) Whether the violation involved the delivery of a
15 controlled substance to an individual less than 17 years of age or
16 possession with intent to deliver a controlled substance to an
17 individual less than 17 years of age.

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

25 (12) If the sentencing judge, or his or her successor in
26 office, determines on the record that a prisoner described in
27 subsection (7) (b) or (c) sentenced to imprisonment for life for
28 violating, or attempting or conspiring to violate, section
29 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7401,

1 has cooperated with law enforcement, the prisoner is subject to the
2 jurisdiction of the parole board and may be released on parole as
3 provided in subsection (7) (b) or (c) 2-1/2 years earlier than the
4 time otherwise indicated in subsection (7) (b) or (c). The prisoner
5 is considered to have cooperated with law enforcement if the court
6 determines on the record that the prisoner had no relevant or
7 useful information to provide. The court shall not make a
8 determination that the prisoner failed or refused to cooperate with
9 law enforcement on grounds that the defendant exercised his or her
10 constitutional right to trial by jury. If the court determines at
11 sentencing that the defendant cooperated with law enforcement, the
12 court shall include its determination in the judgment of sentence.

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

24 (14) Except for a prisoner granted parole under section 35(10)
25 and notwithstanding subsections (1) and (2), a prisoner who was
26 convicted of violating, or attempting or conspiring to violate,
27 section 7401(2) (a) (ii) or 7403(2) (a) (ii) of the public health code,
28 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred
29 before March 1, 2003, and who was sentenced according to those

1 sections as they existed before March 1, 2003, is eligible for
2 parole after serving the minimum of each sentence imposed for that
3 violation or 10 years of each sentence imposed for that violation,
4 whichever is less.

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

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

1 apply if the sentence was imposed for a conviction for a new
2 offense committed while the individual was on probation or parole.

3 (17) Except for a prisoner granted parole under section 35(10)
4 and notwithstanding subsections (1) and (2), a prisoner who was
5 convicted of violating, or attempting or conspiring to violate,
6 section 7401(2)(a)(ii) or (iii) or 7403(2)(a)(ii) or (iii) of the public
7 health code, 1978 PA 368, MCL 333.7401 and 333.7403, who had a
8 prior conviction for a violation of section 7401(2)(a)(ii) or (iii) or
9 7403(2)(a)(ii) or (iii) of the public health code, 1978 PA 368, MCL
10 333.7401 and 333.7403, and who was sentenced to life without parole
11 under section 7413(1) of the public health code, 1978 PA 368, MCL
12 333.7413, according to that section as it existed before March 28,
13 2018 is eligible for parole after serving 5 years of each sentence
14 imposed for that violation.

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

28 (19) The prosecuting attorney or victim or, in the case of a
29 homicide, the victim's immediate family, may object to the parole

1 board's decision to recommend parole by filing a motion in the
2 circuit court in the county in which the prisoner was convicted
3 within 30 days of receiving notice under subsection (18). Upon
4 notification under subsection (18) and request by the victim, or,
5 in the case of a homicide, the victim's immediate family, the
6 prosecuting attorney must confer with the victim, or in the case of
7 a homicide, the victim's immediate family, before making a decision
8 regarding whether or not to object to the parole board's
9 determination. A motion filed under this subsection must be heard
10 by the sentencing judge or the judge's successor in office. The
11 prosecuting attorney shall inform the parole board if a motion was
12 filed under this subsection. A prosecutor who files a motion under
13 this subsection may seek an independent medical examination of the
14 prisoner being considered for parole under section 35(10). If an
15 appeal is initiated under this subsection, a subsequent appeal
16 under subsection (11) may not be initiated upon the granting of
17 parole.

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

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

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

27 (21) The decision of the sentencing judge or the judge's
28 successor on a motion filed under subsection (19) is binding on the
29 parole board with respect to whether a prisoner must be considered

1 medically frail or not. However, the decision of the sentencing
2 judge or the judge's successor is subject to appeal by leave to the
3 court of appeals granted to the department, the prosecuting
4 attorney, or the victim or victim's immediate family in the case of
5 a homicide.

6 (22) As used in this section:

7 (a) "Medically frail" means that term as defined in section
8 35(22).

9 (b) "Serious crime" means violating or conspiring to violate
10 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to
11 333.7545, that is punishable by imprisonment for more than 4 years,
12 or an offense against a person in violation of section 83, 84, 86,
13 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
14 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,
15 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,
16 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,
17 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

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

20 Sec. 35. (1) The release of a prisoner on parole must be
21 granted solely upon the initiative of the parole board. There is no
22 entitlement to parole. The parole board may grant a parole without
23 interviewing the prisoner if, after evaluating the prisoner
24 according to the parole guidelines, the parole board determines
25 that the prisoner has a high probability of being paroled and the
26 parole board therefore intends to parole the prisoner. Except as
27 provided in subsection (2), a prisoner must not be denied parole
28 without an interview before 1 member of the parole board. The
29 interview must be conducted at least 1 month before the expiration

1 of the prisoner's minimum sentence less applicable good time, ~~and~~
2 disciplinary credits for a prisoner eligible for good time, ~~and~~
3 disciplinary credits, **and productivity credits**, or at least 1 month
4 before the expiration of the prisoner's minimum sentence for a
5 **limited** prisoner subject to disciplinary time. The parole board
6 shall consider any statement made to the parole board by a crime
7 victim under the William Van Regenmorter crime victim's rights act,
8 1985 PA 87, MCL 780.751 to 780.834, or under any other provision of
9 law. The parole board shall not consider any of the following
10 factors in making a parole determination:

11 (a) A juvenile record that a court has ordered the department
12 to expunge.

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

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

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

26 (a) A prisoner's marital history.

27 (b) Prior arrests not resulting in conviction or adjudication
28 of delinquency.

29 (4) If an interview is to be conducted, the prisoner must be

1 sent a notice of intent to conduct an interview not less than 1
2 month before the date of the interview. The notice must state the
3 specific issues and concerns that will be discussed at the
4 interview and that may be a basis for a denial of parole. The
5 parole board shall not deny parole based on reasons other than
6 those stated in the notice of intent to conduct an interview except
7 for good cause stated to the prisoner at or before the interview
8 and in the written explanation required by subsection (20).

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

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

25 (7) At least 90 days before the expiration of the prisoner's
26 minimum sentence less applicable good time, ~~and~~ disciplinary
27 credits, **and productivity credits** for a prisoner eligible for good
28 time, ~~or~~ disciplinary credits, **or productivity credits**, or at least
29 90 days before the expiration of the prisoner's minimum sentence

1 for a **limited** prisoner subject to disciplinary time, or the
2 expiration of a 12-month continuance for any prisoner, or at the
3 request of the parole board for a prisoner being considered for
4 parole under subsection (10), the appropriate institutional staff
5 shall prepare a parole eligibility report. The parole eligibility
6 report is considered pertinent information for purposes of
7 subsection (5). The report must include all of the following:

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

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

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

14 (d) Whether the prisoner fully cooperated with this state by
15 providing complete financial information as required under section
16 3a of the state correctional facility reimbursement act, 1935 PA
17 253, MCL 800.403a.

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

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

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

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

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

1 requested by the prisoner or parole board.

2 (10) Except for a prisoner who was convicted of any crime that
3 is punishable by a term of life imprisonment without parole or of a
4 violation of section 520b of the Michigan penal code, 1931 PA 328,
5 MCL 750.520b, the parole board may grant a medical parole for a
6 prisoner determined to be medically frail. A decision to grant a
7 medical parole must be initiated on the recommendation of the
8 bureau of health care services. If the bureau of health care
9 services believes that the prisoner is medically frail, the bureau
10 shall utilize a specialist in the appropriate field of medicine,
11 who is not employed by the department, to evaluate the condition of
12 the prisoner and to report on that condition to the bureau. The
13 parole board, in consultation with the bureau of health care
14 services, shall determine whether the prisoner is medically frail.
15 If the parole board determines that a prisoner is medically frail
16 and is going to be considered for parole under this subsection, the
17 parole board shall provide the notice and medical records required
18 under section 34(18). Unless the prosecutor of the county from
19 which the prisoner was committed files a motion under section
20 34(19), the parole board may grant parole to a prisoner who is
21 determined to be medically frail. If a motion is filed under
22 section 34(19) and the court finds that the prisoner is eligible
23 for parole as a result of being medically frail, and if no
24 additional appeals are pending, the parole board may grant parole
25 to the prisoner under this subsection. The requirements of sections
26 33(1)(b), (c), (d), and (f), 33b, and 34(1), (2), (3), (4), (7),
27 (13), (14), (15), (16), and (17) do not apply to a parole granted
28 under this subsection.

29 (11) The following conditions apply to a parole granted under

1 subsection (10):

2 (a) A prisoner must only be released on parole under
3 subsection (10) if he or she agrees to all of the following:

4 (i) His or her placement, or, if the parolee is unable to
5 consent because of the parolee's physical or mental health
6 condition, an individual legally entitled to agree to the parolee's
7 placement agrees that the parolee be placed, in a medical facility
8 approved by the parole board where medical care and treatment can
9 be provided.

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

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

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

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

25 (d) A parolee who violates the terms of his or her parole or
26 is determined to no longer meet the definition of medically frail
27 may be transferred to a setting more appropriate for the medical
28 needs of the parolee or be subject to the parole violation process
29 under sections 38, 39, 39a, and 40a as determined by the parole

1 board and the department.

2 (e) The parolee must only be placed in a medical facility that
3 agrees to accept the parolee and that is agreed upon by the parolee
4 as described in subdivision (a) (i).

5 (12) The parolee or an individual legally entitled to agree to
6 the parolee's placement under subsection (11) (a) (i), other than the
7 medical facility, shall immediately inform the parole board if any
8 of the following occur:

9 (a) The parolee is no longer eligible for care at the medical
10 facility at which he or she was placed.

11 (b) The parolee must be moved to another location for medical
12 care.

13 (c) The parolee is no longer at the medical facility approved
14 by the parole board.

15 (d) The parolee no longer needs the level of care that
16 resulted in the parolee's placement at the medical facility.

17 (13) The parole board shall immediately notify the prosecutor
18 for the county in which the offender was convicted and the
19 sentencing or successor judge if the parolee is no longer eligible
20 for care or no longer needs the level of care for which the
21 prisoner was placed at the medical facility.

22 (14) The department shall not retain authority over the
23 medical treatment plan for a prisoner granted parole under
24 subsection (10) and a prisoner granted parole under subsection (10)
25 must have full patient rights at the medical facility where he or
26 she is placed.

27 (15) The department and the parole board shall ensure that the
28 placement and terms and conditions of a parole granted under
29 subsection (10) do not violate any other state or federal

1 regulations.

2 (16) A medical facility housing parolees granted parole under
3 subsection (10) must be operated in a manner that ensures the
4 safety of the residents of the medical facility.

5 (17) A parolee granted parole under subsection (10) and placed
6 in a medical facility has the same patient rights and
7 responsibilities as any other individual who is a resident of or
8 has been admitted to the medical facility. The medical facility is
9 not responsible for the enforcement of conditions of parole or the
10 reporting of violations of conditions of parole for any parolee
11 placed in the medical facility. The medical facility shall comply
12 with state and federal laws and regulations that protect resident
13 rights and state and federal laws and regulations for skilled
14 nursing facilities, regardless of the conditions of parole imposed
15 on a resident parolee.

16 (18) The process for a parole determination under subsection
17 (10) does not change or affect any of the rights afforded to a
18 victim under the William Van Regenmorter crime victim's rights act,
19 1985 PA 87, MCL 780.751 to 780.834.

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

1 health code, 1974 PA 258, MCL 330.1401.

2 (20) When the parole board makes a final determination not to
3 release a prisoner, the parole board shall provide the prisoner
4 with a written explanation of the reason for denial and, if
5 appropriate, specific recommendations for corrective action the
6 prisoner may take to facilitate release.

7 (21) This section does not apply to the placement on parole of
8 a person in conjunction with special alternative incarceration
9 under section 34a(7).

10 (22) As used in this section:

11 (a) "Activities of daily living" means basic personal care and
12 everyday activities as described in 42 CFR 441.505, including, but
13 not limited to, tasks such as eating, toileting, grooming,
14 dressing, bathing, and transferring from 1 physical position to
15 another, including, but not limited to, moving from a reclining
16 position to a sitting or standing position.

17 (b) "Medical facility" means a hospital, hospice, nursing
18 home, or other housing accommodation providing medical treatment
19 suitable to the condition or conditions rendering the parolee
20 medically frail.

21 (c) "Medically frail" describes an individual who is a minimal
22 threat to society as a result of his or her medical condition, who
23 has received a risk score of low on a validated risk assessment,
24 whose recent conduct in prison indicates he or she is unlikely to
25 engage in assaultive conduct, and who has 1 or both of the
26 following:

27 (i) A permanent or terminal physical disability or serious and
28 complex medical condition resulting in the inability to do 1 or
29 more of the following without personal assistance:

1 (A) Walk.

2 (B) Stand.

3 (C) Sit.

4 (ii) A permanent or terminal disabling mental disorder,
5 including dementia, Alzheimer's, or a similar degenerative brain
6 disorder that results in the need for nursing home level of care,
7 and a significantly impaired ability to perform 2 or more
8 activities of daily living.

9 Enacting section 1. This amendatory act does not take effect
10 unless Senate Bill No.____ or House Bill No.4670 (request no.
11 00291'21 *) of the 101st Legislature is enacted into law.