

# HOUSE BILL NO. 5942

March 22, 2022, Introduced by Reps. LaGrand, Thanedar, Neeley, Brixie, Brenda Carter, Cavanagh, Anthony, Aiyash, Sowerby, Hood, Tyrone Carter, Morse, Rogers, Kuppa, O'Neal, Whitsett, Jones and Yancey and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled  
"Corrections code of 1953,"  
by amending section 34 (MCL 791.234), as amended by 2019 PA 14.

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

1           Sec. 34. (1) Except for a prisoner granted parole under  
2 section 35(10) or as provided in **this section or** section 34a, a  
3 prisoner sentenced to an indeterminate sentence and confined in a  
4 state correctional facility with a minimum in terms of years other  
5 than a prisoner subject to disciplinary time is subject to the

1 jurisdiction of the parole board when the prisoner has served a  
2 period of time equal to the minimum sentence imposed by the court  
3 for the crime of which he or she was convicted, less good time and  
4 disciplinary credits, if applicable.

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

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

26 (4) Except **as otherwise provided in this section or** for a  
27 prisoner granted parole under section 35(10), if a prisoner subject  
28 to disciplinary time is sentenced for consecutive terms, whether  
29 received at the same time or at any time during the life of the

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

8 (5) If a prisoner other than a 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~~**Except as otherwise provided in this section, a** prisoner  
14 sentenced to imprisonment for life for any of the following is not  
15 eligible for parole and is instead subject to the provisions of  
16 section 44 or 44a:

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

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

21 (c) A violation of chapter XXXVIII of the Michigan penal code,  
22 1931 PA 328, MCL 750.200 to 750.212a.

23 (d) A violation of section 17764(7) of the public health code,  
24 1978 PA 368, MCL 333.17764.

25 (e) First degree criminal sexual conduct in violation of  
26 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL  
27 750.520b.

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

1           (7) Except **as otherwise provided in this section or** for a  
2 prisoner granted parole under section 35(10), a prisoner sentenced  
3 to imprisonment for life, other than a prisoner described in  
4 subsection (6), is subject to the jurisdiction of the parole board  
5 and may be placed on parole according to the conditions prescribed  
6 in subsection (8) if he or she meets any of the following criteria:

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

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

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

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

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

1 sentenced.

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

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

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

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

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

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

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

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

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

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

28 (c) Any of the following:

29 (i) Whether the individual was a principal administrator,

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

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

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

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

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

26 (12) If the sentencing judge, or his or her successor in  
27 office, determines on the record that a prisoner described in  
28 subsection (7) (b) or (c) sentenced to imprisonment for life for  
29 violating, or attempting or conspiring to violate, section

1 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7401,  
2 has cooperated with law enforcement, the prisoner is subject to the  
3 jurisdiction of the parole board and may be released on parole as  
4 provided in subsection (7) (b) or (c) 2-1/2 years earlier than the  
5 time otherwise indicated in subsection (7) (b) or (c). The prisoner  
6 is considered to have cooperated with law enforcement if the court  
7 determines on the record that the prisoner had no relevant or  
8 useful information to provide. The court shall not make a  
9 determination that the prisoner failed or refused to cooperate with  
10 law enforcement on grounds that the defendant exercised his or her  
11 constitutional right to trial by jury. If the court determines at  
12 sentencing that the defendant cooperated with law enforcement, the  
13 court shall include its determination in the judgment of sentence.

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

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



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

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

16 (16) Except for a prisoner granted parole under section 35(10)  
17 and notwithstanding subsections (1) and (2), a prisoner who was  
18 convicted of violating, or attempting or conspiring to violate,  
19 section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public health code,  
20 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred  
21 before March 1, 2003, who was sentenced according to those sections  
22 of law as they existed before March 1, 2003 to consecutive terms of  
23 imprisonment for 2 or more violations of section 7401(2)(a) or  
24 7403(2)(a) of the public health code, 1978 PA 368, MCL 333.7401 and  
25 333.7403, is eligible for parole after serving 1/2 of the minimum  
26 sentence imposed for each violation of section 7401(2)(a)(iv) or  
27 7403(2)(a)(iv) of the public health code, 1978 PA 368, MCL 333.7401  
28 and 333.7403. This subsection applies only to sentences imposed for  
29 violations of section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public

1 health code, 1978 PA 368, MCL 333.7401 and 333.7403, and does not  
2 apply if the sentence was imposed for a conviction for a new  
3 offense committed while the individual was on probation or parole.

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

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

29 (19) The prosecuting attorney or victim or, in the case of a

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

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

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

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

28 (21) The decision of the sentencing judge or the judge's  
29 successor on a motion filed under subsection (19) is binding on the

1 parole board with respect to whether a prisoner must be considered  
2 medically frail or not. However, the decision of the sentencing  
3 judge or the judge's successor is subject to appeal by leave to the  
4 court of appeals granted to the department, the prosecuting  
5 attorney, or the victim or victim's immediate family in the case of  
6 a homicide.

7       **(22) Notwithstanding any provision to the contrary in this**  
8 **act, an individual who was less than 18 years of age when he or she**  
9 **committed a crime for which he or she was sentenced to life**  
10 **imprisonment without parole eligibility or to a term of years for a**  
11 **violation of section 16, 18, 200i, 204, 207, 209, 210, 211a, 316,**  
12 **436, or 543f of the Michigan penal code, 1931 PA 328, MCL 750.16,**  
13 **750.18, 750.200i, 750.204, 750.207, 750.209, 750.210, 750.211a,**  
14 **750.316, 750.436, and 750.543f, who has served 10 years of his or**  
15 **her sentence is subject to the jurisdiction of the parole board and**  
16 **may be released on parole by the parole board. In determining**  
17 **whether to release an individual on parole under this subsection,**  
18 **the parole board shall consider all of the following factors:**

19       (a) The individual's age and immaturity at the time of the  
20 offense.

21       (b) The individual's family and home environment at the time  
22 of the offense.

23       (c) The circumstances surrounding the offense, including the  
24 role the individual had in the commission of the offense and the  
25 influence of peer pressure.

26       **(23) ~~(22)~~As used in this section:**

27       (a) "Medically frail" means that term as defined in section  
28 35(22).

29       (b) "Serious crime" means violating or conspiring to violate

1 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to  
2 333.7545, that is punishable by imprisonment for more than 4 years,  
3 or an offense against a person in violation of section 83, 84, 86,  
4 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,  
5 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,  
6 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,  
7 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,  
8 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

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

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

13 Enacting section 2. This amendatory act does not take effect  
14 unless all of the following bills of the 101st Legislature are  
15 enacted into law:

16 (a) Senate Bill No. \_\_\_\_ or House Bill No. 5941 (request no.  
17 01563'21).

18 (b) Senate Bill No. \_\_\_\_ or House Bill No. 5943 (request no.  
19 01563'21 a).

20 (c) Senate Bill No. \_\_\_\_ or House Bill No. 5944 (request no.  
21 01563'21 b).