

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 599**

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 34 and 35 (MCL 791.234 and 791.235), section
34 as amended by 2019 PA 14 and section 35 as amended by 2019 PA
13.

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 section 34a, a prisoner sentenced
3 to an indeterminate sentence and confined in a state correctional
4 facility with a minimum in terms of years other than a prisoner
5 subject to disciplinary time is subject to the jurisdiction of the
6 parole board when the prisoner has served a period of time equal to
7 the minimum sentence imposed by the court for the crime of which he



1 or she was convicted, less good time and disciplinary credits, if
2 applicable.

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

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

23 (4) Except for a prisoner granted parole under section 35(10),
24 if a prisoner subject to disciplinary time is sentenced for
25 consecutive terms, whether received at the same time or at any time
26 during the life of the original sentence, the parole board has
27 jurisdiction over the prisoner for purposes of parole when the
28 prisoner has served the total time of the added minimum terms. The
29 maximum terms of the sentences must be added to compute the new



1 maximum term under this subsection, and discharge must be issued
2 only after the total of the maximum sentences has been served,
3 unless the prisoner is paroled and discharged upon satisfactory
4 completion of the parole.

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

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

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

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

17 (c) A violation of chapter XXXVIII of the Michigan penal code,
18 1931 PA 328, MCL 750.200 to 750.212a.

19 (d) A violation of section 17764(7) of the public health code,
20 1978 PA 368, MCL 333.17764.

21 (e) First degree criminal sexual conduct in violation of
22 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL
23 750.520b.

24 (f) Any other violation for which parole eligibility is
25 expressly denied under ~~state~~ **a law of this state.**

26 (7) Except for a prisoner granted parole under section 35(10),
27 a prisoner sentenced to imprisonment for life, other than a
28 prisoner described in subsection (6), is subject to the
29 jurisdiction of the parole board and may be placed on parole



1 according to the conditions prescribed in subsection (8) if he or
2 she meets any of the following criteria:

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

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

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

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

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

27 (b) In addition to the interview schedule prescribed in
28 subdivision (a), the parole board shall review the prisoner's file
29 at the conclusion of 15 calendar years of the prisoner's sentence



1 and every 5 years thereafter until the prisoner is paroled,
2 discharged, or deceased. A prisoner whose file is to be reviewed
3 under this subdivision must be notified of the upcoming file review
4 at least 30 days before the file review takes place and must be
5 allowed to submit written statements or documentary evidence for
6 the parole board's consideration in conducting the file review.

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

22 (d) A parole granted under subsection (7) must be for a period
23 of not less than 4 years and subject to the usual rules pertaining
24 to paroles granted by the parole board. A parole granted under
25 subsection (7) is not valid until the transcript of the record is
26 filed with the attorney general whose certification of receipt of
27 the transcript must be returned to the office of the parole board
28 within 5 days. Except for medical records protected under section
29 2157 of the revised judicature act of 1961, 1961 PA 236, MCL



1 600.2157, the file of a prisoner granted a parole under subsection
2 (7) is a public record.

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

5 (a) The prisoner must be given written notice, not less than
6 30 days before the interview date, stating that the interview will
7 be conducted.

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

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

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

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

24 (c) Any of the following:

25 (i) Whether the individual was a principal administrator,
26 organizer, or leader of an entity that the individual knew or had
27 reason to know was organized, in whole or in part, to commit
28 violations of section 7401 or 7403 of the public health code, 1978
29 PA 368, MCL 333.7401 and 333.7403, and whether the violation for



1 which the individual was convicted was committed to further the
2 interests of that entity.

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

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

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

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

22 (12) If the sentencing judge, or his or her successor in
23 office, determines on the record that a prisoner described in
24 subsection (7) (b) or (c) sentenced to imprisonment for life for
25 violating, or attempting or conspiring to violate, section
26 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7401,
27 has cooperated with law enforcement, the prisoner is subject to the
28 jurisdiction of the parole board and may be released on parole as
29 provided in subsection (7) (b) or (c) 2-1/2 years earlier than the



1 time otherwise indicated in subsection (7) (b) or (c). The prisoner
2 is considered to have cooperated with law enforcement if the court
3 determines on the record that the prisoner had no relevant or
4 useful information to provide. The court shall not make a
5 determination that the prisoner failed or refused to cooperate with
6 law enforcement on grounds that the defendant exercised his or her
7 constitutional right to trial by jury. If the court determines at
8 sentencing that the defendant cooperated with law enforcement, the
9 court shall include its determination in the judgment of sentence.

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

21 (14) Except for a prisoner granted parole under section 35(10)
22 and notwithstanding subsections (1) and (2), a prisoner who was
23 convicted of violating, or attempting or conspiring to violate,
24 section 7401(2) (a) (ii) or 7403(2) (a) (ii) of the public health code,
25 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred
26 before March 1, 2003, and who was sentenced according to those
27 sections as they existed before March 1, 2003, is eligible for
28 parole after serving the minimum of each sentence imposed for that
29 violation or 10 years of each sentence imposed for that violation,



1 whichever is less.

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

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

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



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

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

25 (19) The prosecuting attorney or victim or, in the case of a
26 homicide, the victim's immediate family, may object to the parole
27 board's decision to recommend parole by filing a motion in the
28 circuit court in the county in which the prisoner was convicted
29 within 30 days of receiving notice under subsection (18). Upon



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

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

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

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

24 (21) The decision of the sentencing judge or the judge's
25 successor on a motion filed under subsection (19) is binding on the
26 parole board with respect to whether a prisoner must be considered
27 medically frail or not. However, the decision of the sentencing
28 judge or the judge's successor is subject to appeal by leave to the
29 court of appeals granted to the department, the prosecuting



1 attorney, or the victim or victim's immediate family in the case of
2 a homicide.

3 (22) As used in this section:

4 (a) "Medically frail" means that term as defined in section
5 ~~35(22)~~.35.

6 (b) "Serious crime" means violating or conspiring to violate
7 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to
8 333.7545, that is punishable by imprisonment for more than 4 years,
9 or an offense against a person in violation of section 83, 84, 86,
10 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
11 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,
12 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,
13 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,
14 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

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

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



1 the prisoner's minimum sentence for a prisoner subject to
2 disciplinary time. The parole board shall consider any statement
3 made to the parole board by a crime victim under the William Van
4 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to
5 780.834, or under any other provision of law. The parole board
6 shall not consider any of the following factors in making a parole
7 determination:

8 (a) A juvenile record that a court has ordered the department
9 to expunge.

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

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

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

23 (a) A prisoner's marital history.

24 (b) Prior arrests not resulting in conviction or adjudication
25 of delinquency.

26 (4) If an interview is to be conducted, the prisoner must be
27 sent a notice of intent to conduct an interview not less than 1
28 month before the date of the interview. The notice must state the
29 specific issues and concerns that will be discussed at the



1 interview and that may be a basis for a denial of parole. The
2 parole board shall not deny parole based on reasons other than
3 those stated in the notice of intent to conduct an interview except
4 for good cause stated to the prisoner at or before the interview
5 and in the written explanation required by subsection ~~(20)~~ **(18)**.

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

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

22 (7) At least 90 days before the expiration of the prisoner's
23 minimum sentence less applicable good time and disciplinary credits
24 for a prisoner eligible for good time or disciplinary credits, or
25 at least 90 days before the expiration of the prisoner's minimum
26 sentence for a prisoner subject to disciplinary time, or the
27 expiration of a 12-month continuance for any prisoner, or at the
28 request of the parole board for a prisoner being considered for
29 parole under subsection (10), the appropriate institutional staff



1 shall prepare a parole eligibility report. The parole eligibility
2 report is considered pertinent information for purposes of
3 subsection (5). The report must include all of the following:

4 (a) A statement of all major misconduct charges of which the
5 prisoner was found guilty and the punishment served for the
6 misconduct.

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

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

10 (d) Whether the prisoner fully cooperated with this state by
11 providing complete financial information as required under section
12 3a of the state correctional facility reimbursement act, 1935 PA
13 253, MCL 800.403a.

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

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

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

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

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

27 (10) Except for a prisoner who was convicted of any crime that
28 is punishable by a term of life imprisonment without parole or of a
29 violation of section 520b of the Michigan penal code, 1931 PA 328,



1 MCL 750.520b, the parole board may grant a medical parole for a
2 prisoner determined to be medically frail. A decision to grant a
3 medical parole must be initiated on the recommendation of the
4 bureau of health care services. If the bureau of health care
5 services believes that the prisoner is medically frail, the bureau
6 shall utilize a specialist in the appropriate field of medicine,
7 who is not employed by the department, to evaluate the condition of
8 the prisoner and to report on that condition to the bureau. The
9 parole board, in consultation with the bureau of health care
10 services, shall determine whether the prisoner is medically frail.
11 If the parole board determines that a prisoner is medically frail
12 and is going to be considered for parole under this subsection, the
13 parole board shall provide the notice and medical records required
14 under section 34(18). Unless the prosecutor of the county from
15 which the prisoner was committed files a motion under section
16 34(19), the parole board may grant parole to a prisoner who is
17 determined to be medically frail. If a motion is filed under
18 section 34(19) and the court finds that the prisoner is eligible
19 for parole as a result of being medically frail, and if no
20 additional appeals are pending, the parole board may grant parole
21 to the prisoner under this subsection. The requirements of sections
22 33(1)(b), (c), (d), and (f), 33b, and 34(1), (2), (3), (4), (7),
23 (13), (14), (15), (16), and (17) do not apply to a parole granted
24 under this subsection.

25 (11) The following conditions apply to a parole granted under
26 subsection (10):

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

29 (i) His or her placement **as approved by the parole board**, or,



1 if the parolee is unable to consent because of the parolee's
 2 physical or mental health condition, an individual legally entitled
 3 to agree to the parolee's placement agrees ~~that to the parolee be~~
 4 ~~placed, in a medical facility approved by the parole board where~~
 5 ~~medical care and treatment can be provided.~~ **parolee's placement as**
 6 **approved by the parole board.**

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

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

18 (b) The parolee shall adhere to the terms of his or her parole
 19 for the length of ~~his or her~~ **the** parole term.

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

22 (d) **If the parolee is medically frail as described under**
 23 **subsection (20) (d) (ii) and placement of the parolee under**
 24 **subdivision (a) is not in a medical facility, the parole board**
 25 **shall require the parolee to be subject to electronic monitoring at**
 26 **the time the parolee is released on parole. The parole board may**
 27 **remove a requirement for a parolee to be subject to electronic**
 28 **monitoring under this subdivision if the parole board determines**
 29 **electronic monitoring is not necessary to protect public safety. A**



1 requirement for electronic monitoring under this subdivision is in
 2 addition to any other requirement for electronic monitoring or
 3 monitoring by a global positioning monitoring system under another
 4 law of this state.

5 (e) ~~(d)~~—A parolee who violates the terms of his or her parole
 6 or is determined to no longer meet the definition of medically
 7 frail may be transferred to a setting more appropriate for the
 8 medical needs of the parolee or be subject to the parole violation
 9 process under sections 38, 39, 39a, and 40a as determined by the
 10 parole board and the department.

11 (f) ~~(e)~~—**If the parolee is placed in a medical facility**
 12 **under subdivision (a), the** parolee must only be placed in a medical
 13 facility that agrees to accept the parolee. ~~and that is agreed upon~~
 14 ~~by the parolee as described in subdivision (a) (i).~~

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

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

21 ~~(b) The parolee must be moved to another location for medical~~
 22 ~~care.~~

23 ~~(c) The parolee is no longer at the medical facility approved~~
 24 ~~by the parole board.~~

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

27 ~~(13) The parole board shall immediately notify the prosecutor~~
 28 ~~for the county in which the offender was convicted and the~~
 29 ~~sentencing or successor judge if the parolee is no longer eligible~~



1 ~~for care or no longer needs the level of care for which the~~
 2 ~~prisoner was placed at the medical facility.~~

3 (12) ~~(14)~~—The department shall not retain authority over the
 4 medical treatment plan for a prisoner granted parole under
 5 subsection (10) and, **if** a prisoner granted parole under subsection
 6 (10) **is placed in a medical facility, the parolee** must have full
 7 patient rights at the medical facility. ~~where he or she is placed.~~

8 (13) ~~(15)~~—The department and the parole board shall ensure
 9 that the placement and terms and conditions of a parole granted
 10 under subsection (10) do not violate any other state or federal
 11 regulations.

12 (14) ~~(16)~~—A medical facility housing parolees granted parole
 13 under subsection (10) must be operated in a manner that ensures the
 14 safety of the residents of the medical facility.

15 (15) ~~(17)~~—A parolee granted parole under subsection (10) and
 16 placed in a medical facility has the same patient rights and
 17 responsibilities as any other individual who is a resident of or
 18 has been admitted to the medical facility. The medical facility is
 19 not responsible for the enforcement of conditions of parole or the
 20 reporting of violations of conditions of parole for any parolee
 21 placed in the medical facility. The medical facility shall comply
 22 with state and federal laws and regulations that protect resident
 23 rights and state and federal laws and regulations for skilled
 24 nursing facilities, regardless of the conditions of parole imposed
 25 on a resident parolee.

26 (16) ~~(18)~~—The process for a parole determination under
 27 subsection (10) does not change or affect any of the rights
 28 afforded to a victim under the William Van Regenmorter crime
 29 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.



1 (17) ~~(19)~~—The department shall file a petition to the
 2 appropriate court under section 434 of the mental health code, 1974
 3 PA 258, MCL 330.1434, for any prisoner being paroled or being
 4 released after serving his or her maximum sentence whom the
 5 department considers to be a person requiring treatment. The parole
 6 board shall require mental health treatment as a special condition
 7 of parole for any parolee whom the department has determined to be
 8 a person requiring treatment whether or not the petition filed for
 9 that prisoner is granted by the court. As used in this subsection,
 10 "person requiring treatment" means that term as defined in section
 11 401 of the mental health code, 1974 PA 258, MCL 330.1401.

12 (18) ~~(20)~~—When the parole board makes a final determination
 13 not to release a prisoner, the parole board shall provide the
 14 prisoner with a written explanation of the reason for denial and,
 15 if appropriate, specific recommendations for corrective action the
 16 prisoner may take to facilitate release.

17 (19) ~~(21)~~—This section does not apply to the placement on
 18 parole of a person in conjunction with special alternative
 19 incarceration under section 34a(7).

20 (20) ~~(22)~~—As used in this section:

21 (a) "Activities of daily living" means basic personal care and
 22 everyday activities as described in 42 CFR 441.505, including, but
 23 not limited to, tasks such as eating, toileting, grooming,
 24 dressing, bathing, and transferring from 1 physical position to
 25 another, including, but not limited to, moving from a reclining
 26 position to a sitting or standing position.

27 (b) **"Electronic monitoring" means that term as defined in**
 28 **section 85.**

29 (c) ~~(b)~~—"Medical facility" means a hospital, hospice, nursing



1 home, or other housing accommodation providing medical treatment
 2 suitable to the condition or conditions rendering ~~the~~ a parolee
 3 medically frail.

4 (d) ~~(e)~~ "Medically frail" describes an individual who is a
 5 minimal threat to society as a result of ~~his or her~~ **the**
 6 **individual's** medical condition, ~~who has received a risk score of~~
 7 ~~low on a validated risk assessment,~~ whose recent conduct in prison
 8 indicates ~~he or she~~ **the individual** is unlikely to engage in
 9 assaultive conduct, and who has 1 or ~~both~~ **more** of the following:

10 (i) A permanent ~~or terminal~~ physical disability or serious and
 11 complex medical condition resulting in the inability to ~~do 1 or~~
 12 ~~more of the following~~ **walk, stand, or sit** without personal
 13 assistance. ÷

14 ~~(A) Walk.~~

15 ~~(B) Stand.~~

16 ~~(C) Sit.~~

17 (ii) **A terminal medical or neurological condition resulting in**
 18 **a life expectancy of under 18 months.**

19 (iii) ~~(ii)~~ A permanent ~~or terminal~~ disabling mental disorder,
 20 including dementia, Alzheimer's, or a similar degenerative brain
 21 disorder that results in the need for nursing home level of care,
 22 and a significantly impaired ability to perform 2 or more
 23 activities of daily living.

