

SUBSTITUTE FOR
HOUSE BILL NO. 4074

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 35, 37, and 67 (MCL 791.235, 791.237, and
791.267), section 35 as amended by 1998 PA 315, section 37 as
amended by 1994 PA 217, and section 67 as amended by 1996 PA 565,
and by adding section 34c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 34C. (1) THE DEPARTMENT, BY CONTRACT OR OTHERWISE, SHALL
2 ASSIST PRISONERS WITH REENTRY INTO THE COMMUNITY, INCLUDING, BUT
3 NOT LIMITED TO, DOING BOTH OF THE FOLLOWING:

4 (A) ASSISTING PRISONERS IN OBTAINING THE IDENTIFICATION
5 DOCUMENTS DESCRIBED IN THIS SECTION.

6 (B) SUBJECT TO THE DEPARTMENT'S SECURITY NEEDS, REASONABLY
7 ALLOWING PRISONERS TO OBTAIN THE FOLLOWING IDENTIFICATION DOCUMENTS

1 BEFORE THOSE PRISONERS ARE RELEASED ON PAROLE OR DISCHARGED UPON
2 COMPLETION OF THEIR MAXIMUM SENTENCES:

3 (i) ANY OF THE IDENTIFICATION DOCUMENTS THAT, IN COMBINATION
4 WITH THE PRISONER IDENTIFICATION CARD ISSUED UNDER SECTION 37(4),
5 WOULD SATISFY THE APPLICATION REQUIREMENTS FOR OBTAINING AN
6 OPERATOR'S LICENSE OR STATE PERSONAL IDENTIFICATION CARD AS
7 ESTABLISHED BY THE SECRETARY OF STATE UNDER SECTION 307 OF THE
8 MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.307, OR SECTION 1 OF
9 1972 PA 222, MCL 28.291.

10 (ii) A SOCIAL SECURITY CARD OR SOCIAL SECURITY NUMBER
11 VERIFICATION, IF POSSIBLE TO OBTAIN.

12 (2) A PRISONER'S REFUSAL TO OBTAIN OR ATTEMPT TO OBTAIN THE
13 DOCUMENTS IDENTIFIED IN SUBSECTION (1)(B) MAY BE INCLUDED AS PART
14 OF THE PRISONER'S PAROLE ELIGIBILITY REPORT, AS PROVIDED IN SECTION
15 35(7)(E).

16 (3) THIS SECTION APPLIES TO ALL PRISONERS WHO ARE SERVING A
17 SENTENCE UNDER THE JURISDICTION OF THE DEPARTMENT AFTER THE
18 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION WHO
19 ARE ELIGIBLE TO OBTAIN AN OPERATOR'S LICENSE UNDER SECTION 307 OF
20 THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.307, OR A STATE
21 PERSONAL IDENTIFICATION CARD UNDER SECTION 1 OF 1972 PA 222, MCL
22 28.291.

23 (4) THE DEPARTMENT SHALL INCLUDE IN WRITING TO EACH PRISONER
24 THE INFORMATION DESCRIBED IN SECTION 14(9)(B) OF CHAPTER XI OF THE
25 CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 771.14, LISTING THE
26 IDENTIFICATION DOCUMENTS REFERENCED IN SUBSECTION (1). FOR A
27 PRISONER WHO BEGINS SERVING A SENTENCE UNDER THE JURISDICTION OF

1 THE DEPARTMENT AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
2 ADDED THIS SECTION, THE DEPARTMENT SHALL PROVIDE THAT WRITTEN
3 INFORMATION DURING RECEPTION CENTER PROCESSING. FOR ANY PRISONER
4 WHO IS UNDER THE JURISDICTION OF THE DEPARTMENT ON THE EFFECTIVE
5 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT
6 SHALL PROVIDE THAT WRITTEN INFORMATION AS FOLLOWS:

7 (A) FOR A PRISONER WITH LESS THAN 1 YEAR REMAINING BEFORE
8 PAROLE ELIGIBILITY, WITHIN 90 DAYS AFTER THAT EFFECTIVE DATE.

9 (B) FOR ANY OTHER PRISONER, THE INFORMATION SHALL BE GIVEN AT
10 THE TIME THE PAROLE ELIGIBILITY REPORT IS PREPARED.

11 (5) THE DEPARTMENT SHALL ALLOW THE SECRETARY OF STATE TO HAVE
12 ELECTRONIC ACCESS TO PRISONER INFORMATION FOR THE PURPOSE OF
13 VERIFYING THE IDENTITY OF PRISONERS WHO APPLY FOR DRIVER LICENSES
14 OR STATE PERSONAL IDENTIFICATION CARDS.

15 (6) THE REENTRY SUCCESS FUND IS CREATED WITHIN THE STATE
16 TREASURY. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
17 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER
18 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL
19 CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.
20 MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN
21 THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND. THE DEPARTMENT OF
22 CORRECTIONS SHALL EXPEND MONEY FROM THE REENTRY SUCCESS FUND, UPON
23 APPROPRIATION, ONLY FOR THE EXPENSES OF PERFORMING THE ACTIVITIES
24 REQUIRED BY THIS SECTION.

25 Sec. 35. (1) The release of a prisoner on parole shall be
26 granted solely upon the initiative of the parole board. The parole
27 board may grant a parole without interviewing the prisoner.

1 However, beginning ~~on the date on which the administrative rules~~
2 ~~prescribing parole guidelines pursuant to section 33e(5) take~~
3 ~~effect~~ **JANUARY 26, 1996**, the parole board may grant a parole
4 without interviewing the prisoner only if, after evaluating the
5 prisoner according to the parole guidelines, the parole board
6 determines that the prisoner has a high probability of being
7 paroled and the parole board therefore intends to parole the
8 prisoner. Except as provided in subsection (2), a prisoner shall
9 not be denied parole without an interview before 1 member of the
10 parole board. The interview shall be conducted at least 1 month
11 before the expiration of the prisoner's minimum sentence less
12 applicable good time and disciplinary credits for a prisoner
13 eligible for good time and disciplinary credits, or at least 1
14 month before the expiration of the prisoner's minimum sentence for
15 a prisoner subject to disciplinary time. The parole board shall
16 consider any statement made to the parole board by a crime victim
17 under the **WILLIAM VAN REGENMORTER** crime victim's rights act, 1985
18 PA 87, MCL 780.751 to 780.834, or under any other provision of law.
19 The parole board shall not consider any of the following factors in
20 making a parole determination:

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

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

1 prepared before April 1, 1983.

2 (2) Beginning ~~on the date on which the administrative rules~~
3 ~~prescribing the parole guidelines take effect pursuant to section~~
4 ~~33e(5)~~ **JANUARY 26, 1996**, if, after evaluating a prisoner according
5 to the parole guidelines, the parole board determines that the
6 prisoner has a low probability of being paroled and the parole
7 board therefore does not intend to parole the prisoner, the parole
8 board ~~shall~~ **IS** not ~~be~~ required to interview the prisoner before
9 denying parole to the prisoner.

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

12 (a) A prisoner's marital history.

13 (b) Prior arrests not resulting in conviction or adjudication
14 of delinquency.

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

25 (5) Except for good cause, the parole board member conducting
26 the interview shall not have cast a vote for or against the
27 prisoner's release before conducting the current interview. Before

1 the interview, the parole board member who is to conduct the
2 interview shall review pertinent information relative to the notice
3 of intent to conduct an interview.

4 (6) A prisoner may waive the right to an interview by 1 member
5 of the parole board. The waiver of the right to be interviewed
6 shall be given not more than 30 days after the notice of intent to
7 conduct an interview is issued and shall be made in writing. During
8 the interview held pursuant to a notice of intent to conduct an
9 interview, the prisoner may be represented by an individual of his
10 or her choice. The representative shall not be another prisoner or
11 an attorney. A prisoner is not entitled to appointed counsel at
12 public expense. The prisoner or representative may present relevant
13 evidence in support of release. ~~This subsection does not apply~~
14 ~~until April 1, 1983.~~

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

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

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

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

4 (d) Whether the prisoner fully cooperated with the state by
5 providing complete financial information as required under section
6 3a of the state correctional facility reimbursement act, 1935 PA
7 253, MCL 800.403a.

8 **(E) WHETHER THE PRISONER REFUSED TO ATTEMPT TO OBTAIN**
9 **IDENTIFICATION DOCUMENTS UNDER SECTION 34C, IF APPLICABLE.**

10 **(F)** ~~(e)~~ For a prisoner subject to disciplinary time, a
11 statement of all disciplinary time submitted for the parole board's
12 consideration ~~pursuant to~~ **UNDER** section 34 of 1893 PA 118, MCL
13 800.34.

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

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

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

27 (11) The department shall submit a petition to the appropriate

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

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

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

19 Sec. 37. (1) When a prisoner is released upon parole, the
20 department shall provide the prisoner with clothing and a
21 nontransferable ticket to the place in which the paroled prisoner
22 is to reside. At the discretion of the deputy director in charge of
23 the ~~bureau of field services~~ **OPERATIONS ADMINISTRATION**, the paroled
24 prisoner may be advanced the expense of the transportation to the
25 place of residence and a sum of money necessary for reasonable
26 maintenance and subsistence for a 2-week period, as determined by
27 the deputy director. A sum of money given under this section shall

1 be repaid to the state by the paroled prisoner within 180 days
2 after the money is received by the paroled prisoner.

3 (2) If a prisoner who is discharged without being paroled has
4 less than \$75.00 in his or her immediate possession, has no visible
5 means of support, and has conserved personal funds in a reasonable
6 manner, the department shall furnish to that prisoner **ALL OF** the
7 following:

8 (a) Clothing that is appropriate for the season.

9 (b) A sum of \$75.00 including that amount already in the
10 prisoner's possession.

11 (c) Transportation to a place in this state where the prisoner
12 will reside or work or to the place where the prisoner was
13 convicted or sentenced.

14 (3) When providing for transportation, the department shall **DO**
15 **ALL OF THE FOLLOWING:**

16 (a) Use the most economical available public transportation.

17 (b) Arrange for and purchase the prisoner's transportation
18 ticket.

19 (c) Assume responsibility for delivering that prisoner to the
20 site of departure and confirming the prisoner's departure from the
21 site.

22 (4) **THE DEPARTMENT SHALL PROVIDE A PRISONER IDENTIFICATION**
23 **CARD TO EACH PRISONER WHEN HE OR SHE IS RELEASED ON PAROLE OR IS**
24 **RELEASED UPON COMPLETION OF HIS OR HER MAXIMUM SENTENCE. THE**
25 **IDENTIFICATION CARD SHALL INCLUDE ALL OF THE FOLLOWING BASED UPON**
26 **ALL AVAILABLE INFORMATION:**

27 (A) **THE PRISONER'S PHOTOGRAPH, TAKEN EVERY 3 YEARS OR UPON**

1 SIGNIFICANT APPEARANCE CHANGE, WHICHEVER OCCURS FIRST.

2 (B) THE PRISONER'S LEGAL NAME AS IDENTIFIED ON THE PRISONER'S
3 BIRTH CERTIFICATE OR ON ANY 1 OF THE OTHER CITIZENSHIP
4 IDENTIFICATION DOCUMENTS SPECIFIED BY THE SECRETARY OF STATE AS
5 BEING NECESSARY TO OBTAIN AN OPERATOR'S LICENSE OR STATE PERSONAL
6 IDENTIFICATION CARD, IF THOSE DOCUMENTS ARE AVAILABLE.

7 (C) THE PRISONER'S DATE OF BIRTH.

8 (D) A STATEMENT AS TO WHETHER THE PRISONER WAS PLACED ON
9 PAROLE OR DISCHARGED UPON COMPLETION OF HIS OR HER SENTENCE.

10 (5) ~~(4)~~—The cost of implementing this section shall be paid
11 out of the general fund of the state.

12 Sec. 67. (1) Quarters for temporary confinement apart from
13 those of regular inmates shall be provided for convicted prisoners
14 upon commitment at each of the state correctional facilities, which
15 the director shall designate as a reception center. Within 60 days
16 after the arrival of a convicted prisoner at ~~such~~ a state
17 correctional facility, the classification committee shall make and
18 complete a comprehensive study of the prisoner, including physical
19 and psychiatric examinations, to ensure that the prisoner is
20 confined in the state correctional facility suited to the type of
21 rehabilitation required in his or her case. The warden of the state
22 correctional facility shall deliver a report of the study of the
23 classification committee to the deputy director of the correctional
24 facilities administration, who shall, within 5 days after receipt
25 of the report, execute an order to confine the prisoner in the
26 state correctional facility determined as suitable by the deputy
27 director.

1 (2) Immediately upon arrival at a reception center designated
2 ~~pursuant to~~ **UNDER** subsection (1), each incoming prisoner shall
3 undergo a test for HIV or an antibody to HIV. This subsection does
4 not apply if an incoming prisoner has been tested for HIV or an
5 antibody to HIV under section 5129 of the public health code, ~~Act~~
6 ~~No. 368 of the Public Acts of 1978, being section 333.5129 of the~~
7 ~~Michigan Compiled Laws 1978 PA 368, MCL 333.5129~~, within the 3
8 months immediately preceding the date of the prisoner's arrival at
9 the reception center, as indicated by the record transferred to the
10 department by the court under that section.

11 (3) If a prisoner receives a positive test result and is
12 subsequently subject to discipline by the department for sexual
13 misconduct that could transmit HIV, illegal intravenous use of
14 controlled substances, or assaultive or predatory behavior that
15 could transmit HIV, the department shall house that prisoner in
16 administrative segregation, an inpatient health care unit, or a
17 unit separate from the general prisoner population, as determined
18 by the department.

19 (4) The department shall report each positive test result to
20 the department of community health, in compliance with section 5114
21 of ~~Act No. 368 of the Public Acts of 1978, being section 333.5114~~
22 ~~of the Michigan Compiled Laws~~ **THE PUBLIC HEALTH CODE, 1978 PA 368,**
23 **MCL 333.5114.**

24 (5) If an employee of the department sustains a percutaneous,
25 mucous membrane, or open wound exposure to the blood or body fluid
26 of a prisoner, the employee may, and the department shall, proceed
27 under section 67b.

1 (6) Upon the request of an employee of the department, the
2 department shall provide or arrange for a test for HIV or an
3 antibody to HIV for that employee, free of charge.

4 (7) Upon the request of an employee of the department, the
5 department shall provide to that employee the equipment necessary
6 to implement universal precautions to prevent transmission of HIV
7 infection.

8 (8) A prisoner who receives a positive HIV test result ~~under~~
9 ~~subsection (5)~~ shall not work in a health facility operated by the
10 department.

11 (9) The department shall conduct a seroprevalence study of the
12 prisoners in all state correctional facilities to determine the
13 percentage of prisoners who are HIV infected.

14 (10) The results of a test for HIV or an antibody to HIV
15 conducted under this section shall be disclosed by the department
16 ~~pursuant to UNDER~~ section 67b.

17 (11) The deputy director of the correctional facilities
18 administration shall take steps to ensure that all prisoners who
19 receive HIV testing receive counseling regarding AIDS including, at
20 a minimum, treatment, transmission, and protective measures.

21 (12) The department, in conjunction with the department of
22 community health, shall develop and implement a comprehensive AIDS
23 education program designed specifically for correctional
24 environments. The program shall be conducted by the bureau within
25 the department responsible for health care, for staff and for
26 prisoners at each state correctional facility.

27 ~~—— (13) By March 30, 1991, the department shall submit a report~~

1 ~~regarding the testing component, managerial aspects, and~~
2 ~~effectiveness of subsections (2) to (12) to the senate and house~~
3 ~~committees with jurisdiction over matters pertaining to~~
4 ~~corrections, and to the senate and house committees with~~
5 ~~jurisdiction over matters pertaining to public health.~~

6 (13) ~~(14)~~ As used in this section:

7 (a) "AIDS" means acquired immunodeficiency syndrome.

8 (b) "HIV" means human immunodeficiency virus.

9 (c) "Positive test result" means a double positive enzyme-
10 linked immunosorbent assay test, combined with a positive western
11 blot assay test, or a positive test under an HIV test that is
12 considered reliable by the federal centers for disease control and
13 is approved by the department of community health.

14 Enacting section 1. This amendatory act does not take effect
15 unless all of the following bills of the 96th Legislature are
16 enacted into law:

17 (a) House Bill No. 4075.

18 (b) House Bill No. 4076.

19 (c) House Bill No. 4077.