

Act No. 217
Public Acts of 1994
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**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senators Van Regenmorter Emmons Hoffman Arthurhultz Bouchard Gougeon and Carl

ENROLLED SENATE BILL No. 40

AN ACT to amend sections 33 33b 34 34a 35 36 37 38 51 65 and 65a of Act No 232 of the Public Acts of 1953 entitled as amended An act to revise consolidate and codify the laws relating to probationers and probation officers to pardons reprieves commutations and paroles to the administration of correctional institutions correctional farms and probation recovery camps to prisoner labor and correctional industries and to the supervision and inspection of local jails and houses of correction to provide for the siting of correctional facilities to create a state department of corrections and to prescribe its powers and duties to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards commissions and officers and to abolish certain boards commissions and offices the powers and duties of which are transferred by this act to prescribe the powers and duties of certain other state departments and agencies to provide for the creation of a local lockup advisory board to prescribe penalties for the violation of the provisions of this act to make certain appropriations to repeal certain parts of this act on specific dates and to repeal all acts and parts of acts inconsistent with the provisions of this act section 33 as amended by Act No 458 of the Public Acts of 1982 section 33b as amended by Act No 252 of the Public Acts of 1989 sections 34 and 35 as amended by Act No 181 of the Public Acts of 1992 section 34a as added by Act No 22 of the Public Acts of 1992 section 36 as amended by Act No 346 of the Public Acts of 1993 sections 37 and 38 as amended by Act No 314 of the Public Acts of 1982 section 51 as amended by Act No 155 of the Public Acts of 1983 section 65 as amended by Act No 179 of the Public Acts of 1982 and section 65a as amended by Act No 272 of the Public Acts of 1988 being sections 791 233 791 233b 791 234 791 234a 791 235 791 236 791 237 791 238 791 251 791 265 and 791 265a of the Michigan Compiled Laws and to add section 33c

The People of the State of Michigan enact

Section 1 Sections 33 33b 34 34a 35 36 37 38 51 65 and 65a of Act No 232 of the Public Acts of 1953 section 33 as amended by Act No 458 of the Public Acts of 1982 section 33b as amended by Act No 252 of the Public Acts of 1989 sections 34 and 35 as amended by Act No 181 of the Public Acts of 1992 section 34a as added by Act No 22 of the Public Acts of 1992 section 36 as amended by Act No 346 of the Public Acts of 1993 sections 37 and 38 as amended by Act No 314 of the Public Acts of 1982 section 51 as amended by Act No 155 of the Public Acts of 1983 section 65 as amended by Act No 179 of the Public Acts of 1982 and section 65a as amended by Act No 272 of the Public Acts of 1988 being sections 791 233 791 233b 791 234 791 234a 791 235 791 236 791 237 791 238 791 251 791 265 and 791 265a of the Michigan Compiled Laws are amended and section 33c is added to read as follows

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

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

(b) Except as provided in section 34a a parole shall not be granted to a prisoner other than a prisoner subject to disciplinary time until the prisoner has served the minimum term imposed by the court less allowances for good time or special good time to which the prisoner may be entitled by statute except that a prisoner other than a prisoner subject to disciplinary time is eligible for parole before the expiration of his or her minimum term of imprisonment whenever the sentencing judge or the judge's successor in office gives written approval of the parole of the prisoner before the expiration of the minimum term of imprisonment

(c) Except as provided in section 34a and notwithstanding the provisions of subdivision (b) a parole shall not be granted to a prisoner other than a prisoner subject to disciplinary time sentenced for the commission of a crime described in section 33b(a) to (cc) until the prisoner has served the minimum term imposed by the court less an allowance for disciplinary credits as provided in section 33(5) of Act No 118 of the Public Acts of 1893 being section 800 33 of the Michigan Compiled Laws A prisoner described in this subdivision is not eligible for special parole

(d) Except as provided in section 34a a parole shall not be granted to a prisoner subject to disciplinary time until the prisoner has served the minimum term imposed by the court plus any disciplinary time accumulated pursuant to section 34 of Act No 118 of the Public Acts of 1893 being section 800 34 of the Michigan Compiled Laws

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

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

(3) Pursuant to the administrative procedures act of 1969 Act No 306 of the Public Acts of 1969 as amended being sections 24 201 to 24 328 of the Michigan Compiled Laws the parole board may promulgate rules not inconsistent with this act with respect to conditions to be imposed upon prisoners paroled under this act

Sec 33b A person convicted and sentenced for the commission of any of the following crimes other than a prisoner subject to disciplinary time is not eligible for parole until the person has served the minimum term imposed by the court less an allowance for disciplinary credits as provided in section 33(5) of Act No 118 of the Public Acts of 1893 being section 800 33 of the Michigan Compiled Laws and is not eligible for special parole

(a) Section 13 of the Michigan penal code Act No 328 of the Public Acts of 1931 as amended being section 750 13 of the Michigan Compiled Laws

(b) Section 14 of Act No 328 of the Public Acts of 1931 as amended being section 750 14 of the Michigan Compiled Laws

(c) Section 72 73 or 75 of Act No 328 of the Public Acts of 1931 as amended being section 750 72 750 73 or 750 75 of the Michigan Compiled Laws

(d) Section 80 82 83 84 86 87 88 89 or 90 of Act No 328 of the Public Acts of 1931 as amended being section 750 80 750 82 750 83 750 84 750 86 750 87 750 88 750 89 or 750 90 of the Michigan Compiled Laws or under former section 85 of Act No 328 of the Public Acts of 1931

(e) Section 91 or 92 of Act No 328 of the Public Acts of 1931 as amended being section 750 91 or 750 92 of the Michigan Compiled Laws

(f) Section 110 112 or 116 of Act No 328 of the Public Acts of 1931 as amended being section 750 110 750 112 or 750 116 of the Michigan Compiled Laws

(g) Section 135 136b(2) or 136b(3) of Act No 328 of the Public Acts of 1931 as amended being section 750 135 or 750 136b of the Michigan Compiled Laws or under former section 136a of Act No 328 of the Public Acts of 1931

(h) Section 158 of Act No 328 of the Public Acts of 1931 as amended being section 750 158 of the Michigan Compiled Laws

(i) Section 160 of Act No 328 of the Public Acts of 1931 as amended being section 750 160 of the Michigan Compiled Laws

(j) Section 171 of Act No 328 of the Public Acts of 1931 as amended being section 750 171 of the Michigan Compiled Laws

(k) Section 196 of Act No 328 of the Public Acts of 1931 as amended being section 750 196 of the Michigan Compiled Laws or under former section 194 of Act No 328 of the Public Acts of 1931

(l) Section 204 205 206 207 208 209 or 213 of Act No 328 of the Public Acts of 1931 as amended being section 750 204 750 205 750 206 750 207 750 208 750 209 or 750 213 of the Michigan Compiled Laws

(m) Section 224 226 or 227 of Act No 328 of the Public Acts of 1931 as amended being section 750 224 750 226 or 750 227 of the Michigan Compiled Laws

(n) Section 316 317 319 321 322 323 327 328 or 329 of Act No 328 of the Public Acts of 1931 as amended being section 750 316 750 317 750 319 750 321 750 322 750 323 750 327 750 328 or 750 329 of the Michigan Compiled Laws

(o) Former section 333 of Act No 328 of the Public Acts of 1931

(p) Section 338 338a or 338b of Act No 328 of the Public Acts of 1931 as amended being section 750 338 750 338a or 750 338b of the Michigan Compiled Laws or under former section 341 of Act No 328 of the Public Acts of 1931

(q) Section 349 349a or 350 of Act No 328 of the Public Acts of 1931 as amended being section 750 349 750 349a or 750 350 of the Michigan Compiled Laws

(r) Section 357 of Act No 328 of the Public Acts of 1931 as amended being section 750 357 of the Michigan Compiled Laws

(s) Section 386 or 392 of Act No 328 of the Public Acts of 1931 as amended being section 750 386 or 750 392 of the Michigan Compiled Laws

(t) Section 397 or 397a of Act No 328 of the Public Acts of 1931 as amended being section 750 397 or 750 397a of the Michigan Compiled Laws

(u) Section 436 of Act No 328 of the Public Acts of 1931 as amended being section 750 436 of the Michigan Compiled Laws

(v) Section 511 or 517 of Act No 328 of the Public Acts of 1931 as amended being section 750 511 or 750 517 of the Michigan Compiled Laws

(w) Section 520b 520c 520d or 520g of Act No 328 of the Public Acts of 1931 as amended being section 750 520b 750 520c 750 520d or 750 520g of the Michigan Compiled Laws

(x) Section 529 529a 530 or 531 of Act No 328 of the Public Acts of 1931 as amended being section 750 529 750 529a 750 530 or 750 531 of the Michigan Compiled Laws

(y) Section 544 of Act No 328 of the Public Acts of 1931 as amended being section 750 544 of the Michigan Compiled Laws or under former section 545a of Act No 328 of the Public Acts of 1931

(z) Former section 2 of Act No 38 of the Public Acts of the Extra Session of 1950

(aa) Former section 6 of Act No 117 of the Public Acts of 1952

(bb) Section 1 2 or 3 of Act No 302 of the Public Acts of 1968 as amended being section 752 541 752 542 or 752 543 of the Michigan Compiled Laws

(cc) Section 7401(2)(a) 7401(2)(b) 7402(2)(a) or 7402(2)(b) of the public health code Act No 368 of the Public Acts of 1978 being section 333 7401 or 333 7402 of the Michigan Compiled Laws

Sec 33c As used in this act prisoner subject to disciplinary time means that term as defined in section 34 of Act No 118 of the Public Acts of 1893 being section 800 34 of the Michigan Compiled Laws

Sec 34 (1) Except as provided in section 34a a prisoner sentenced to an indeterminate sentence and confined in a state correctional facility with a minimum in terms of years other than a prisoner subject to disciplinary time is subject to the jurisdiction of the parole board when the prisoner has served a period of time equal to the minimum sentence imposed by the court for the crime of which he or she was convicted less good time and disciplinary credits if applicable

(2) Except as provided in section 34a a prisoner subject to disciplinary time sentenced to an indeterminate sentence and confined in a state correctional facility with a minimum in terms of years is subject to the jurisdiction of the parole board when the prisoner has served a period of time equal to the minimum sentence imposed by the court for the crime of which he or she was convicted plus any disciplinary time accumulated pursuant to section 34 of Act No 118 of the Public Acts of 1893 being section 800 34 of the Michigan Compiled Laws

(3) If a prisoner other than a prisoner subject to disciplinary time is sentenced for consecutive terms whether received at the same time or at any time during the life of the original sentence the parole board has jurisdiction over the prisoner for purposes of parole when the prisoner has served the total time of the added minimum terms less the good time and disciplinary credits allowed by statute The maximum terms of the sentences shall be added to compute the new maximum term under this subsection and discharge shall be issued only after the total of the maximum sentences has been served less good time and disciplinary credits unless the prisoner is paroled and discharged upon satisfactory completion of the parole

(4) If a prisoner subject to disciplinary time is sentenced for consecutive terms whether received at the same time or at any time during the life of the original sentence the parole board has jurisdiction over the prisoner for purposes of parole when the prisoner has served the total time of the added minimum terms plus any disciplinary time The maximum terms of the sentences shall be added to compute the new maximum term under this subsection and discharge shall be issued only after the total of the maximum sentences has been served unless the prisoner is paroled and discharged upon satisfactory completion of the parole

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

(6) A prisoner under sentence for life or for a term of years other than a prisoner sentenced for life for murder in the first degree or sentenced for life or for a minimum term of imprisonment for a major controlled substance offense who has served 10 calendar years of the sentence in the case of a prisoner sentenced for a crime committed before October 1 1992 or who has served 15 calendar years of the sentence in the case of a prisoner sentenced for a crime committed on or after October 1 1992 is subject to the jurisdiction of the parole board and may be released on parole by the parole board subject to the following conditions

(a) One member of the parole board shall interview the prisoner at the conclusion of 10 calendar years of the sentence and every 5 years thereafter until such time as the prisoner is paroled discharged or deceased The interview schedule prescribed in this subdivision applies to all prisoners to whom this subsection is applicable whether sentenced before on or after the effective date of the 1992 amendatory act that amended this subdivision

(b) A parole shall not be granted a prisoner so sentenced until after a public hearing held in the manner prescribed for pardons and commutations in sections 44(2)(f) to (h) and 45 Notice of the public hearing shall be given to the sentencing judge or the judge's successor in office and parole shall not be granted if the sentencing judge or the judge's successor in office files written objections to the granting of the parole within 30 days of receipt of the notice of hearing The written objections shall be made part of the prisoner's file

(c) A parole granted under this subsection shall be for a period of not less than 4 years and subject to the usual rules pertaining to paroles granted by the parole board A parole ordered under this subsection is not valid until the transcript of the record is filed with the attorney general whose certification of receipt of the transcript shall be returnable to the office of the parole board within 5 days Except for medical records protected under section 2157 of the revised judicature act of 1961 Act No 236 of the Public Acts of 1961 being section 600 2157 of the Michigan Compiled Laws the file of a prisoner granted a parole under this subsection is a public record

(d) A parole shall not be granted under this subsection in the case of a prisoner who is otherwise prohibited by law from parole consideration In such cases the interview procedures in section 44 shall be followed

(7) Except as provided in section 34a a prisoner's release on parole is discretionary with the parole board The action of the parole board in granting or denying a parole is appealable by the prisoner the prosecutor of the county from which the prisoner was committed or the victim of the crime for which the prisoner was convicted The appeal shall be to the circuit court by leave of the court

Sec 34a (1) A prisoner sentenced either before on or after the effective date of the amendatory act that added this section to an indeterminate term of imprisonment under the jurisdiction of the department shall be considered by the department for placement in a special alternative incarceration unit established under section 3 of the special alternative incarceration act Act No 287 of the Public Acts of 1988 being section 798 13 of the Michigan Compiled Laws if the prisoner meets the eligibility requirements of subsections (2) and (3) For a prisoner committed to the jurisdiction of the department on or after March 19 1992 the department shall determine before the prisoner leaves the reception center whether the prisoner is eligible for placement in a special alternative incarceration unit although actual placement may take place at a later date A determination of eligibility does not guarantee placement in a unit

(2) To be eligible for placement in a special alternative incarceration unit the prisoner shall meet all of the following requirements

(a) The prisoner's minimum sentence does not exceed either of the following limits as applicable

(i) 24 months or less for a violation of section 110 of the Michigan penal code Act No 110 of the Public Acts of 1931 being section 750 110 of the Michigan Compiled Laws if the violation involved any occupied dwelling house as that term is defined in that section

(ii) 36 months or less for any other crime

(b) The prisoner has never previously been placed in a special alternative incarceration unit as either a prisoner or a probationer unless he or she was removed from a special alternative incarceration unit for medical reasons as specified in subsection (6)

(c) The prisoner is physically able to participate in the program

(d) The prisoner does not appear to have any mental handicap that would prevent participation in the program

(e) The prisoner is serving his or her first prison sentence

(f) At the time of sentencing the judge did not prohibit participation in the program in the judgment of sentence

(g) The prisoner is otherwise suitable for the program as determined by the department

(h) The prisoner is not serving a sentence for any of the following crimes

(i) Section 11 49 80 83 89 91 157b 158 207 260 316 317 327 328 335a 338 338a 338b 349 349a 350 422 436 511 516 517 520b 529 529a 531 or 544 of the Michigan penal code Act No 328 of the Public Acts of 1931 being sections 750 11 750 49 750 80 750 83 750 89 750 91 750 157b 750 158 750 207 750 260 750 316 750 317 750 327 750 328 750 335a 750 338 750 338a 750 338b 750 349 750 349a 750 350 750 422 750 436 750 511 750 516 750 517 750 520b 750 529 750 529a 750 531 and 750 544 of the Michigan Compiled Laws

(ii) A violation of section 145c 520c 520d or 520g of Act No 328 of the Public Acts of 1931 being sections 750 145c 750 520c 750 520d and 750 520g of the Michigan Compiled Laws

(iii) A violation of section 72 73 or 75 of Act No 328 of the Public Acts of 1931 being sections 750 72 750 73 and 750 75 of the Michigan Compiled Laws

(iv) A violation of section 86 112 136b 193 195 213 319 321 329 or 397 of Act No 328 of the Public Acts of 1931 being sections 750 86 750 112 750 136b 750 193 750 195 750 213 750 319 750 321 750 329 and 750 397 of the Michigan Compiled Laws

(v) A violation of section 2 of Act No 302 of the Public Acts of 1968 being section 752 542 of the Michigan Compiled Laws

(vi) An attempt to commit a crime described in subparagraphs (i) to (v)

(vii) A violation occurring on or after January 1 1992 of section 625(4) or (5) of the Michigan vehicle code Act No 300 of the Public Acts of 1949 being section 257 625 of the Michigan Compiled Laws

(viii) A crime for which the prisoner was punished pursuant to section 10 11 or 12 of chapter IX of the code of criminal procedure Act No 175 of the Public Acts of 1927 being sections 769 10 769 11 and 769 12 of the Michigan Compiled Laws

(3) A prisoner who is serving a sentence for a violation of section 7401 or 7403 of the public health code Act No 368 of the Public Acts of 1978 being sections 333 7401 and 333 7403 of the Michigan Compiled Laws and who has previously been convicted for a violation of section 7401 or 7403(2)(a) (b) or (e) of Act No 368 of the Public Acts of 1978 is not eligible for placement in a special alternative incarceration unit until after he or she has served the equivalent of the mandatory minimum sentence prescribed by statute for that violation

(4) If the sentencing judge prohibited a prisoner's participation in the special alternative incarceration program in the judgment of sentence that prisoner shall not be placed in a special alternative incarceration unit If the sentencing judge permitted the prisoner's participation in the special alternative incarceration program in the judgment of sentence that prisoner may be placed in a special alternative incarceration unit if the department determines that the prisoner also meets the requirements of subsections (2) and (3) If the sentencing judge neither prohibited nor permitted a prisoner's participation in the special alternative incarceration program in the judgment of sentence and the department determines that the prisoner meets the eligibility requirements of subsections (2) and (3) the department shall notify the judge or the judge's successor the prosecuting attorney for the county in which the prisoner was sentenced and any victim of the crime for which the prisoner was committed if the victim has submitted to the department a written request for any notification pursuant to section 19(1) of the crime victim's rights act Act No 87 of the Public Acts of 1985 being section 780 769 of the Michigan Compiled Laws of the proposed placement of the prisoner in the special alternative incarceration unit not later than 30 days before placement is intended to occur The department shall not place the prisoner in a special alternative incarceration unit unless the sentencing judge or the judge's successor notifies the department in writing that he or she does not object to the proposed placement In making the decision on whether or not to object the judge or judge's successor shall review any impact statement submitted pursuant to section 14 of Act No 87 of the Public Acts of 1985 being section 780 764 of the Michigan Compiled Laws by the victim or victims of the crime of which the prisoner was convicted

(5) Notwithstanding subsection (4) a prisoner shall not be placed in a special alternative incarceration unit unless the prisoner consents to that placement and agrees that the department may suspend or restrict privileges generally afforded other prisoners including but not limited to the areas of visitation property mail publications commissary library and telephone access However the department may not suspend or restrict the prisoner's access to the prisoner grievance system

(6) A prisoner may be placed in a special alternative incarceration program for a period of not less than 90 days or more than 120 days If during that period the prisoner misses more than 5 days of program participation due to medical excuse for illness or injury occurring after he or she was placed in the program the period of placement shall be increased by the number of days missed beginning with the sixth day of medical excuse up to a maximum of 20 days However the total number of days a prisoner may be placed in this program including days missed due to medical excuse shall not exceed 120 days A medical excuse shall be verified by a physician's statement A prisoner who is medically unable to participate in the program for more than 25 days shall be returned to a state correctional facility but may be reassigned to the program if the prisoner meets the eligibility requirements of subsections (2) and (3)

(7) Upon certification of completion of the special alternative incarceration program the prisoner shall be placed on parole A prisoner paroled under this section shall have conditions of parole as determined appropriate by the parole

board and shall be placed on parole for not less than 18 months or the balance of the prisoner's minimum sentence whichever is greater with at least the first 120 days under intensive supervision

(8) The parole board may suspend or revoke parole for any prisoner paroled under this section subject to sections 39a and 40a. For a prisoner other than a prisoner subject to disciplinary time, if parole is revoked before the expiration of the prisoner's minimum sentence less disciplinary credits, the parole board shall forfeit pursuant to section 33(13) of Act No. 118 of the Public Acts of 1893, being section 800.33 of the Michigan Compiled Laws, all disciplinary credits that were accumulated during special alternative incarceration, and the prisoner shall be considered for parole pursuant to section 35.

(9) On March 19, 1993, and annually after that time, the department shall report to the legislature the impact of the operation of this section, including a report concerning recidivism.

(10) This section is repealed March 19, 1995.

Sec. 35. (1) The release of a prisoner on parole shall be granted solely upon the initiative of the parole board. The parole board may grant a parole without interviewing the prisoner. However, beginning on the date on which the administrative rules prescribing parole guidelines pursuant to section 33e(5) take effect, the parole board may grant a parole without interviewing the prisoner only if, after evaluating the prisoner according to the parole guidelines, the parole board determines that the prisoner has a high probability of being paroled and the parole board therefore intends to parole the prisoner. Except as provided in subsection (2), a prisoner shall not be denied parole without an interview before 1 member of the parole board. The interview shall be conducted at least 1 month before the expiration of the prisoner's minimum sentence less applicable good time and disciplinary credits for a prisoner eligible for good time and disciplinary credits, or at least 1 month before the expiration of the prisoner's minimum sentence plus disciplinary time for a prisoner subject to disciplinary time. The parole board shall consider any statement made to the parole board by a crime victim under the crime victim's rights act, Act No. 87 of the Public Acts of 1985, being sections 780.751 to 780.834 of the Michigan Compiled Laws, or under any other provision of law. The parole board shall not consider any of the following factors in making a parole determination:

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

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

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

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

(a) A prisoner's marital history.

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

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

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

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

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

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

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

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

(d) Whether the prisoner fully cooperated with the state by providing complete financial information as required under section 3a of the state correctional facility reimbursement act, Act No. 253 of the Public Acts of 1935, being section 800.403a of the Michigan Compiled Laws

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

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

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

(11) The department shall submit a petition to the probate court under section 434 of the mental health code, Act No. 258 of the Public Acts of 1974, being section 330.1434 of the Michigan Compiled Laws, for any prisoner being paroled or being released after serving his or her maximum sentence whom the department considers to be a person requiring treatment. The parole board shall require mental health treatment as a special condition of parole for any parolee whom the department has determined to be a person requiring treatment, whether or not the petition filed for that prisoner is granted by the probate court. As used in this subsection, person requiring treatment means that term as defined in section 401 of Act No. 258 of the Public Acts of 1974, being section 330.1401 of the Michigan Compiled Laws

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

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

Sec. 36 (1) All paroles shall be ordered by the parole board and shall be signed by the chairperson. Written notice of the order shall be given to the sheriff or other police officer of the municipality or county in which the prisoner was convicted, and to the sheriff or other local police officer of the municipality or county to which the paroled prisoner is sent

(2) An order of parole may be amended or rescinded at the discretion of the parole board for cause. A parole shall not be rescinded unless an interview is conducted by 1 member of the parole board. The purpose of the interview is to consider and act upon information received by the board after the original parole release decision. A rescission interview shall be conducted within 45 days after receiving the new information. At least 10 days before the interview, the parolee shall receive a copy or summary of the new evidence that is the basis for the interview. An amendment to a parole order shall be in writing and is not effective until notice of the amendment is given to the parolee

(3) When an order for parole is issued, the order shall contain the conditions of the parole and shall specifically provide proper means of supervision of the paroled prisoner in accordance with the rules of the bureau of field services

(4) The order of parole shall contain a condition to pay restitution to the victim of the prisoner's crime or the victim's estate if the prisoner was ordered to make restitution pursuant to the crime victim's rights act, Act No. 87 of the Public Acts of 1985, being sections 780.751 to 780.834 of the Michigan Compiled Laws, or the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 760.1 to 776.21 of the Michigan Compiled Laws

(5) The order of parole shall contain a condition requiring the parolee to pay a parole supervision fee as prescribed in section 36a

(6) The order of parole shall contain a condition requiring the parolee to pay any assessment the prisoner was ordered to pay pursuant to section 5 of Act No. 196 of the Public Acts of 1989, being section 780.905 of the Michigan Compiled Laws

(7) An order of parole issued for a prisoner subject to disciplinary time shall contain a condition requiring the parolee to be housed in a community corrections center or a community residential home for not less than the first 30 days but not more than the first 180 days of his or her term of parole. As used in this subsection, community corrections center and community residential home mean those terms as defined in section 65a

(8) In each case in which payment of restitution is ordered as a condition of parole, a parole officer assigned to a case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. The final review shall be conducted not less than 60 days before the expiration of the parole period. If the parole officer determines that restitution is not being paid as ordered, the parole officer shall file a written report of the violation with the parole board on a form prescribed by the parole board. The report shall include a statement of the amount of arrearage and any

reasons for the arrearage known by the parole officer. The parole board shall immediately provide a copy of the report to the court, the prosecuting attorney, and the victim.

Sec 37 (1) When a prisoner is released upon parole, the department shall provide the prisoner with clothing and a nontransferable ticket to the place in which the paroled prisoner is to reside. At the discretion of the deputy director in charge of the bureau of field services, the paroled prisoner may be advanced the expense of the transportation to the place of residence and a sum of money necessary for reasonable maintenance and subsistence for a 2 week period, as determined by the deputy director. A sum of money given under this section shall be repaid to the state by the paroled prisoner within 180 days after the money is received by the paroled prisoner.

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

- (a) Clothing that is appropriate for the season.
 - (b) A sum of \$75.00 including that amount already in the prisoner's possession.
 - (c) Transportation to a place in this state where the prisoner will reside or work or to the place where the prisoner was convicted or sentenced.
- (3) When providing for transportation, the department shall:
- (a) Use the most economical available public transportation.
 - (b) Arrange for and purchase the prisoner's transportation ticket.
 - (c) Assume responsibility for delivering that prisoner to the site of departure and confirming the prisoner's departure from the site.
- (4) The cost of implementing this section shall be paid out of the general fund of the state.

Sec 38 (1) Each prisoner on parole shall remain in the legal custody and under the control of the department. The deputy director of the bureau of field services, upon a showing of probable violation of parole, may issue a warrant for the return of any paroled prisoner. Pending a hearing upon any charge of parole violation, the prisoner shall remain incarcerated.

(2) A prisoner violating the provisions of his or her parole and for whose return a warrant has been issued by the deputy director of the bureau of field services is treated as an escaped prisoner and is liable, when arrested, to serve out the unexpired portion of his or her maximum imprisonment. The time from the date of the declared violation to the date of the prisoner's availability for return to an institution shall not be counted as time served. The warrant of the deputy director of the bureau of field services is a sufficient warrant authorizing all officers named in the warrant to detain the paroled prisoner in any jail of the state until his or her return to the state penal institution.

(3) If a paroled prisoner fails to return to prison when required by the deputy director of the bureau of field services or if the paroled prisoner escapes while on parole, the paroled prisoner shall be treated in all respects as if he or she had escaped from prison and is subject to be retaken as provided by the laws of this state.

(4) The parole board, in its discretion, may cause the forfeiture of all good time to the date of the declared violation.

(5) A prisoner committing a crime while at large on parole and being convicted and sentenced for the crime shall be treated as to the last incurred term as provided under section 34.

(6) A parole shall be construed as a permit to the prisoner to leave the prison, and not as a release. While at large, the paroled prisoner shall be considered to be serving out the sentence imposed by the court, and, if he or she is eligible for good time, shall be entitled to good time the same as if confined in a state correctional facility.

Sec 51 (1) There is created within the department a hearings division. The division is under the direction and supervision of the hearings administrator who is appointed by the director of the department.

(2) The hearings division is responsible for each prisoner hearing the department conducts that may result in the loss by a prisoner of a right, including but not limited to any 1 or more of the following matters:

- (a) An infraction of a prison rule that may result in punitive segregation, loss of disciplinary credits, or the loss of good time.
- (b) A security classification that may result in the placement of a prisoner in administrative segregation.
- (c) A special designation that permanently excludes, by department policy or rule, a person under the jurisdiction of the department from community placement.
- (d) Visitor restrictions.
- (e) High or very high assaultive risk classifications.

(3) The hearings division is responsible for each prisoner hearing that may result in the accumulation of disciplinary time

(4) The hearings division is not responsible for a prisoner hearing that is conducted as a result of a minor misconduct charge that would not cause a loss of good time or disciplinary credits or result in placement in punitive segregation

(5) Each hearings officer of the department is under the direction and supervision of the hearings division. Each hearings officer hired by the department after October 1, 1979, shall be an attorney.

Sec 65 (1) Under rules promulgated by the director of the department, the assistant director in charge of the bureau of correctional facilities, except as otherwise provided in this section, may cause the transfer or re transfer of a prisoner from a correctional facility to which committed to any other correctional facility or temporarily to a state institution for medical or surgical treatment. In effecting a transfer, the assistant director of the bureau of correctional facilities may utilize the services of an executive or employee within the department and of a law enforcement officer of the state.

(2) A prisoner who is subject to disciplinary time and is committed to the jurisdiction of the department shall be confined in a secure correctional facility for the duration of his or her minimum sentence plus disciplinary time, except for periods when the prisoner is away from the secure correctional facility while being supervised by an employee of the department for 1 of the following purposes:

(a) Visiting a critically ill relative

(b) Attending the funeral of a relative

(c) Obtaining medical services not otherwise available at the secure correctional facility

(d) Participating in a work detail

(3) As used in this section, offender means a citizen of the United States or a foreign country who has been convicted of a crime and been given a sentence in a country other than the country of which he or she is a citizen. If a treaty is in effect between the United States and a foreign country which provides for the transfer of offenders from the jurisdiction of 1 of the countries to the jurisdiction of the country of which the offender is a citizen, and if the offender requests the transfer, the governor of this state or a person designated by the governor may give the approval of this state to a transfer of an offender if the conditions of the treaty are satisfied.

(4) Not less than 45 days before approval of a transfer pursuant to subsection (3) from this state to another country, the governor or the governor's designee shall notify the sentencing judge and the prosecuting attorney of the county having original jurisdiction or their successors in office of the request for transfer. The notification shall indicate any name changes of the offender subsequent to sentencing. Within 20 days after receiving such notification, the judge or prosecutor may send to the governor or the governor's designee information about the criminal action against the offender or objections to the transfer. Objections to the transfer shall not preclude approval of the transfer.

(5) As used in this section, secure correctional facility means a facility that houses prisoners under the jurisdiction of the department according to the following requirements:

(a) The facility is enclosed by a locked fence or wall that is designed to prevent prisoners from leaving the enclosed premises and that is patrolled by correctional officers.

(b) Prisoners in the facility are restricted to the area inside the fence or wall.

(c) Prisoners are under guard by correctional officers 7 days per week, 24 hours per day.

Sec 65a (1) Under prescribed conditions, the director may extend the limits of confinement of a prisoner when there is reasonable assurance, after consideration of all facts and circumstances, that the prisoner will not become a menace to society or to the public safety by authorizing the prisoner to do any of the following:

(a) Visit a specifically designated place or places. An extension of limits may be granted only to a prisoner housed in a state correctional facility to permit a visit to a critically ill relative, attendance at the funeral of a relative, or contacting prospective employers. The maximum amount of time a prisoner is eligible for an extension of the limits of confinement under this subdivision shall not exceed a cumulative total period of 30 days.

(b) Obtain medical services not otherwise available to a prisoner housed in a state correctional facility.

(c) Work at paid employment, participate in a training or educational program, or participate in a community residential drug treatment program while continuing as a prisoner housed on a voluntary basis at a community corrections center or in a community residential home.

(2) The director shall promulgate rules to implement this section.

(3) The willful failure of a prisoner to remain within the extended limits of his or her confinement or to return within the time prescribed to an institution or facility designated by the director shall be considered an escape from custody as provided in section 193 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, as amended, being section 750.193 of the Michigan Compiled Laws.

(4) A prisoner other than a prisoner subject to disciplinary time who is convicted of a crime of violence or any assaultive crime is not eligible for the extensions of the limits of confinement provided in subsection (1) until the minimum sentence imposed for the crime has less than 180 days remaining. A prisoner subject to disciplinary time is not eligible for the extensions of the limits of confinement provided in subsection (1) until he or she has served the minimum sentence imposed for the crime plus any disciplinary time. However, if the reason for the extension is to visit a critically ill relative, attend the funeral of a relative, or obtain medical services not otherwise available, the director may allow the extension under escort as provided in subsection (1).

(5) A prisoner serving a sentence for murder in the first degree is not eligible for the extensions of confinement under this section until a parole release date is established by the parole board and in no case before serving 15 calendar years with a good institutional adjustment.

(6) As used in this section:

(a) Community corrections center means a facility either contracted for or operated by the department in which a security staff is on duty 7 days per week, 24 hours per day.

(b) Community residential home means a facility where electronic monitoring of prisoner presence is provided by the department 7 days per week, 24 hours per day, except that the department may waive the requirement that electronic monitoring be provided as to any prisoner who is within 3 months of his or her parole date.

(c) State correctional facility means a facility owned or leased by the department. State correctional facility does not include a community corrections center or community residential home.

Section 2. This amendatory act shall take effect on the date that sentencing guidelines are enacted into law after the sentencing commission submits its report to the secretary of the senate and the clerk of the house of representatives pursuant to sections 31 to 34 of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, as added by the amendatory act resulting from House Bill No. 4782 of the 87th Legislature.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

(a) Senate Bill No. 41

(b) House Bill No. 4782

(c) House Bill No. 5439

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor