



SENATE BILL No. 40

January 13, 1993, Introduced by Senator VAN REGENMORTER
and referred to the Committee on Judiciary.

A bill to amend sections 33, 33b, 34, 34a, 35, 37, 38, 51,
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 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 hereby transferred; 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 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, 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, 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, 791.237, 791.238, 791.251, and 791.265a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 33, 33b, 34, 34a, 35, 37, 38, 51, and
 2 65a of Act No. 232 of the Public Acts of 1953, section 33 as
 3 amended by Act No. 458 of the Public Acts of 1982, section 33b as
 4 amended by Act No. 252 of the Public Acts of 1989, sections 34
 5 and 35 as amended by Act No. 181 of the Public Acts of 1992,
 6 section 34a as added by Act No. 22 of the Public Acts of 1992,
 7 sections 37 and 38 as amended by Act No. 314 of the Public Acts
 8 of 1982, section 51 as amended by Act No. 155 of the Public Acts
 9 of 1983, and section 791.265a as amended by Act No. 272 of the
 10 Public Acts of 1988, being sections 791.233, 791.233b, 791.234,
 11 791.234a, 791.235, 791.237, 791.238, 791.251, and 791.265a of the
 12 Michigan Compiled Laws, are amended to read as follows:

13 Sec. 33. (1) The grant of a parole ~~shall be~~ IS subject to
 14 all of the following:

15 (a) A prisoner shall not be given ~~his~~ liberty on parole
 16 until the board has reasonable assurance, after consideration of
 17 all of the facts and circumstances, including the prisoner's

1 mental and social attitude, that the prisoner will not become a
2 menace to society or to the public safety.

3 (b) A parole shall not be granted to a prisoner SENTENCED ON
4 OR BEFORE THE EFFECTIVE DATE OF THE 1993 AMENDATORY ACT THAT
5 AMENDED THIS SECTION until the prisoner has served the minimum
6 term imposed by the court less allowances for good time or spe-
7 cial good time to which the prisoner may be entitled to by stat-
8 ute, except that ~~prisoners shall be~~ A PRISONER IS eligible for
9 parole ~~prior to~~ BEFORE the expiration of ~~their~~ HIS OR HER
10 minimum ~~terms~~ TERM of imprisonment whenever the sentencing
11 judge, or the judge's successor in office, gives written approval
12 of the parole of the prisoner ~~prior to~~ BEFORE the expiration of
13 the minimum ~~terms~~ TERM of imprisonment.

14 (c) Notwithstanding the provisions of subdivision (b), a
15 parole shall not be granted to a prisoner sentenced ON OR BEFORE
16 THE EFFECTIVE DATE OF THE 1993 AMENDATORY ACT THAT AMENDED THIS
17 SECTION for the commission of a crime described in section 33b(a)
18 to (cc) until the prisoner has served the minimum term imposed by
19 the court less an allowance for disciplinary credits as provided
20 in section 33(5) of Act No. 118 of the Public Acts of 1893,
21 being section 800.33 of the Michigan Compiled Laws. A prisoner
22 described in this subdivision is not eligible for special
23 parole.

24 (D) A PAROLE SHALL NOT BE GRANTED TO A PRISONER SENTENCED
25 AFTER THE EFFECTIVE DATE OF THE 1993 AMENDATORY ACT THAT AMENDED
26 THIS SECTION UNTIL THE PRISONER HAS SERVED THE MINIMUM TERM
27 IMPOSED BY THE COURT, PLUS ANY DISCIPLINARY TIME ACCUMULATED

1 PURSUANT TO SECTION 34 OF ACT NO. 118 OF THE PUBLIC ACTS OF 1893,
2 BEING SECTION 800.34 OF THE MICHIGAN COMPILED LAWS, EXCEPT THAT A
3 PRISONER IS ELIGIBLE FOR PAROLE BEFORE THE EXPIRATION OF HIS OR
4 HER MINIMUM TERM OF IMPRISONMENT PLUS DISCIPLINARY TIME WHENEVER
5 THE SENTENCING JUDGE, OR THE JUDGE'S SUCCESSOR IN OFFICE, GIVES
6 WRITTEN APPROVAL OF THE PAROLE OF THE PRISONER BEFORE THE EXPIRA-
7 TION OF THE MINIMUM TERM OF IMPRISONMENT PLUS DISCIPLINARY TIME.

8 (E) ~~(d)~~ A prisoner shall not be released on parole until
9 the parole board has satisfactory evidence that arrangements have
10 been made for such honorable and useful employment as the pris-
11 oner is capable of performing, ~~or~~ FOR the prisoner's education,
12 or for the prisoner's care if the prisoner is mentally or physi-
13 cally ill or incapacitated.

14 ~~(e) If a prisoner is serving a sentence for a crime commit-~~
15 ~~ted during the time the prisoner was on parole due to a reduction~~
16 ~~of a previous prison term under the prison overcrowding emergency~~
17 ~~powers act, Act No. 519 of the Public Acts of 1980, being sec-~~
18 ~~tions 800.71 to 800.79 of the Michigan Compiled Laws, that pris-~~
19 ~~oner shall not be released on parole due to a reduction in the~~
20 ~~prisoner's minimum term under the prison overcrowding emergency~~
21 ~~powers act, Act No. 519 of the Public Acts of 1980.~~

22 (2) Paroles-in-custody to answer warrants filed by local —
23 OR out-of-state agencies, or immigration officials, are permissi-
24 ble —, ~~provided~~ IF an accredited agent of the agency filing the
25 warrant ~~shall call~~ CALLS for the prisoner so paroled in
26 custody.

1 (3) Pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
2 Act No. 306 of the Public Acts of 1969, as amended, being
3 sections 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws,
4 the parole board may promulgate rules not inconsistent with this
5 act with respect to conditions to be imposed upon ~~paroled~~ pris-
6 oners paroled under this act.

7 Sec. 33b. A person convicted and sentenced ON OR BEFORE THE
8 EFFECTIVE DATE OF THE 1993 AMENDATORY ACT THAT AMENDED THIS
9 SECTION for the commission of any of the following crimes ~~shall~~
10 IS not ~~be~~ eligible for parole until the person has served the
11 minimum term imposed by the court less an allowance for disci-
12 plinary credits as provided in section 33(5) of Act No. 118 of
13 the Public Acts of 1893, being section 800.33 of the Michigan
14 Compiled Laws, ~~but shall~~ AND IS not ~~be~~ eligible for special
15 parole:

16 (a) Section 13 of THE MICHIGAN PENAL CODE, Act No. 328 of
17 the Public Acts of 1931, as amended, being section 750.13 of the
18 Michigan Compiled Laws.

19 (b) Section 14 of Act No. 328 of the Public Acts of 1931, as
20 amended, being section 750.14 of the Michigan Compiled Laws.

21 (c) Section 72, 73, or 75 of Act No. 328 of the Public Acts
22 of 1931, as amended, being section 750.72, 750.73, or 750.75 of
23 the Michigan Compiled Laws.

24 (d) Section 80, 82, 83, 84, ~~85,~~ 86, 87, 88, 89, or 90 of
25 Act No. 328 of the Public Acts of 1931, as amended, being section
26 750.80, 750.82, 750.83, 750.84, ~~750.85,~~ 750.86, 750.87, 750.88,

1 750.89, or 750.90 of the Michigan Compiled Laws, OR UNDER FORMER
2 SECTION 85 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931.

3 (e) Section 91 or 92 of Act No. 328 of the Public Acts of
4 1931, as amended, being section 750.91 or 750.92 of the Michigan
5 Compiled Laws.

6 (f) Section 110, 112, or 116 of Act No. 328 of the Public
7 Acts of 1931, as amended, being section 750.110, 750.112, or
8 750.116 of the Michigan Compiled Laws.

9 (g) Section 135, 136b(2), or 136b(3) of Act No. 328 of the
10 Public Acts of 1931, as amended, being section 750.135 or
11 750.136b of the Michigan Compiled Laws, or under former section
12 136a of Act No. 328 of the Public Acts of 1931.

13 (h) Section 158 of Act No. 328 of the Public Acts of 1931,
14 as amended, being section 750.158 of the Michigan Compiled Laws.

15 (i) Section 160 of Act No. 328 of the Public Acts of 1931,
16 as amended, being section 750.160 of the Michigan Compiled Laws.

17 (j) Section 171 of Act No. 328 of the Public Acts of 1931,
18 as amended, being section 750.171 of the Michigan Compiled Laws.

19 (k) Section ~~194 or~~ 196 of Act No. 328 of the Public Acts
20 of 1931, as amended, being section ~~750.194 or~~ 750.196 of the
21 Michigan Compiled Laws, OR UNDER FORMER SECTION 194 OF ACT
22 NO. 328 OF THE PUBLIC ACTS OF 1931.

23 (l) Section 204, 205, 206, 207, 208, 209, or 213 of Act
24 No. 328 of the Public Acts of 1931, as amended, being section
25 750.204, 750.205, 750.206, 750.207, 750.208, 750.209, or 750.213
26 of the Michigan Compiled Laws.

1 (m) Section 224, 226, or 227 of Act No. 328 of the Public
2 Acts of 1931, as amended, being section 750.224, 750.226, or
3 750.227 of the Michigan Compiled Laws.

4 (n) Section 316, 317, 319, 321, 322, 323, 327, 328, or 329
5 of Act No. 328 of the Public Acts of 1931, as amended, being sec-
6 tion 750.316, 750.317, 750.319, 750.321, 750.322, 750.323,
7 750.327, 750.328, or 750.329 of the Michigan Compiled Laws.

8 (o) ~~Section~~ FORMER SECTION 333 of Act No. 328 of the
9 Public Acts of 1931. ~~, as amended, being section 750.333 of the~~
10 ~~Michigan Compiled Laws.~~

11 (p) Section 338, 338a, OR 338b ~~, or 341~~ of Act No. 328 of
12 the Public Acts of 1931, as amended, being section 750.338,
13 750.338a, OR 750.338b ~~, or 750.341~~ of the Michigan Compiled
14 Laws, OR UNDER FORMER SECTION 341 OF ACT NO. 328 OF THE PUBLIC
15 ACTS OF 1931.

16 (q) Section 349, 349a, or 350 of Act No. 328 of the Public
17 Acts of 1931, as amended, being section 750.349, 750.349a, or
18 750.350 of the Michigan Compiled Laws.

19 (r) Section 357 of Act No. 328 of the Public Acts of 1931,
20 as amended, being section 750.357 of the Michigan Compiled Laws.

21 (s) Section 386 or 392 of Act No. 328 of the Public Acts of
22 1931, as amended, being section 750.386 or 750.392 of the
23 Michigan Compiled Laws.

24 (t) Section 397 or 397a of Act No. 328 of the Public Acts of
25 1931, as amended, being section 750.397 or 750.397a of the
26 Michigan Compiled Laws.

1 (u) Section 436 of Act No. 328 of the Public Acts of 1931,
2 as amended, being section 750.436 of the Michigan Compiled Laws.

3 (v) Section 511 or 517 of Act No. 328 of the Public Acts of
4 1931, as amended, being section 750.511 or 750.517 of the
5 Michigan Compiled Laws.

6 (w) Section 520b, 520c, 520d, or 520g of Act No. 328 of the
7 Public Acts of 1931, as amended, being section 750.520b,
8 750.520c, 750.520d, or 750.520g of the Michigan Compiled Laws.

9 (x) Section 529, 530, or 531 of Act No. 328 of the Public
10 Acts of 1931, as amended, being section 750.529, 750.530, or
11 750.531 of the Michigan Compiled Laws.

12 (y) Section 544 ~~or 545a~~ of Act No. 328 of the Public Acts
13 of 1931, as amended, being section 750.544 ~~or 750.545a~~ of the
14 Michigan Compiled Laws, OR UNDER FORMER SECTION 545A OF ACT
15 NO. 328 OF THE PUBLIC ACTS OF 1931.

16 (z) ~~Section~~ FORMER SECTION 2 of Act No. 38 of the Public
17 Acts of 1950 Ex. Sess. ~~, as amended, being section 752.312 of~~
18 ~~the Michigan Compiled Laws.~~

19 (aa) ~~Section~~ FORMER SECTION 6 of Act No. 117 of the Public
20 Acts of 1952. ~~, as amended, being section 752.326 of the~~
21 ~~Michigan Compiled Laws.~~

22 (bb) Section 1, 2, OR 3 ~~, or 4~~ of Act No. 302 of the
23 Public Acts of 1968, as amended, being section 752.541, 752.542,
24 OR 752.543 ~~, or 752.544~~ of the Michigan Compiled Laws.

25 (cc) Section 7401(2)(a), 7401(2)(b), 7402(2)(a), or
26 7402(2)(b) of THE PUBLIC HEALTH CODE, Act No. 368 of the Public

1 Acts of 1978, being section 333.7401 or 333.7402 of the Michigan
2 Compiled Laws.

3 Sec. 34. (1) Except as provided in section 34a, a prisoner
4 sentenced ON OR BEFORE THE EFFECTIVE DATE OF THE 1993 AMENDATORY
5 ACT THAT AMENDED THIS SECTION to an indeterminate sentence and
6 confined in a state correctional facility with a minimum in terms
7 of years ~~shall be~~ IS subject to the jurisdiction of the parole
8 board when the prisoner has served a period of time equal to the
9 minimum sentence imposed by the court for the crime of which he
10 or she was convicted, less good time and disciplinary credits, if
11 applicable.

12 (2) EXCEPT AS PROVIDED IN SECTION 34A, A PRISONER SENTENCED
13 AFTER THE EFFECTIVE DATE OF THE 1993 AMENDATORY ACT THAT AMENDED
14 THIS SECTION TO AN INDETERMINATE SENTENCE AND CONFINED IN A STATE
15 CORRECTIONAL FACILITY WITH A MINIMUM IN TERMS OF YEARS IS SUBJECT
16 TO THE JURISDICTION OF THE PAROLE BOARD WHEN THE PRISONER HAS
17 SERVED A PERIOD OF TIME EQUAL TO THE MINIMUM SENTENCE IMPOSED BY
18 THE COURT FOR THE CRIME OF WHICH HE OR SHE WAS CONVICTED, PLUS
19 ANY DISCIPLINARY TIME ACCUMULATED PURSUANT TO SECTION 34 OF ACT
20 NO. 118 OF THE PUBLIC ACTS OF 1893, BEING SECTION 800.34 OF THE
21 MICHIGAN COMPILED LAWS.

22 (3) ~~(2)~~ If a prisoner is sentenced ON OR BEFORE THE EFFEC-
23 TIVE DATE OF THE 1993 AMENDATORY ACT THAT AMENDED THIS SECTION
24 for consecutive terms, whether received at the same time or at
25 any time during the life of the original sentence, the parole
26 board ~~shall have~~ HAS jurisdiction over the prisoner for
27 purposes of parole when the prisoner has served the total time of

1 the added minimum terms, less the good time and disciplinary
2 ~~credit~~ CREDITS allowed by statute. The maximum terms of the
3 sentences shall be added to compute the new maximum term under
4 this subsection, and discharge shall be issued only after the
5 total of the maximum sentences has been served less good time and,
6 disciplinary credits, unless the prisoner is paroled and dis-
7 charged upon satisfactory completion of the parole.

8 (4) IF A PRISONER IS SENTENCED AFTER THE EFFECTIVE DATE OF
9 THE 1993 AMENDATORY ACT THAT AMENDED THIS SECTION FOR CONSECUTIVE
10 TERMS, WHETHER RECEIVED AT THE SAME TIME OR AT ANY TIME DURING
11 THE LIFE OF THE ORIGINAL SENTENCE, THE PAROLE BOARD HAS JURISDIC-
12 TION OVER THE PRISONER FOR PURPOSES OF PAROLE WHEN THE PRISONER
13 HAS SERVED THE TOTAL TIME OF THE ADDED MINIMUM TERMS, PLUS ANY
14 DISCIPLINARY TIME. THE MAXIMUM TERMS OF THE SENTENCES SHALL BE
15 ADDED TO COMPUTE THE NEW MAXIMUM TERM UNDER THIS SUBSECTION, AND
16 DISCHARGE SHALL BE ISSUED ONLY AFTER THE TOTAL OF THE MAXIMUM
17 SENTENCES HAS BEEN SERVED, UNLESS THE PRISONER IS PAROLED AND
18 DISCHARGED UPON SATISFACTORY COMPLETION OF THE PAROLE.

19 (5) ~~(3)~~ If a prisoner has 1 or more consecutive terms
20 remaining to serve in addition to the term he or she is serving,
21 the parole board may terminate the sentence the prisoner is pres-
22 ently serving at any time after the minimum term of the sentence
23 has been served, PLUS DISCIPLINARY TIME, IF APPLICABLE.

24 (6) ~~(4)~~ A prisoner under sentence for life or for a term
25 of years, other than a prisoner sentenced for life for murder in
26 the first degree or sentenced for life or for a minimum term of
27 imprisonment for a major controlled substance offense, who has

1 served 10 calendar years of the sentence in the case of a
2 prisoner sentenced for a crime committed before October 1, 1992,
3 or who has served 15 calendar years of the sentence in the case
4 of a prisoner sentenced for a crime committed on or after
5 October 1, 1992, is subject to the jurisdiction of the parole
6 board and may be released on parole by the parole board, subject
7 to the following conditions:

8 (a) One member of the parole board shall interview the pris-
9 oner at the conclusion of 10 calendar years of the sentence and
10 every 5 years thereafter until such time as the prisoner is
11 paroled, discharged, or deceased. The interview schedule pre-
12 scribed in this subdivision applies to all prisoners to whom this
13 subsection is applicable, whether sentenced before, on, or after
14 the effective date of the 1992 amendatory act that amended this
15 subdivision.

16 (b) A parole shall not be granted a prisoner so sentenced
17 until after a public hearing held in the manner prescribed for
18 pardons and commutations in sections ~~44(d) to (f)~~ 44(2)(F) TO
19 (H) and 45. Notice of the public hearing shall be given to the
20 sentencing judge, or the judge's successor in office, and parole
21 shall not be granted if the sentencing judge, or the judge's suc-
22 cessor in office, files written objections to the granting of the
23 parole within 30 days of receipt of the notice of hearing. The
24 written objections shall be made part of the prisoner's file.

25 (c) A parole granted under this subsection shall be for a
26 period of not less than 4 years and subject to the usual rules
27 pertaining to paroles granted by the parole board. A parole

1 ordered under this subsection ~~shall~~ IS not ~~become~~ valid until
2 the transcript of the record is filed with the attorney general
3 whose certification of receipt of the transcript shall be return-
4 able to the office of the parole board within 5 days. Except for
5 medical records protected under section 2157 of the revised judi-
6 cature act of 1961, Act No. 236 of the Public Acts of 1961, being
7 section 600.2157 of the Michigan Compiled Laws, the file of a
8 prisoner granted a parole under this subsection ~~shall be~~ IS a
9 public record.

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

14 (7) ~~(5)~~ Except as provided in section 34a, a prisoner's
15 release on parole ~~shall be~~ IS discretionary with the parole
16 board. The action of the parole board in granting or denying a
17 parole ~~shall be~~ IS appealable by the prisoner, the prosecutor
18 of the county from which the prisoner was committed, or the
19 victim of the crime for which the prisoner was convicted. The
20 appeal shall be to the circuit court by leave of the court.

21 Sec. 34a. (1) A prisoner sentenced either before, on, or
22 after the effective date of the amendatory act that added this
23 section to an indeterminate term of imprisonment under the juris-
24 diction of the department shall be considered by the department
25 for placement in a special alternative incarceration unit estab-
26 lished under section 3 of the special alternative incarceration
27 act, Act No. 287 of the Public Acts of 1988, being section 798.13

1 of the Michigan Compiled Laws, if the prisoner meets the
2 eligibility requirements of subsections (2) and (3). For a pris-
3 oner committed to the jurisdiction of the department on or after
4 ~~the effective date of the amendatory act that added this~~
5 ~~section~~ MARCH 19, 1992, the department shall determine before
6 the prisoner leaves the reception center whether the prisoner is
7 eligible for placement in a special alternative incarceration
8 unit, although actual placement may take place at a later date.
9 A determination of eligibility does not guarantee placement in a
10 unit.

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

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

16 (i) 24 months or less for a violation of section 110 of the
17 Michigan penal code, Act No. 110 of the Public Acts of 1931,
18 being section 750.110 of the Michigan Compiled Laws, if the vio-
19 lation involved any occupied dwelling house, as that term is
20 defined in that section.

21 (ii) 36 months or less for any other crime.

22 (b) The prisoner has never previously been placed in a spe-
23 cial alternative incarceration unit as either a prisoner or a
24 probationer, unless he or she was removed from a special alterna-
25 tive incarceration unit for medical reasons as specified in
26 subsection (6).

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

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

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

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

9 (g) The prisoner is otherwise suitable for the program, as
10 determined by the department.

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

13 (i) Section 11, 49, 80, 83, 89, 91, 157b, 158, 207, 260,
14 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a, 350, 422,
15 436, 511, 516, 517, 520b, 529, 531, or 544 of the Michigan penal
16 code, Act No. 328 of the Public Acts of 1931, being
17 sections 750.11, 750.49, 750.80, 750.83, 750.89, 750.91,
18 750.157b, 750.158, 750.207, 750.260, 750.316, 750.317, 750.327,
19 750.328, 750.335a, 750.338, 750.338a, 750.338b, 750.349,
20 750.349a, 750.350, 750.422, 750.436, 750.511, 750.516, 750.517,
21 750.520b, 750.529, 750.531, and 750.544 of the Michigan Compiled
22 Laws.

23 (ii) A violation of section 145c, 520c, 520d, or 520g of Act
24 No. 328 of the Public Acts of 1931, being sections 750.145c,
25 750.520c, 750.520d, and 750.520g of the Michigan Compiled Laws.

1 (iii) A violation of section 72, 73, or 75 of Act No. 328 of
2 the Public Acts of 1931, being sections 750.72, 750.73, and
3 750.75 of the Michigan Compiled Laws.

4 (iv) A violation of section 86, 112, 136b, 193, 195, 213,
5 319, 321, 329, or 397 of Act No. 328 of the Public Acts of 1931,
6 being sections 750.86, 750.112, 750.136b, 750.193, 750.195,
7 750.213, 750.319, 750.321, 750.329, and 750.397 of the Michigan
8 Compiled Laws.

9 (v) A violation of section 2 of Act No. 302 of the Public
10 Acts of 1968, being section 752.542 of the Michigan Compiled
11 Laws.

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

14 (vii) A violation occurring on or after January 1, 1992, of
15 section 625(4) or (5) of the Michigan vehicle code, Act No. 300
16 of the Public Acts of 1949, being section 257.625 of the Michigan
17 Compiled Laws.

18 (viii) A crime for which the prisoner was punished pursuant
19 to section 10, 11, or 12 of chapter IX of the code of criminal
20 procedure, Act No. 175 of the Public Acts of 1927, being sections
21 769.10, 769.11, and 769.12 of the Michigan Compiled Laws.

22 (3) A prisoner who is serving a sentence for a violation of
23 section 7401 or 7403 of the public health code, Act No. 368 of
24 the Public Acts of 1978, being sections 333.7401 and 333.7403 of
25 the Michigan Compiled Laws, and who has previously been convicted
26 for a violation of section 7401 or 7403(2)(a), (b), or (e) of Act
27 No. 368 of the Public Acts of 1978 ~~, being sections 333.7401 and~~

1 ~~333.7403 of the Michigan Compiled Laws,~~ is not eligible for
2 placement in a special alternative incarceration unit until after
3 he or she has served the equivalent of the mandatory minimum sen-
4 tence prescribed by statute for that violation.

5 (4) If the sentencing judge prohibited a prisoner's partici-
6 pation in the special alternative incarceration program in the
7 judgment of sentence, that prisoner shall not be placed in a spe-
8 cial alternative incarceration unit. If the sentencing judge
9 permitted the prisoner's participation in the special alternative
10 incarceration program in the judgment of sentence, that prisoner
11 may be placed in a special alternative incarceration unit if the
12 department determines that the prisoner also meets the require-
13 ments of subsections (2) and (3). If the sentencing judge nei-
14 ther prohibited nor permitted a prisoner's participation in the
15 special alternative incarceration program in the judgment of sen-
16 tence, and the department determines that the prisoner meets the
17 eligibility requirements of subsections (2) and (3), the depart-
18 ment shall notify the judge or the judge's successor, the prose-
19 cuting attorney for the county in which the prisoner was sen-
20 tenced, and any victim of the crime for which the prisoner was
21 committed if the victim has submitted to the department a written
22 request for any notification pursuant to section 19(1) of the
23 crime victim's rights act, Act No. 87 of the Public Acts of 1985,
24 being section 780.769 of the Michigan Compiled Laws, of the pro-
25 posed placement of the prisoner in the special alternative incar-
26 ceration unit not later than 30 days before placement is intended
27 to occur. The department shall not place the prisoner in a

1 special alternative incarceration unit unless the sentencing
2 judge, or the judge's successor, notifies the department, in
3 writing, that he or she does not object to the proposed
4 placement. In making the decision on whether or not to object,
5 the judge, or judge's successor, shall review any impact state-
6 ment submitted pursuant to section 14 of Act No. 87 of the Public
7 Acts of 1985, being section 780.764 of the Michigan Compiled
8 Laws, by the victim or victims of the crime of which the prisoner
9 was convicted.

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

18 (6) A prisoner may be placed in a special alternative incar-
19 ceration program for a period of not less than 90 days or more
20 than 120 days. If, during that period, the prisoner misses more
21 than 5 days of program participation due to medical excuse for
22 illness or injury occurring after he or she was placed in the
23 program, the period of placement shall be increased by the number
24 of days missed, beginning with the sixth day of medical excuse,
25 up to a maximum of 20 days. However, the total number of days a
26 prisoner may be placed in this program, including days missed due
27 to medical excuse, shall not exceed 120 days. A medical excuse

1 shall be verified by a physician's statement. A prisoner who is
2 medically unable to participate in the program for more than 25
3 days shall be returned to a state correctional facility but may
4 be reassigned to the program if the prisoner meets the eligibil-
5 ity requirements of subsections (2) and (3).

6 (7) Upon certification of completion of the special alterna-
7 tive incarceration program, the prisoner shall be placed on
8 parole. A prisoner paroled under this section shall have condi-
9 tions of parole as determined appropriate by the parole board and
10 shall be placed on parole for not less than 18 months, or the
11 balance of the prisoner's minimum sentence, whichever is greater,
12 with at least the first 120 days under intensive supervision.

13 (8) The parole board may suspend or revoke parole for any
14 prisoner paroled under this section subject to sections 39a and
15 40a. ~~IF~~ FOR A PRISONER SENTENCED ON OR BEFORE THE EFFECTIVE
16 DATE OF THE 1993 AMENDATORY ACT THAT AMENDED THIS SUBSECTION, IF
17 parole is revoked before the expiration of the prisoner's minimum
18 sentence, less disciplinary credits, the parole board shall
19 forfeit, ~~all disciplinary credits granted~~ pursuant to
20 section 33(13) of Act No. 118 of the Public Acts of 1893, being
21 section 800.33 of the Michigan Compiled Laws, ALL DISCIPLINARY
22 CREDITS that were accumulated during special alternative incar-
23 ceration, and the prisoner shall be considered for parole pursu-
24 ant to section 35.

25 (9) ~~One year after the effective date of the 1992 amenda-~~
26 ~~tory act that added this section~~ ON MARCH 19, 1993, and annually
27 after that time, the department shall report to the legislature

1 the impact of the operation of this section, including a report
2 concerning recidivism.

3 (10) This section is repealed upon the expiration of 3 years
4 after the date of its enactment.

5 Sec. 35. (1) The release of a prisoner on parole shall be
6 granted solely upon the initiative of the parole board. The
7 parole board may grant a parole without interviewing the
8 prisoner. However, beginning on the date on which the adminis-
9 trative rules prescribing parole guidelines pursuant to
10 section 33e(5) take effect, the parole board may grant a parole
11 without interviewing the prisoner only if, after evaluating the
12 prisoner according to the parole guidelines, the parole board
13 determines that the prisoner has a high probability of being
14 paroled and the parole board therefore intends to parole the
15 prisoner. Except as provided in subsection (2), a prisoner shall
16 not be denied parole without an interview before 1 member of the
17 parole board. The interview shall be conducted at least 1 month
18 before the expiration of the prisoner's minimum sentence less
19 applicable good time and disciplinary credits FOR A PRISONER ELI-
20 GIBLE FOR GOOD TIME AND DISCIPLINARY CREDITS, OR AT LEAST 1 MONTH
21 BEFORE THE EXPIRATION OF THE PRISONER'S MINIMUM SENTENCE PLUS
22 DISCIPLINARY TIME FOR A PRISONER SUBJECT TO DISCIPLINARY TIME.
23 The parole board shall consider any statement made to the parole
24 board by a crime victim under the crime victim's rights act, Act
25 No. 87 of the Public Acts of 1985, being sections 780.751 to
26 780.834 of the Michigan Compiled Laws, or under any other

1 provision of law. The parole board shall not consider any of the
2 following factors in making a parole determination:

3 (a) A juvenile record that a court has ordered the depart-
4 ment to expunge.

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

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

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

21 (a) A prisoner's marital history.

22 (b) Prior arrests not resulting in conviction or adjudica-
23 tion of delinquency.

24 (4) If an interview is to be conducted, the prisoner shall
25 be sent a notice of intent to conduct an interview at least 1
26 month before the date of the interview. The notice shall state
27 the specific issues and concerns that shall be discussed at the

1 interview and that may be a basis for a denial of parole. A
2 denial of parole shall not be based on reasons other than those
3 stated in the notice of intent to conduct an interview except for
4 good cause stated to the prisoner at or before the interview and
5 in the written explanation required by subsection (12). This
6 subsection does not apply until April 1, 1983.

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

13 (6) A prisoner may waive the right to an interview by 1
14 member of the parole board. The waiver of the right to be inter-
15 viewed shall be given not more than 30 days after the notice of
16 intent to conduct an interview is issued and shall be made in
17 writing. During the interview held pursuant to a notice of
18 intent to conduct an interview, the prisoner may be represented
19 by an individual of his or her choice. The representative shall
20 not be another prisoner or an attorney. A prisoner is not enti-
21 tled to appointed counsel at public expense. The prisoner or
22 representative may present relevant evidence in support of
23 release. This subsection does not apply until April 1, 1983.

24 (7) At least 90 days before the expiration of the prisoner's
25 minimum sentence LESS APPLICABLE GOOD TIME AND DISCIPLINARY CRED-
26 ITS FOR A PRISONER ELIGIBLE FOR GOOD TIME OR DISCIPLINARY
27 CREDITS, OR AT LEAST 90 DAYS BEFORE THE EXPIRATION OF THE

1 PRISONER'S MINIMUM SENTENCE PLUS DISCIPLINARY TIME FOR A PRISONER
2 SUBJECT TO DISCIPLINARY TIME, or the expiration of a 12-month
3 continuance FOR ANY PRISONER, a parole eligibility report shall
4 be prepared by appropriate institutional staff. The parole eli-
5 gibility report shall be considered pertinent information for
6 purposes of subsection (5). The report shall include all of the
7 following:

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

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

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

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

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

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

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

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

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

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

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

12 (2) If a prisoner who is discharged ~~on his or her maximum~~
13 ~~sentence less good time~~ WITHOUT BEING PAROLED has less than
14 \$75.00 in his or her immediate possession, has no visible means
15 of support, and has conserved personal funds in a reasonable
16 manner, the department shall furnish to that prisoner the
17 following:

18 (a) Clothing ~~which~~ THAT is appropriate for the season.

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

21 (c) Transportation to a place in this state where the pris-
22 oner will reside or work or to the place where the prisoner was
23 convicted or sentenced.

24 (3) When providing for transportation, the department
25 shall:

26 (a) Use the most economical available public
27 transportation.

1 (b) Arrange for and purchase the prisoner's transportation
2 ticket.

3 (c) Assume responsibility for delivering that prisoner to
4 the site of departure and confirming the prisoner's departure
5 from the site.

6 (4) The cost of implementing this section shall be paid out
7 of the general fund of the state.

8 Sec. 38. (1) Each prisoner on parole shall remain in the
9 legal custody and under the control of the ~~commission~~
10 DEPARTMENT. The deputy director of the bureau of field services,
11 upon a showing of probable violation of parole, may issue a war-
12 rant for the return of any paroled prisoner. Pending a hearing
13 upon any charge of parole violation, the prisoner shall remain
14 incarcerated.

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

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

7 (4) The parole board, in its discretion, may cause the for-
8 feiture of all good time to the date of the declared violation.

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

12 (6) A parole shall be construed as a permit to the prisoner
13 to leave the prison, and not as a release. While at large, the
14 paroled prisoner shall be considered to be serving out the sen-
15 tence imposed by the court and, IF HE OR SHE WAS SENTENCED ON OR
16 BEFORE THE EFFECTIVE DATE OF THE 1993 AMENDATORY ACT THAT AMENDED
17 THIS SECTION, shall be entitled to good time the same as if con-
18 fined in ~~prison~~ A STATE CORRECTIONAL FACILITY.

19 Sec. 51. (1) There is created within the department a hear-
20 ings division. The division ~~shall be~~ IS under the direction
21 and supervision of the hearings administrator who is appointed by
22 the director of the department.

23 (2) The hearings division ~~shall be~~ IS responsible for each
24 prisoner hearing ~~which~~ the department conducts ~~which~~ THAT may
25 result in the loss by a prisoner of a right, including but not
26 limited to any 1 or more of the following matters:

1 (a) An infraction of a prison rule ~~which~~ THAT may result
2 in punitive segregation, loss of disciplinary credits, or the
3 loss of good time.

4 (b) A security classification ~~which~~ THAT may result in the
5 placement of a prisoner in administrative segregation.

6 (C) AN INFRACTION OF A PRISON RULE THAT MAY RESULT IN THE
7 ACCUMULATION OF DISCIPLINARY TIME.

8 (D) ~~(e)~~ A special designation ~~which~~ THAT permanently
9 excludes, by department policy or rule, a person under the juris-
10 diction of the department from community placement.

11 (E) ~~(d)~~ Visitor restrictions.

12 (F) ~~(e)~~ High or very high assaultive risk
13 classifications.

14 (3) The hearings division ~~shall~~ IS not ~~be~~ responsible
15 for a prisoner hearing that is conducted as a result of a minor
16 misconduct charge that would not cause a loss of good time or
17 disciplinary credits, or RESULT IN placement in punitive
18 segregation.

19 (4) Each hearings officer of the department ~~shall be~~ IS
20 under the direction and supervision of the hearings division.
21 Each hearings officer hired by the department after October 1,
22 1979, shall be an attorney.

23 Sec. 65a. (1) Under prescribed conditions, the director may
24 extend the limits of confinement of a prisoner ~~—~~ when there is
25 reasonable assurance, after consideration of all facts and cir-
26 cumstances, that the prisoner will not become a menace to society

1 or to the public safety, by authorizing the prisoner to do any of
2 the following:

3 (a) Visit a specifically designated place or places. An
4 extension of limits may be granted only to a prisoner housed in a
5 state correctional facility to permit a visit to a critically ill
6 relative, attendance at the funeral of a relative, or ~~the con-~~
7 ~~tacting of~~ prospective employers. The maximum amount of time a
8 prisoner is eligible for an extension of the limits of confine-
9 ment under this subdivision shall not exceed a cumulative total
10 period of 30 days. ~~On or before December 31, 1989, the depart-~~
11 ~~ment shall report to the standing committee of the senate and~~
12 ~~house of representatives having jurisdiction over corrections the~~
13 ~~number of prisoners who are under this subdivision, the amount of~~
14 ~~time each prisoner is released, and any major misconducts or~~
15 ~~crimes committed by a prisoner released under this subparagraph~~
16 ~~between December 1, 1988 and December 1, 1989.~~

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

19 (c) Work at paid employment, participate in a training or
20 educational program, or participate in a community residential
21 drug treatment program while continuing as a prisoner housed on a
22 voluntary basis at a community corrections center or in a commu-
23 nity residential home.

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

26 (3) The willful failure of a prisoner to remain within the
27 extended limits of his or her confinement or to return within the

1 time prescribed to an institution or facility designated by the
2 director shall be ~~deemed~~ CONSIDERED an escape from custody as
3 provided in section 193 of the Michigan penal code, Act No. 328
4 of the Public Acts of 1931, as amended, being section 750.193 of
5 the Michigan Compiled Laws.

6 (4) ~~Prisoners convicted of a crime of violence or any~~
7 ~~assaultive crime shall not be~~ A PRISONER IS NOT eligible for the
8 extensions of the limits of confinement provided in subsection
9 (1) until ~~such time as~~ HE OR SHE HAS SERVED the minimum sen-
10 tence imposed for the crime ~~has less than 180 days remaining~~
11 LESS ANY GOOD TIME OR DISCIPLINARY CREDITS FOR A PRISONER ELIGI-
12 BLE FOR GOOD TIME OR DISCIPLINARY CREDITS, OR THE MINIMUM SEN-
13 TENCE IMPOSED FOR THE CRIME PLUS ANY DISCIPLINARY TIME FOR A
14 PRISONER SUBJECT TO DISCIPLINARY TIME, except that if the reason
15 for the extension is to visit a critically ill relative, attend
16 the funeral of a relative, or obtain medical services not other-
17 wise available, the director may allow the extension under escort
18 as provided in subsection (1).

19 (5) ~~Prisoners~~ A PRISONER serving a sentence for murder in
20 the first degree ~~shall~~ IS not ~~be~~ eligible for the extensions
21 of confinement under this section until a parole release date is
22 established by the parole board and in no case ~~prior to service~~
23 ~~of~~ BEFORE SERVING 15 calendar years with a good institutional
24 adjustment.

25 (6) As used in this section:

26 (a) "Community corrections center" means a facility either
27 contracted for or operated by the department in which a security

1 staff is on duty 7 days per week, 24 hours per day. ~~except that~~
2 ~~the department may waive the requirement that electronic monitor~~
3 ~~ing be provided as to any prisoner who is within 3 months of his~~
4 ~~or her parole date.~~

5 (b) "Community residential home" means a facility where
6 electronic monitoring of prisoner presence is provided by the
7 department 7 days per week, 24 hours per day, EXCEPT THAT THE
8 DEPARTMENT MAY WAIVE THE REQUIREMENT THAT ELECTRONIC MONITORING
9 BE PROVIDED AS TO ANY PRISONER WHO IS WITHIN 3 MONTHS OF HIS OR
10 HER PAROLE DATE.

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

15 Section 2. This amendatory act shall not take effect unless
16 Senate Bill No. 41

17 of the 87th Legislature is enacted into law.