



# SENATE BILL No. 305

February 2, 1993, Introduced by Senators BOUCHARD and MC MANUS and referred to the Committee on Family Law, Criminal Law, and Corrections.

A bill to amend sections 33, 33b, and 34a 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, and section 34a as added by Act No. 22 of the Public Acts of

1992, being sections 791.233, 791.233b, and 791.234a of the Michigan Compiled Laws.

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

1       Section 1. Sections 33, 33b, and 34a of Act No. 232 of the  
2 Public Acts of 1953, section 33 as amended by Act No. 458 of the  
3 Public Acts of 1982, section 33b as amended by Act No. 252 of the  
4 Public Acts of 1989, and section 34a as added by Act No. 22 of  
5 the Public Acts of 1992, being sections 791.233, 791.233b, and  
6 791.234a of the Michigan Compiled Laws, are amended to read as  
7 follows:

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

10       (a) A PAROLE SHALL NOT BE GRANTED TO A prisoner ~~shall not~~  
11 ~~be given his liberty on parole~~ until the board has reasonable  
12 assurance, after consideration of all of the facts and circum-  
13 stances, including the prisoner's mental and social attitude,  
14 that the prisoner will not become a menace to society or to the  
15 public safety.

16       (b) A parole shall not be granted to a prisoner until the  
17 prisoner has served the minimum term imposed by the court less  
18 allowances for good time, ~~or~~ special good time DISCIPLINARY  
19 CREDITS, OR SPECIAL DISCIPLINARY CREDITS to which the prisoner  
20 may be entitled ~~to~~ by statute, except that ~~prisoners shall be~~  
21 A PRISONER IS eligible for parole ~~prior to~~ BEFORE the expira-  
22 tion of ~~their~~ HIS OR HER minimum ~~terms~~ TERM of imprisonment  
23 whenever the sentencing judge, or the judge's successor in  
24 office, gives written approval of the parole of the prisoner

1 ~~prior to~~ BEFORE the expiration of the minimum ~~terms~~ TERM of  
2 imprisonment.

3 (c) Notwithstanding ~~the provisions of~~ subdivision (b), a  
4 parole shall not be granted to a prisoner sentenced for the com-  
5 mission of a crime described in section 33b(a) to (cc) until ONE  
6 OF THE FOLLOWING, AS APPLICABLE:

7 (i) IF THE PRISONER WAS SENTENCED BEFORE THE EFFECTIVE DATE  
8 OF THE 1993 AMENDATORY ACT THAT AMENDED THIS SUBSECTION, UNTIL  
9 the prisoner has served the minimum term imposed by the court  
10 less an allowance for disciplinary credits as provided in section  
11 ~~33(5)~~ 33(7) of Act No. 118 of the Public Acts of 1893, being  
12 section 800.33 of the Michigan Compiled Laws.

13 (ii) IF THE PRISONER WAS SENTENCED ON OR AFTER THE EFFECTIVE  
14 DATE OF THE 1993 AMENDATORY ACT THAT AMENDED THIS SECTION, UNTIL  
15 THE PRISONER HAS SERVED THE MINIMUM TERM IMPOSED BY THE COURT.

16 (D) A prisoner described in ~~this~~ subdivision (C) is not  
17 eligible for special parole.

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

24 ~~(e) If a prisoner is serving a sentence for a crime commit-~~  
25 ~~ted during the time the prisoner was on parole due to a reduction~~  
26 ~~of a previous prison term under the prison overcrowding emergency~~  
27 ~~powers act, Act No. 519 of the Public Acts of 1980, being~~

~~1 sections 800.71 to 800.79 of the Michigan Compiled Laws, that~~  
~~2 prisoner shall not be released on parole due to a reduction in~~  
~~3 the prisoner's minimum term under the prison overcrowding emer-~~  
~~4 gency powers act, Act No. 519 of the Public Acts of 1980.~~

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

10 (3) Pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
11 Act No. 306 of the Public Acts of 1969, as amended, being sec-  
12 tions 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws,  
13 the parole board may promulgate rules not inconsistent with this  
14 act with respect to conditions to be imposed upon ~~paroled~~ pris-  
15 oners paroled under this act.

16 Sec. 33b. (1) A person convicted and sentenced for the com-  
17 mission of any of the ~~following~~ crimes ~~shall~~ ENUMERATED IN  
18 SUBSECTION (3) IS not ~~be~~ eligible for parole until ONE OF THE  
19 FOLLOWING, AS APPLICABLE:

20 (A) IF THE PERSON WAS SENTENCED BEFORE THE EFFECTIVE DATE OF  
21 THE 1993 AMENDATORY ACT THAT AMENDED THIS SECTION, UNTIL the  
22 person has served the minimum term imposed by the court less an  
23 allowance for disciplinary credits as provided in section ~~33(5)~~  
24 33(7) of Act No. 118 of the Public Acts of 1893, being section  
25 800.33 of the Michigan Compiled Laws. —, ~~but shall~~

1 (B) IF THE PRISONER WAS SENTENCED ON OR AFTER THE EFFECTIVE  
2 DATE OF THE 1993 AMENDATORY ACT THAT AMENDED THIS SECTION, UNTIL  
3 THE PRISONER HAS SERVED THE MINIMUM TERM IMPOSED BY THE COURT.

4 (2) A PERSON DESCRIBED IN SUBSECTION (1) IS not ~~be~~ eligi-  
5 ble for special parole. ~~+~~

6 (3) THIS SECTION APPLIES TO THE FOLLOWING CRIMES:

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

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

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

15 (d) Section 80, 82, 83, 84, ~~85,~~ 86, 87, 88, 89, or 90 of  
16 Act No. 328 of the Public Acts of 1931, as amended, being section  
17 750.80, 750.82, 750.83, 750.84, ~~750.85,~~ 750.86, 750.87, 750.88,  
18 750.89, or 750.90 of the Michigan Compiled Laws, OR UNDER FORMER  
19 SECTION 85 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931.

20 (e) Section 91 or 92 of Act No. 328 of the Public Acts of  
21 1931, as amended, being section 750.91 or 750.92 of the Michigan  
22 Compiled Laws.

23 (f) Section 110, 112, or 116 of Act No. 328 of the Public  
24 Acts of 1931, as amended, being section 750.110, 750.112, or  
25 750.116 of the Michigan Compiled Laws.

26 (g) Section 135, 136b(2), or 136b(3) of Act No. 328 of the  
27 Public Acts of 1931, as amended, being section 750.135 or

1 750.136b of the Michigan Compiled Laws, or under former section  
2 136a of Act No. 328 of the Public Acts of 1931.

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

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

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

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

13 (l) Section 204, 205, 206, 207, 208, 209, or 213 of Act  
14 No. 328 of the Public Acts of 1931, as amended, being section  
15 750.204, 750.205, 750.206, 750.207, 750.208, 750.209, or 750.213  
16 of the Michigan Compiled Laws.

17 (m) Section 224, 226, or 227 of Act No. 328 of the Public  
18 Acts of 1931, as amended, being section 750.224, 750.226, or  
19 750.227 of the Michigan Compiled Laws.

20 (n) Section 316, 317, 319, 321, 322, 323, 327, 328, or 329  
21 of Act No. 328 of the Public Acts of 1931, as amended, being sec-  
22 tion 750.316, 750.317, 750.319, 750.321, 750.322, 750.323,  
23 750.327, 750.328, or 750.329 of the Michigan Compiled Laws.

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

1 (p) Section 338, 338a, OR 338b ~~, or 341~~ of Act No. 328 of  
2 the Public Acts of 1931, as amended, being section 750.338,  
3 750.338a, OR 750.338b ~~, or 750.341~~ of the Michigan Compiled  
4 Laws, OR UNDER FORMER SECTION 341 OF ACT NO. 328 OF THE PUBLIC  
5 ACTS OF 1931.

6 (q) Section 349, 349a, or 350 of Act No. 328 of the Public  
7 Acts of 1931, as amended, being section 750.349, 750.349a, or  
8 750.350 of the Michigan Compiled Laws.

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

11 (s) Section 386 or 392 of Act No. 328 of the Public Acts of  
12 1931, as amended, being section 750.386 or 750.392 of the  
13 Michigan Compiled Laws.

14 (t) Section 397 or 397a of Act No. 328 of the Public Acts of  
15 1931, as amended, being section 750.397 or 750.397a of the  
16 Michigan Compiled Laws.

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

19 (v) Section 511 or 517 of Act No. 328 of the Public Acts of  
20 1931, as amended, being section 750.511 or 750.517 of the  
21 Michigan Compiled Laws.

22 (w) Section 520b, 520c, 520d, or 520g of Act No. 328 of the  
23 Public Acts of 1931, as amended, being section 750.520b,  
24 750.520c, 750.520d, or 750.520g of the Michigan Compiled Laws.

25 (x) Section 529, 530, or 531 of Act No. 328 of the Public  
26 Acts of 1931, as amended, being section 750.529, 750.530, or  
27 750.531 of the Michigan Compiled Laws.

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

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

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

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

14 (cc) Section 7401(2)(a), 7401(2)(b), 7402(2)(a), or  
 15 7402(2)(b) of THE PUBLIC HEALTH CODE, Act No. 368 of the Public  
 16 Acts of 1978, being section 333.7401 or 333.7402 of the Michigan  
 17 Compiled Laws.

18 Sec. 34a. (1) A prisoner sentenced either before, on, or  
 19 after the effective date of the amendatory act that added this  
 20 section to an indeterminate term of imprisonment under the juris-  
 21 diction of the department shall be considered by the department  
 22 for placement in a special alternative incarceration unit estab-  
 23 lished under section 3 of the special alternative incarceration  
 24 act, Act No. 287 of the Public Acts of 1988, being section 798.13  
 25 of the Michigan Compiled Laws, if the prisoner meets the eligi-  
 26 bility requirements of subsections (2) and (3). For a prisoner  
 27 committed to the jurisdiction of the department on or after ~~the~~



~~1 effective date of the amendatory act that added this section~~

2 MARCH 19, 1992, the department shall determine before the pris-  
3 oner leaves the reception center whether the prisoner is eligible  
4 for placement in a special alternative incarceration unit,  
5 although actual placement may take place at a later date. A  
6 determination of eligibility does not guarantee placement in a  
7 unit.

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

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

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

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

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

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

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

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

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

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

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

9 (i) Section 11, 49, 80, 83, 89, 91, 157b, 158, 207, 260,  
10 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a, 350, 422,  
11 436, 511, 516, 517, 520b, 529, 531, or 544 of the Michigan penal  
12 code, Act No. 328 of the Public Acts of 1931, being  
13 sections 750.11, 750.49, 750.80, 750.83, 750.89, 750.91,  
14 750.157b, 750.158, 750.207, 750.260, 750.316, 750.317, 750.327,  
15 750.328, 750.335a, 750.338, 750.338a, 750.338b, 750.349,  
16 750.349a, 750.350, 750.422, 750.436, 750.511, 750.516, 750.517,  
17 750.520b, 750.529, 750.531, and 750.544 of the Michigan Compiled  
18 Laws.

19 (ii) A violation of section 145c, 520c, 520d, or 520g of Act  
20 No. 328 of the Public Acts of 1931, being sections 750.145c,  
21 750.520c, 750.520d, and 750.520g of the Michigan Compiled Laws.

22 (iii) A violation of section 72, 73, or 75 of Act No. 328 of  
23 the Public Acts of 1931, being sections 750.72, 750.73, and  
24 750.75 of the Michigan Compiled Laws.

25 (iv) A violation of section 86, 112, 136b, 193, 195, 213,  
26 319, 321, 329, or 397 of Act No. 328 of the Public Acts of 1931,  
27 being sections 750.86, 750.112, 750.136b, 750.193, 750.195,

1 750.213, 750.319, 750.321, 750.329, and 750.397 of the Michigan  
2 Compiled Laws.

3 (v) A violation of section 2 of Act No. 302 of the Public  
4 Acts of 1968, being section 752.542 of the Michigan Compiled  
5 Laws.

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

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

12 (viii) A crime for which the prisoner was punished pursuant  
13 to section 10, 11, or 12 of chapter IX of the code of criminal  
14 procedure, Act No. 175 of the Public Acts of 1927, being sections  
15 769.10, 769.11, and 769.12 of the Michigan Compiled Laws.

16 (3) A prisoner who is serving a sentence for a violation of  
17 section 7401 or 7403 of the public health code, Act No. 368 of  
18 the Public Acts of 1978, being sections 333.7401 and 333.7403 of  
19 the Michigan Compiled Laws, and who has previously been convicted  
20 for a violation of section 7401 or 7403(2)(a), (b), or (e) of Act  
21 No. 368 of the Public Acts of 1978 ~~—, being sections 333.7401 and~~  
22 ~~333.7403 of the Michigan Compiled Laws,~~ is not eligible for  
23 placement in a special alternative incarceration unit until after  
24 he or she has served the equivalent of the mandatory minimum sen-  
25 tence prescribed by statute for that violation.

26 (4) If the sentencing judge prohibited a prisoner's  
27 participation in the special alternative incarceration program in

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

1 being section 780.764 of the Michigan Compiled Laws, by the  
2 victim or victims of the crime of which the prisoner was  
3 convicted.

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

12 (6) A prisoner may be placed in a special alternative incar-  
13 ceration program for a period of not less than 90 days or more  
14 than 120 days. If, during that period, the prisoner misses more  
15 than 5 days of program participation due to medical excuse for  
16 illness or injury occurring after he or she was placed in the  
17 program, the period of placement shall be increased by the number  
18 of days missed, beginning with the sixth day of medical excuse,  
19 up to a maximum of 20 days. However, the total number of days a  
20 prisoner may be placed in this program, including days missed due  
21 to medical excuse, shall not exceed 120 days. A medical excuse  
22 shall be verified by a physician's statement. A prisoner who is  
23 medically unable to participate in the program for more than 25  
24 days shall be returned to a state correctional facility but may  
25 be reassigned to the program if the prisoner meets the eligibil-  
26 ity requirements of subsections (2) and (3).

1 (7) Upon certification of completion of the special  
2 alternative incarceration program, the prisoner shall be placed  
3 on parole. A prisoner paroled under this section shall have con-  
4 ditions of parole as determined appropriate by the parole board  
5 and shall be placed on parole for not less than 18 months, or the  
6 balance of the prisoner's minimum sentence, whichever is greater,  
7 with at least the first 120 days under intensive supervision.

8 (8) The parole board may suspend or revoke parole for any  
9 prisoner paroled under this section subject to sections 39a and  
10 40a. ~~If~~ FOR A PRISONER SENTENCED ON OR BEFORE THE EFFECTIVE  
11 DATE OF THE 1993 AMENDATORY ACT THAT AMENDED THIS SECTION, IF  
12 parole is revoked before the expiration of the prisoner's minimum  
13 sentence, less disciplinary credits, the parole board shall  
14 forfeit, ~~all disciplinary credits granted~~ pursuant to  
15 section ~~33(13)~~ 33(14) of Act No. 118 of the Public Acts of  
16 1893, being section 800.33 of the Michigan Compiled Laws, ALL  
17 DISCIPLINARY CREDITS that were accumulated during special alter-  
18 native incarceration, and the prisoner shall be considered for  
19 parole pursuant to section 35.

20 (9) ~~One year after the effective date of the 1992 amenda-~~  
21 ~~tory act that added this section~~ ON MARCH 19, 1993, and annually  
22 after that time, the department shall report to the legislature  
23 the impact of the operation of this section, including a report  
24 concerning recidivism.

25 (10) This section is repealed ~~upon the expiration of 3~~  
26 ~~years after the date of its enactment~~ EFFECTIVE MARCH 19, 1995.

1       Section 2.   This amendatory act shall not take effect unless  
2 Senate Bill No. 304  
3                   of the 87th Legislature is enacted into law.